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## Third Committee

### Summary record of the 50th meeting

Held at Headquarters, New York, on Friday, 21 November 2014, at 3 p.m.

*Chair:* Ms. Mesquita Borges . . . . . (Timor-Leste)

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*The meeting was called to order at 3.10 p.m.*

**Agenda item 66: Elimination of racism, racial discrimination, xenophobia and related intolerance** *(continued)*

**(a) Elimination of racism, racial discrimination, xenophobia and related intolerance** *(continued)*  
(A/C.3/69/L.56/Rev.1)

*Draft resolution A/C.3/69/L.56/Rev.1: Combating glorification of Nazism, neo-Nazism and other practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance*

1. **Mr. Viktorov** (Russian Federation) said that he wished to call attention to the omission of the words “over Nazism” in the second line of the last preambular paragraph of the draft resolution. To fully reflect the outcome of consultations and match the text available online, that line should read “victory over Nazism in the Second World War”. He requested that those words be included.

2. **Ms. Cousens** (United States of America), speaking in explanation of vote before the voting, said that her Government abhorred any attempt to glorify or otherwise promote Nazi ideology. The United States of America remained a strong supporter of United Nations efforts to remember the victims of the Holocaust, and was deeply committed to honouring and preserving their memory. Her Government condemned without reservation all forms of religious and ethnic intolerance and hatred anywhere.

3. Given the existing global context, her Government was especially concerned about the overt political motives that drove the main sponsor to introduce the resolution year after year. It was also alarmed by that country’s recent efforts to vilify others through loose usage of such terms as Nazi and fascist. That Government had employed such rhetoric, for example, against the current Government of Ukraine, and the Baltic States. Such conduct was offensive and disrespectful to those who had suffered at the hands of the Nazis and other fascist regimes, and should not be tolerated. The efforts of the Russian Federation were aimed at its opponents rather than at promoting or protecting human rights.

4. The United States of America was also concerned by the continued failure to distinguish between offensive expression, which should be protected in the

name of free speech, and actions motivated by bias, which should always be prohibited.

5. Her Government shared the concern regarding the frequency with which racist views were expressed in various mediums or forums; however, curtailing expression was neither an appropriate nor an effective means of combating racism and related intolerance. Rather, the freedoms of expression and association should be protected even when the ideas expressed were offensive or hateful.

6. States should refrain from invoking article 4 of the Convention on the Elimination of all forms of Racial Discrimination and Article 20 of the International Covenant on Civil and Political Rights to limit the freedom of expression or as an excuse for their failure to take effective measures to combat racism or intolerance. The best remedy for intolerance was not the suppression or criminalization of offensive speech, but rather a combination of legal protection against discrimination and hate crimes, government outreach to minority religious groups, and the defence of the freedoms of religion and expression. In the light of all these concerns, the United States of America would vote no on the draft resolution and called on other Member States to follow suit.

7. *At the request of the delegation of the United States of America, a recorded vote was taken on draft resolution A/C.3/69/L.56/Rev.1 as orally amended.*

*In favour:*

Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Belarus, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gambia, Ghana, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iraq, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Madagascar, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Mongolia, Morocco,

Mozambique, Myanmar, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Palau, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, South Africa, Sri Lanka, Suriname, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, United Arab Emirates, Uganda, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Zimbabwe.

*Against:*

Canada, Ukraine, United States of America.

*Abstaining:*

Albania, Andorra, Australia, Austria, Belgium, Belize, Bosnia and Herzegovina, Bulgaria, Chad, Croatia, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Libya, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, South Sudan, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland, Yemen.

8. *Draft resolution A/C.3/69/L.56/Rev.1 was adopted as orally amended by 115 votes to 3, with 55 abstentions.\**

9. **Mr. Lambertini** (Italy), speaking on behalf of the European Union, said that Liechtenstein, Ukraine, Republic of Moldova, Georgia and Norway aligned themselves with his statement. The European Union was committed to combatting racism, racial discrimination, xenophobia and related intolerance. The international community should condemn and combat all extremist ideologies within the framework of comprehensive efforts at the national, regional and international levels, in particular through

implementation of the International Convention on the Eliminations of All Forms of Racial Discrimination. The roots of racism and xenophobia, namely prejudice and ignorance, should be addressed through appropriate measures such as education, awareness-raising and the promotion of dialogue.

10. The draft resolution should address contemporary forms of racism, racial discrimination, xenophobia and related intolerance in a balanced and comprehensive way with a clear focus on the human rights perspective. Each State had the responsibility to adopt a comprehensive approach in line with international human rights standards to address manifestations of intolerance in an inclusive and effective manner, and to bring to justice any that had instigated hatred or committed racially-motivated crimes. Instead of diluting the fight against racism, initiatives should be taken to unite the international community.

11. The European Union welcomed the inclusiveness and transparency of consultations and the reflection of a number of its concerns in the resolution, including the reformulation of the title to include “neo-Nazism”, the addition of references to “international human rights law” and other changes. However, several crucial proposals had not been reflected in the text. The resolution continued to emphasize issues that were not strictly relevant to combating racism and related intolerance and that did not comprehensively address all contemporary forms of racism. The focus of the resolution fell outside of the human rights agenda and gave a one-sided interpretation of history. As the international community paid tribute to role of the allied forces and their sacrifices, it should also recall that the war brought about painful divisions and crimes against humanity in some European countries. To honour all the victims of that war, the European Union had proposed a victim-centred approach in the seventh preambular paragraph bis, which unfortunately had not been taken into account.

12. Similarly, education should be addressed comprehensively rather than selectively. The European Union also had concerns with regard to the restrictive language used to address the freedoms of expression, peaceful assembly and association as described in articles 19, 21 and 22 of the International Covenant on Civil and Political Rights.

13. With regard to reporting on the implementation of the draft resolution, States should be able to decide

\* The delegation of Sudan subsequently informed the Committee that it had intended to vote in favour of the draft resolution.

what to include in their reports for the universal periodic review and treaty bodies. Requesting the Special Rapporteur to report on selected paragraphs of the resolution jeopardized his independence and obstructed the reporting exercise. And, for reasons of efficiency, the Special Rapporteur should not be requested to produce two different reports to the General Assembly and Human Rights Council.

14. The European Union was strongly concerned by the main sponsor's attempt to misuse the fight against neo-Nazism in the context of the ongoing crisis in Ukraine. The main sponsor had violated international law and the fundamental principles of the United Nations in 2014 when it had illegally annexed part of a sovereign State under the pretext of fighting neo-Nazism.

15. The European Union was ready to engage constructively and in a spirit of transparency with the sponsors of the resolutions on those concerns with a view to comprehensively addressing all manifestations of racism and racist ideologies. For the reasons described above, the European Union had abstained from the vote on the draft resolution.

16. **Ms. Strachwitz** (Liechtenstein), speaking on behalf of Iceland, Liechtenstein and Switzerland, said that they strongly supported all measures to fight racism, racial discrimination, xenophobia and related intolerance, including Nazism and neo-Nazism. They had ratified the relevant conventions and fully supported the work of United Nations bodies and the Council of Europe in that regard. Growing support in many countries for extremist political parties, including those that espoused extreme right-wing ideology, was cause for concern; another was the act of labelling groups or political parties as such when they did not subscribe to such ideology.

17. While they agreed with many of the ideas presented in the text, it was unfortunate that the amendments proposed by other delegations had not been reflected. They also questioned the timeliness of adopting a draft resolution with near exclusive emphasis on Nazism and neo-Nazism, as many current forms of racial discrimination and xenophobia did not have their roots in Nazi ideology.

18. There were further concerns with regard to paragraphs restricting the rights to peaceful assembly and association, freedom of opinion and expression. There should be a balance between freedom of

expression and the fight against racism, as reflected in consensual resolutions adopted by the General Assembly and Human Rights Council. Enabling and encouraging a free exchange of ideas contributed to a well-informed and politically mature population able to determine unaided where hate speech began and freedom of expression ended. For those reasons, they had decided to abstain from voting on draft resolution.

19. **Mr. Mbasogo** (Equatorial Guinea) said that Equatorial Guinea had sponsored and voted in favour of the draft resolution because the expansion of the ideologies named in the text adversely affected peoples of African descent. It was unfortunate that such humanitarian disasters as slavery, colonization and apartheid could be so easily forgotten, and that Nazi and neo-Nazi groups could be allowed to express hate openly and with impunity. Such parties had been legalized in many countries and were represented in national and international organizations, whereas they should be listed as terrorist groups due to the similarities between their ideologies and those of the main terrorist groups recognized by the United Nations. States that recognized such groups under the principle of freedom of expression, thought and ideology should understand that the sentiment they felt upon receipt of terrorist threats was equivalent to that felt by peoples of African descent when confronted with the proliferation of Nazi and neo-Nazi groups, and their recognition by the most powerful nations of the world.

#### **Agenda item 67: Right of peoples to self-determination** (*continued*)

*Draft resolution A/C.3/69/L.58\*: The right of the Palestinian people to self-determination*

20. **The Chair** said that the draft resolution had no programme budget implications.

21. **Mr. Khane** (Secretary of the Committee) said that Albania, Belgium, Bosnia-Herzegovina, Cabo Verde, Côte d'Ivoire, Ecuador, El Salvador, Germany, Guinea, Guyana, Iceland, Lao People's Democratic Republic, Latvia, Libya, Liechtenstein, Luxembourg, Lesotho, Liberia, Madagascar, Mali, Mauritius, Monaco, Namibia, Netherlands, Niger, New Zealand, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Spain, Timor-Leste, Ukraine and United Republic of Tanzania had joined the sponsors.

22. **Mr. Mattar** (Egypt) said that Andorra, Antigua and Barbuda, Azerbaijan, Belarus, Brazil, Botswana, Brunei Darussalam, Burkina Faso, Chad, Chile, Congo, Czech Republic, Democratic Republic of the Congo, Gambia, Ghana, Jamaica, Kazakhstan, Kenya, Maldives, Montenegro, Myanmar, Peru, Republic of Moldova, Seychelles, South Africa, Sri Lanka, Suriname, Switzerland, the former Yugoslav Republic of Macedonia, United Kingdom of Great Britain and Northern Ireland, Uganda, Uzbekistan and Zambia also had joined the sponsors.

23. The long list of sponsors reflected the wide support and respect of the international community for the inalienable right of the Palestinian people to self-determination. The Palestinian people had counted on the international community for over six decades to ensure their full enjoyment of that right and to end the Israeli occupation and exploitation of their land. Adoption of the draft resolution by consensus would send a strong message of solidarity and encouragement to the Palestinian people and contribute to the ultimate realization of the long overdue right to self-determination, with the establishment on their own land of the independent State of Palestine with East Jerusalem as its capital.

24. **Ms. Malenga** (Democratic Republic of the Congo) said that her delegation wished to withdraw its sponsorship of the draft resolution.

25. **Mr. Israeli** (Israel), speaking in explanation of vote before the voting, said that peace should be negotiated and not imposed by external sources. Only Israelis and Palestinians could make the compromises necessary to forge lasting peace or create two States for two peoples. Instead of negotiating, the Palestinian leadership continued to undermine peace by taking unilateral steps and reaching out to Hamas, a recognized terrorist organization. Adoption of the draft resolution would encourage such steps.

26. His Government had consistently demonstrated its willingness to compromise; yet the Palestinians had yet to recognize Israel as the homeland of the Jewish people or their right to live in peace and security. In 2005, Israel had disengaged from Gaza, uprooting 9,000 people from their homes in the process. The Palestinians could have transformed the area into an oasis of prosperity, and realized their dream of self-determination; however Hamas had seized control of the territory and turned it into an outpost of terror.

The Hamas charter called for the destruction of Israel and the genocide of the Jewish people. Over the past decade, it had built a network of tunnels to smuggle weapons and attack Israeli communities, firing approximately 20,000 rockets, including over 4,500 during the past summer. Israel regretted both the Israeli and Palestinian lives lost over the summer. Though Israel had agreed to all ceasefires, Hamas had refused, proving through its actions that it cared more for the destruction of Israel than the flourishing of the Palestinian people.

27. Israel believed all peoples had the right to self-determination. However, it would vote against the draft resolution because the solution to the Israeli-Palestinian conflict depended on direct negotiations between Israel and Ramallah. His Government called on Palestinian leadership to stop pursuing unilateral actions and to join them at the negotiation table. Israel supported a two-State solution; however, it should be based on mutual recognition and serious security arrangements on the ground. True friends of the Palestinians and peace could not support a one-sided draft resolution.

28. *At the request of the delegation of Israel, a recorded vote was taken on draft resolution A/C.3/69/L.58\*.*

*In favour:*

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein,

Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen.

*Against:*

Canada, Israel, Marshall Islands, Micronesia (Federated States of), Nauru, Palau, United States of America.

*Abstaining:*

Cameroon, Central African Republic, Kiribati, Paraguay, Rwanda, South Sudan.

29. *Draft resolution A/C.3/69/L.58\* was adopted by 170 votes to 7, with 6 abstentions.\**

30. **Mr. Vallarino** (Argentina) reaffirmed his country's recognition of the inalienable right of the Palestinian people to self-determination and to form an independent, viable State. It had voted in favour of the draft resolution in accordance with the Government's December 2010 recognition of the State of Palestine. That decision was meant to favour the negotiation process leading to the finalization of the conflict. Israel should also be recognized by all and able to live peacefully within its borders. Argentina welcomed the adoption of the resolution and hoped it would contribute to the realization of the right to

self-determination of the Palestinian people, including the right to an independent Palestinian State.

31. **Ms. Rasheed** (Observer for the State of Palestine) expressed gratitude to the Member States for the adoption of the resolution, and to the main sponsor for its work. The overwhelming support for the draft resolution reaffirmed the international community's support for the Palestinian people, who had lived under Israeli occupation for nearly half a century, and their right to self-determination. Moreover, that support conveyed to Israel that its distorted narratives, violations and contempt of international law had been rejected, would not be tolerated and should be ceased. The draft resolution, which was based on international law and the Charter of the United Nations, in no way obstructed the peaceful and fair resolution of the Palestinian-Israeli conflict. The right to self-determination was an inalienable right for all and was not open to negotiation; it was the sole domain of the Palestinian people.

32. Israel's vote against the draft resolution would only further entrench the belief of the Palestinian people that Israel rejected a real peace settlement based on the existence of two States. To achieve a just peace, the right to self-determination should be mutually recognized by all relevant parties. Israel should be reminded that the Palestinians had recognized the State of Israel over 20 years ago, and had agreed to a Palestinian State that covered only 20 per cent of historical Palestine. However, Israel had never recognized either a Palestinian State or the right of Palestinians to a State. Last September the Israeli President had extolled the status quo and denied the existence of an occupation while the Israeli Minister of Defence had recently declared that a two-State solution would never be allowed, exposing his Government's intent to force the Palestinian people into perpetual subjugation by Israel.

33. For those reasons, the remarks made by the Israel with respect to a peace process and two-State solution were baffling and in stark contrast to the actions and words of his Government. The Palestinians understood that the draft resolution would not change the situation on the ground; that would only change when Israel ended its occupation. A tangible difference could be made through multilateral diplomatic efforts to promote the rule of law and improve humanitarian conditions.

\* The delegation of Zimbabwe subsequently informed the Committee that it had intended to vote in favour of draft resolution A/C.3/69/L.58\*.

34. The policies of Israel, which included an immoral blockade, the waging of three wars and confiscation of land intended for a Palestinian State, the killing and imprisonment of civilians, and violation of nearly all human rights moved the international community further from peace and fostered the anger and frustration of the Palestinian people. Israel had clearly chosen settlements over negotiations, colonization over the two-State solution, and apartheid over equality.

35. The United Nations and various international humanitarian organizations had confirmed that Israel had unilaterally withdrawn its settlers and resettled them illegally in the Occupied West Bank, even as it continued to occupy Gaza. Despite the extreme hardships experienced by the Palestinian people, they had never nor would they ever surrender. The occupation by Israel should be brought to an end, finally enabling the realization of the inalienable rights of the Palestinian people, the Independent State of Palestine with East Jerusalem as its capital, and the peaceful and secure coexistence of both Palestinians and Israelis.

**Agenda item 68: Promotion and protection of human rights** (*continued*)

**(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms** (A/C.3/69/L.50/Rev.1)

*Draft resolution A/C.3/69/L.50/Rev.1: The safety of journalists and the issue of impunity*

36. **The Chair** said that the draft resolution had no programme budget implications.

37. **Mr. Pouleas** (Greece), introducing the draft resolution, said that Jordan, New Zealand, Canada, the former Yugoslav republic of Macedonia, United States of America, Egypt, Honduras, Mexico and Libya had joined the sponsors. The draft resolution highlighted the need to take further steps to prevent violence, threats and attacks against journalists. States should promote in law and in practice a safe and enabling environment for journalists to perform their work independently and without undue interference.

38. The draft resolution also aimed to highlight the issue of impunity and the international community's commitment to protecting journalists against all violations and abuses of human rights violations. The

safety of journalists was vital to the building of knowledge-inclusive societies and democracies, fostering intercultural dialogue, peace and good governance. He invited all delegations to sponsor the draft resolution and anticipated its adoption by consensus.

39. **Mr. Khane** (Secretary of the Committee) announced that Cabo Verde and Peru had joined the sponsors.

40. *Draft resolution A/C.3/69/L.50/Rev.1 was adopted.*

41. **Mr. Ustinov** (Russian Federation) confirmed the relevance of the issues targeted by the draft resolution, evidenced by the recent tragic events in Ukraine. The Russian Federation categorically condemned acts of violence against journalists and called on Government authorities to impartially investigate any such cases, in particular those resulting in the death of journalists. Over the past year during the internal conflict in Ukraine, both Russian and foreign journalists had died. The Russian Federation confirmed that it did not regard the provisions of the resolution as extending to representatives of bloggers or social media.

*Draft resolution A/C.3/69/L.51/Rev.1: Moratorium on the use of the death penalty*

42. **The Chair** said that the draft resolution had no programme budget implications.

43. **Mr. Ruidiaz** (Chile) said that since the introduction of the draft resolution, Turkmenistan had joined the sponsors. The resolutions adopted since 2007 on the moratorium on the death penalty had contributed to the momentum towards establishing moratoriums on executions in various jurisdictions, with a view to their abolition. The current resolution would further support that positive trend across regions, legal systems, traditions and religions. The text was not prescriptive in nature; instead, it allowed each country to address those issues step by step and at its own pace. As such, it acknowledged retentionist countries that had decided to take some step in that direction, whether by limiting or reducing the scope of capital punishment. Through negotiation, references that might distract from the resolution's central objective had been eliminated. The draft resolution also broadened the call to avoid use of the death penalty on vulnerable persons, including persons with mental or intellectual disabilities. Its contents offered a practical way of addressing the topic with the utmost

respect for safeguards protecting the rights of condemned persons by ensuring that political decision-makers, leaders, civil society groups and the media had access to the necessary information in that regard.

44. **Mr. Khane** (Secretary of the Committee) said that Madagascar, Nicaragua and the Russian Federation had joined the sponsors.

45. **Ms. Abdulbaqi** (Saudi Arabia), introducing the amendment contained in document A/C.3/69/L.66, said that Afghanistan, Antigua and Barbuda, Belarus, China, Guyana, Libya, Sudan and Trinidad and Tobago joined the sponsors of the amendment. The draft resolution was not guided by the principle of sovereignty of Member States, a principle enshrined in the Charter of the United Nations. Rather, its call upon States to establish a moratorium with a view to abolishing the death penalty and making information on their application of the death penalty available gave them no choice, essentially forcing States to provide fodder for the case for abolition. The amendment reaffirmed the principle of sovereignty of Member States — a principle that had never been contested by the Organization — and urged them to implement their obligations under international human rights law. As such, it was intended to inject balance into the draft resolution and ensure respect for the principle of State sovereignty in determining legal penalties. The amendment did not contradict the aim of the resolution in any way, nor was it open-ended. It ensured that penalties were in accordance with the legal obligations of Member States. While the sponsors of the amendment welcomed the changes made to the draft resolution by its sponsors, their refusal to take on board such an important proposal was disappointing. She hoped that Member States would vote in favour of the amendment and thus reaffirm respect for their own sovereignty and their willingness to fulfil their international obligations and abide by the Charter of the United Nations.

46. **The Chair** said that the draft amendment contained no programme budget implications.

47. **Mr. Khane** (Secretary of the Committee) said that Belize, the Democratic People's Republic of Korea and Pakistan had joined the sponsors of the amendment.

48. **Mr. Alia** (Benin), speaking in explanation of vote before voting, expressed regret that the amendment had been proposed. The sponsors of the draft resolution had

worked to make the negotiations inclusive and shown great flexibility by abandoning language that might be uncomfortable for some delegations, while maintaining the aim of the resolution, namely, the introduction of a moratorium on the death penalty with a view to abolishing it. While the International Covenant on Civil and Political Rights did not abolish the death penalty, it did stipulate that no provision should be invoked to delay or prevent its abolition. Invoking States' own national legal systems to distance themselves from their international legal obligations did not constitute adherence thereto. While States' right to determine their own legal systems was not contested, the principle of sovereignty carried with it the requirement that States must abide by their international obligations. Therefore, making sovereignty the primary consideration as the amendment proposed would be to the detriment of other references in the draft resolution, including the Covenant and various United Nations resolutions on the death penalty. For those reasons, his delegation would vote against the amendment.

49. **Ms. Ortigosa** (Uruguay), speaking in explanation of vote before voting, said that her delegation regretted introduction of the amendment. Throughout the consultation process, it had seemed that the objective of the draft resolution had been apparent to all members. The aim of the draft resolution was to call on Member States to establish a moratorium on executions with a view to abolishing the death penalty. The draft resolution was based on respect for and protection of the human rights and the human dignity of all persons. It did not interfere in the right of States to develop their own legal systems. General Assembly resolutions could not undermine the sovereign rights of States, given that they were non-legally-binding recommendations, as established by the Charter. Current global trends confirmed that the focus on a moratorium should be retained in the draft resolution. Her delegation would therefore vote against the amendment.

50. **Mr. Nina** (Albania), speaking in explanation of vote before voting, said that the amendment sought to undermine the content and purpose of the draft resolution by implying that its sponsors were trying to interfere in how countries organized their legal systems. That was not the case. Promoting a moratorium did not constitute intervention in domestic jurisdiction. The sponsors of the draft resolution had



sought to acknowledge the trend towards establishing moratoriums, which were in many cases followed by abolition of the death penalty. Moreover, the principle of the right of States to develop their own legal systems under international law did not provide an exhaustive framework of States' prerogatives and obligations relevant to the draft resolution. General Assembly resolutions could not violate the sovereignty of any Member State or constitute an intervention as defined by the Charter because the document itself referred to them as recommendations. Discussing and making recommendations on issues pertaining to criminal justice in general and the death penalty in particular was a legitimate concern of the Committee, and human rights within a State were a legitimate subject of international scrutiny. The proposed amendment would divert focus from the human-rights dimension of the use of the death penalty, since it was not consistent with the focus of the draft resolution. Albania would therefore vote against the amendment.

51. *At the request of the delegation of Chile, a recorded vote was taken on the amendment contained in document A/C.3/69/L.66.*

*In favour:*

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Brunei Darussalam, China, Cuba, Democratic People's Republic of Korea, Egypt, Eritrea, Ethiopia, Guyana, India, Indonesia, Iran (Islamic Republic of) Iraq, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Libya, Malaysia, Maldives, Myanmar, Namibia, Nauru, Niger, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, South Sudan, Sri Lanka, Sudan, Thailand, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, United States of America, Viet Nam, Zimbabwe.

*Against:*

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cabo Verde, Cambodia, Canada, Central African Republic, Chad, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France,

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*Abstaining:*

Azerbaijan, Bhutan, Burundi, Democratic Republic of the Congo, El Salvador, Equatorial Guinea, Fiji, Ghana, Guatemala, Guinea, Kenya, Lebanon, Lesotho, Liberia, Morocco, Nepal, Republic of Korea, Rwanda, Seychelles, South Africa, United Republic of Tanzania, Zambia.

52. *The proposed amendment to draft resolution A/C.3/69/L.51/Rev.1 was rejected by 85 votes to 55, with 22 abstentions.*

53. **Ms. Booker** (Bahamas), making a general statement before the adoption of the draft resolution, said that many arguments had been made against the death penalty, calling it ineffective in deterring crime, unjust and too definitive, and pointing out the high probability that innocent persons would be subject to its application. The High Commissioner for Human Rights had even likened the public support for it to that garnered by slavery, an invalid comparison given that enslaved persons had not committed any crimes. Her delegation expressed dissatisfaction with the unjust characterization of the administration of justice in capital cases in Caribbean countries in a publication issued by the Office of the High Commissioner for Human Rights. The repeated references to miscarriage of justice, unfair trials, wrongful convictions and poor administration of justice were a gross representation of the judicial systems in her region, which had some of the most illustrious legal minds in the world, many of whom had argued capital cases successfully before the Caribbean Court of Justice and other entities.

54. Throughout collective efforts to uphold human rights and fundamental freedoms, it must always be

recalled that the United Nations was a world organization, not a world government. As an organization, it could call, encourage, request and invite Member States to undertake measures based on its three pillars, but it was ultimately up to Governments to decide what course to take, regardless of the mounting pressures and campaigns on the death penalty.

55. **Mr. Lambertini** (Italy), making a general statement before adoption of the draft resolution and speaking on behalf of the European Union and its member States; the candidate countries Albania, Iceland, Montenegro, Serbia, the former Yugoslav Republic of Macedonia and Turkey; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Armenia, Azerbaijan, Georgia, Liechtenstein, Norway, the Republic of Moldova and Ukraine, said that the draft resolution dealt with a very important issue for the European Union. In 2007, Italy had been among the most resolute champions of a new approach to the draft resolution. The resolution, backed by a cross-regional group of 95 sponsors, called not for the abolition of the death penalty but rather for a moratorium on executions, respecting the differences in the individual approaches of respective countries. Great strides had been made to facilitate an inclusive and transparent process. He hoped that that approach would be acknowledged and that the draft resolution would be adopted with the broadest possible support.

56. **Mr. Yao** Shaojun (China), speaking in explanation of vote before voting, said that every country had the right to decide whether to maintain or to abolish the death penalty according to its domestic situation and the will of its own people. The issue of the death penalty involved the legislative and judicial sovereignty of States, precluding any foreign interference. Pushing through the draft resolution would only further politicize and complicate that matter, hence his delegation's decision to vote against it.

57. **Ms. Li** (Singapore), speaking in explanation of vote before voting, said that, while her delegation acknowledged the changes made to the text to meet its concerns and those of other delegations, the fundamental issues had not been addressed. There was no international consensus regarding the imposition of the death penalty, which remained legal under international law. In its application of the death

penalty, Singapore complied fully with all applicable safeguards, such as ensuring its use for only the most serious crimes in accordance with the law in force at the time of the commission of the crime, pursuant to a final judgment rendered by a competent court, with the right to seek pardon or appeal for commutation. Regrettably, the resolution only approached the death penalty from the narrow perspective of the person receiving the sentence, failing to recognize that it was imposed because a most serious crime had been committed and that the State was responsible for protecting the right of citizens to live in peace and security. Furthermore, the draft resolution made the sweeping statement that there was no evidence of the deterrent value of the death penalty, despite the fact that as part of a holistic, judicial, penal and rehabilitative system, the death penalty had made Singapore one of the safest countries in the world. The demand that countries provide information on the application of the death penalty to contribute to informed and transparent national debates implied that countries that supported the death penalty were unenlightened. The draft resolution also failed to adhere to the principles of mutual respect and sovereign equality of Member States, infringing upon the sovereign right of States to decide whether to retain, abolish or reintroduce capital punishment. For all those reasons, her delegation would vote against it.

58. **Mr. Vallarino** (Argentina) said that the limited number of amendments to the draft resolution introduced, compared to previous years, attested to the constructive, transparent nature of the negotiations. The aim was not to interfere or impose the views of some countries on others, but instead to reinforce and foster national debates in line with the burgeoning trend towards moratoriums on the death penalty. In that context, the role of regional organizations was crucial. His delegation would vote in favour of the draft resolution.

59. **Mr. Sarufa** (Papua New Guinea), speaking in explanation of vote before voting, said that while the right to life was indeed the core issue being addressed in the draft resolution, other important matters, including sovereignty, also required proper consideration. His country's Constitution unequivocally enshrined the right to life, which was also recognized in its obligations under international law. The Constitution also validated the death penalty under its criminal code, retaining it as an integral part

of the range of penalties. However, it was used to punish only the most heinous crimes and was not applied arbitrarily, as the draft resolution seemed to suggest. Papua New Guinea had not executed any convicted perpetrators of heinous crimes in nearly four decades; the most recent execution had been carried out in 1954 under British colonial rule.

60. The persistent call by the proponents of the moratorium was insensitive and ignorant of the harsh realities of a deeply divisive issue. The draft resolution was highly biased and unbalanced and had been crafted to suit the parochial interest of delegations opposed to the death penalty. Furthermore, it neglected to mention that the death penalty was not illegal under international law. While the right to life was protected under the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, capital punishment was not outlawed. Moreover, the Covenant stated that the death penalty could be imposed in countries that had not abolished it, against adults and only for the most serious crimes. Although article 6.6 of the Covenant stipulated that nothing in it should be invoked to delay or to prevent the abolition of capital punishment by any State Party, his country was not a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. The Covenant left the question to be decided through the domestic democratic processes of each country. The resolution also ignored the importance of State sovereignty, as enshrined in the Charter of the United Nations. The matter of whether to retain or abolish the death penalty should be determined by each State, taking into account its sentiments and those of its people, the nature of the crime, criminal policy and legislation. Unless and until the death penalty was repealed by the national parliament of Papua New Guinea, it would remain a valid law. His delegation would therefore vote against the draft resolution.

61. **Mr. Mattar** (Egypt) said that despite the sponsors' genuine efforts to accommodate the diverging concerns of Member States, the draft resolution lacked balance and continued to ignore the great diversity of legal, social and cultural conditions in the world and the unsuitability of certain views in certain societies. Both retentionist and abolitionist States were acting in compliance with their obligations under the International Covenant on Civil and Political Rights. As both had the sovereign right to choose the

most appropriate way to maintain social order, security and peace, neither side should arrogate to itself the right to impose its standpoint on the other. The diverging legal and human-rights arguments could only be reconciled through constructive, objective and open debate and negotiation at the multilateral level. The amendment had attempted to bring the needed balance to the draft, maintaining respect for both viewpoints.

62. **Mr. Elbahi** (Sudan), speaking in explanation of vote before voting, affirmed the sovereign right of Member States to formulate national legislation in accordance with their international obligations and in line with their religious specificities and heritage, a right enshrined by international law. Attempts to infringe upon that right contravened international norms and State sovereignty. For its part, Sudan's legal system was in compliance with the country's international obligations. The death penalty was applied in rare cases for a limited range of heinous crimes that endangered society and undermined its stability. Moreover, it was never applied against pregnant women, children under 18 years of age or persons with disabilities.

63. The draft resolution had taken into account only a narrow range of factors, neglecting several others, chief among them the repercussions it could have on the safety and security of societies. In that regard, even the right to life must be considered in a comprehensive manner that considered persons other than the condemned. His delegation had sponsored the amendment and regretted its rejection; it would vote against the draft resolution.

64. **Mr. Nkoloi** (Botswana), speaking in explanation of vote before voting, said that Botswana remained unequivocal in its belief that every human being had an inherent right to life. As his Government also believed that the State had a responsibility to protect the sanctity of all life within its borders, it put every possible safeguard in place for any execution ordered. Botswana took its obligations under the International Covenant on Civil and Political Rights seriously, ensuring compliance with due process and international instruments governing the death penalty. His delegation therefore took exception to the continued insistence by the sponsors of the draft resolution to impose conditionalities on the applicability of the death penalty in his country, action which was tantamount to interference in the affairs of a sovereign nation. It also objected to paragraph 7 (f),

which called upon all States to establish a moratorium on executions with a view to abolishing the death penalty. That was the prerogative of the sovereign State and its citizens. In addition, the unjustified linkage between human rights and the death penalty neglected the fact that in most countries, the death penalty was a criminal justice and jurisprudence issue, not a human rights issue. To date, no empirical body of evidence existed to demonstrate that the death penalty was against international law. Such misrepresentation must cease in order to pave the way for future engagement on the issue that was based on facts and on a genuine desire to ensure justice for all people. Reiterating the importance of upholding the principles of the Charter and according each delegation the respect due a sovereign State, he stressed that retentionist countries should be left to decide on the application of the death penalty without prescriptions or interference. Botswana would therefore vote against the draft resolution.

65. **Mr. Diyar Khan** (Pakistan) said that his country had maintained a moratorium on capital punishment since 2008. The decision to impose the death penalty, which constituted an extreme form of punishment with undeniable repercussions for the accused and their extended family, was extremely difficult and its execution was even more painful. Nevertheless, by focusing exclusively on abolition, the draft resolution neglected to give balanced consideration to the rights of victims and the need to maintain social order through preventing heinous crimes such as the murder of innocent citizens by terrorists and criminals. The issue of capital punishment needed to be addressed in a holistic, realistic and balanced manner, bearing in mind its firm anchoring in the legal systems of many Member States. In that context, the draft resolution would have been more effective if, instead of prescribing a gradual evolution toward abolition, it had recommended practical steps such as promoting international cooperation to fill lacunae in judicial processes, strengthening prosecution, defence and forensic support, and ensuring due process for the accused to prevent the miscarriage of justice. In view of those considerations, his delegation would vote against the draft resolution.

66. **Ms. Boissiere** (Trinidad and Tobago) said that her delegation regretted that many of its fundamental concerns had not been addressed in the draft resolution, which remained unbalanced in scope and failed to take into consideration the sovereign right of

States to determine their own legal systems and define appropriate legal penalties in accordance with their international obligations. Trinidad and Tobago held firmly to the view that capital punishment was a criminal justice matter that fell within the national jurisdiction of individual and sovereign States. Moreover, its application was not in violation of any existing norm of international law; to the contrary, it was quite consistent with article 6 of the International Covenant on Civil and Political Rights. Trinidad and Tobago applied the death penalty in strict compliance with due process and in keeping with international legal obligations and the rule of law. There being no international consensus on a moratorium on or the abolition of the death penalty, it was not appropriate to address the issue of a moratorium through the tabling of a draft resolution with provisions that were inconsistent with the Charter of the United Nations. Her delegation would therefore vote against the draft resolution.

67. **Mr. Clyne** (New Zealand) said that, as one of the draft resolution's main sponsors, his delegation considered it to be particularly balanced. The draft resolution sought to establish a moratorium on the use of the death penalty, not its abolition, by calling upon States to provide safeguards in keeping with international standards, to comply with their obligations under article 36 of the 1963 Vienna Convention on Consular Relations and to make available relevant information. No General Assembly resolution could undermine the sovereignty of States, and the lack of an explicit reference to that principle in the draft resolution did not undermine its inalienability. His delegation therefore called upon all Member States to vote in favour of the draft resolution.

68. **Mr. Zvachula** (Federated States of Micronesia) said that the draft resolution was designed to provide a useful guide for countries, whether or not they were considering establishing a moratorium on the death penalty. His delegation hoped that all Governments would approach it in that spirit, even if they did not subscribe to every detail. Drawing the Committee's attention to paragraph 5, which contained valuable suggestions for drawing comparisons among countries and for further steps toward establishing a moratorium, he underscored that it was up to each country to decide how far in that direction they wished to move. His delegation would vote in favour of the draft resolution and invited other delegations to do the same.

69. *At the request of the delegation of Singapore, a recorded vote was taken on draft resolution A/C.3/69/L.51/Rev.1.*

*In favour:*

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cabo Verde, Cambodia, Canada, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Mozambique, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, South Africa, South Sudan, Spain, Suriname, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tunisia, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of).

*Against:*

Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, China, Democratic People's Republic of Korea, Egypt, Ethiopia, Guyana, India, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Kuwait, Libya, Malaysia, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sudan, Syrian Arab Republic, Trinidad and Tobago, United States of America, Yemen, Zimbabwe.

*Abstaining:*

Bahrain, Belarus, Cameroon, Comoros, Cuba, Democratic Republic of the Congo, Djibouti,

Equatorial Guinea, Gambia, Ghana, Guinea, Indonesia, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Maldives, Mauritania, Morocco, Myanmar, Namibia, Nigeria, Republic of Korea, Senegal, Solomon Islands, Sri Lanka, Thailand, Uganda, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

70. *Draft resolution A/C.3/69/L.51/Rev.1 was adopted by 114 votes to 36, with 34 abstentions.*

71. **Ms. Robl** (United States of America) said that there was a wide divergence of views on the abolition of or moratorium on the continued use of the death penalty, both within and among nations. Her delegation appreciated that the draft resolution set forth policy objectives shared by advocates of abolition; however, the ultimate decision must be taken through domestic democratic processes of individual Member States, consistent with their international obligations. That was the underlying premise of article 6 of the International Covenant on Civil and Political Rights and its Second Optional Protocol, a premise that was also reflected in the amendment proposed by Saudi Arabia, which her delegation had supported.

72. Capital punishment was clearly not prohibited by international law; it could be imposed for the most serious crimes in accordance with the provisions and safeguards set forth under articles 6, 14 and 15 of the Covenant. Her country's Constitution and criminal law at the federal and state level prohibited methods of execution that constituted cruel and unusual punishment. Recent decisions by the Supreme Court had narrowed the class of individuals and types of offences that might be subject to the death penalty. The United States of America was committed to complying with its international obligations and strongly urged other countries retaining the death penalty to apply it only in full compliance with international law.

73. All States, particularly supporters of the draft resolution, should focus their attention towards addressing and preventing human rights violations that might result from the improper use of capital punishment and ensure that it was not applied in an extrajudicial, summary or arbitrary manner, with fair trials before a competent, independent court and due process. States should evaluate the class of individuals and offences subject to the death penalty, ensuring that the application of capital punishment was consistent

with international obligations and that methods of execution inflicting undue pain were strictly prohibited.

74. **Mr. Rabi** (Morocco) said that his country had upheld a de facto moratorium on the death penalty since 1993 and that the right to life was enshrined in its 2011 Constitution. For several years, Morocco had engaged in a fruitful dialogue on the usefulness of retaining the death penalty and was in the midst of a national multi-stakeholder debate on the issue. His country had accepted several universal periodic review recommendations calling for it to consider taking steps to abolish the death penalty and its Equity and Reconciliation Commission had called for Morocco's accession to the Second Optional Protocol of the International Covenant on Civil and Political Rights. A policy was in place to facilitate communication of information related to executions, and the Penal Code was being revised in order to reduce the number of offences for which the death penalty could be applied. Moroccan legislation safeguarded the rights of the accused throughout the judicial process and protected children, pregnant women and persons with mental illnesses from the application of the death penalty. Convicts sentenced to death could also seek pardon, amnesty or commutation of sentence. For those reasons, Morocco had abstained from voting on the draft resolution and the proposed amendment thereto.

75. **Ms. Booker** (Bahamas) said that, notwithstanding the adoption of the draft resolution and the justifications provided by those on the opposite side of the issue, her delegation firmly believed that the death penalty was an issue of sovereignty and should therefore be addressed by national Governments. The Bahamas took every opportunity to reaffirm its commitment to the protection of human rights and the rule of law and was therefore pleased to accept a number of recommendations in the context of its first and second universal periodic review cycles. Nevertheless, her Government had not accepted the recommendation to ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights, nor was it considering the establishment of a formal moratorium on the death penalty, particularly in light of the infrequency with which it had been applied. Capital punishment was only administered for the most serious crimes in strict compliance with due process and the international safeguards set forth in the annex to Economic and Social Council resolution 1984/50.

Because her delegation considered the death penalty to be a criminal justice matter and not a human rights issue, it had voted against the draft resolution.

76. **Mr. Tin** (Myanmar) said that, since his country had embarked on the path of democratization, its legislation had been thoroughly revised in the context of ongoing structural reforms and efforts were being undertaken to strengthen criminal justice in accordance with international norms and standards. Myanmar had inherited the British common law system, which upheld the conditions for the imposition of the death penalty set forth in paragraph 2 of article 6 of the International Covenant on Civil and Political Rights. Offenders below the age of 16 could not be sentenced to capital punishment, which had not been administered in Myanmar since 1988. As a result of recent structural reforms carried out in the context of national reconciliation, convicts sentenced to the death penalty could seek presidential pardon or amnesty and all death sentences had been commuted to life imprisonment as a positive step toward establishing a moratorium. However, because his country believed in the importance of deterring serious crimes to protect citizens and respecting the sovereignty of States by allowing them to move toward a moratorium at their own pace and in accordance with the requirements of their judicial systems, it had abstained from voting on the draft resolution.

77. **Ms. Savitri** (Indonesia) said that the protection of human rights, including the right to life, was enshrined in her country's Constitution. Indonesia had undertaken initiatives to strengthen safeguards in the application of death penalty, notably in the context of amendments to its Criminal Code. Her country had also implemented legal reforms to ensure that capital punishment was imposed as a last resort in the case of serious crimes, such as those affecting younger generations, and in strict compliance with due process. Indonesia strongly opposed arbitrary and extrajudicial killings and welcomed the inclusion in the draft resolution of limitations on the use of the death penalty for children, pregnant women and persons with mental or intellectual disabilities. Because capital punishment was not prohibited by international law, Indonesia considered the issue of the death penalty to fall within the jurisdiction of individual States and had therefore supported the amendment proposed by Saudi Arabia, which had improved the balance of the draft resolution. Indonesia appreciated the sponsors' efforts to

accommodate differing views and respected Member States that had abolished or established a moratorium on the death penalty, as well as those that were progressively restricting its use. In view of the international community's division on the issue and the need to respect differing perspectives, Indonesia had abstained from voting on the draft resolution.

78. **Mr. Do Hung Viet** (Viet Nam) said that, that while his country respected the humanitarian purpose of the moratorium, it had abstained in the vote on the draft resolution out of the conviction that all States had the sovereign right to determine their own legal system and that, depending on a country's circumstances, capital punishment could be used to prevent particularly serious crimes. In Viet Nam, the death penalty was reserved for the most serious crimes and applied in accordance with international standards, particularly those contained in Economic and Social Council resolution 1984/50. In the context of ongoing legal reforms, the Government of Viet Nam had reduced by half the number of offences for which the death penalty was applied and was currently considering further reduction.

79. **Mr. Hisajima** (Japan) said that under Japan's legal system, the death penalty only applied to the most serious crimes; it was not imposed for offences committed by persons under the age of 18 and suspended on account of pregnancy or insanity. The Government published relevant data, including the number of persons sentenced to death and the number of executions carried out. The system thus complied with the international conventions to which Japan adhered and was applied in accordance with the due process of law. Japan was of the view that it was up to each Member State to take decisions on issues concerning the use of the death penalty, based on thorough consideration of all the factors bearing on the issue, including public opinion and the need for holistic balance in national criminal justice policy.

80. Retention or abolition was a high-profile issue affecting the foundation of criminal justice systems. Given the diversity of public opinion among Japanese citizens and the fact that atrocious crimes would continue to be committed, the Government considered it difficult to abolish the death penalty immediately. There was no international consensus on abolishing capital punishment and Japan deeply regretted the sponsors' decision to propose the resolution, which unilaterally called upon States to establish a

moratorium despite the strong objection of retentionist States to its basic orientation seeking abolition. For those reasons, Japan had voted against the resolution.

81. **Mr. Thammavongsa** (Lao People's Democratic Republic) said that, while the death penalty was allowed under national law, it had never been applied in his country, in keeping with the spirit of the draft resolution. Persons facing the death penalty could seek commutation of sentence and many of them had been granted amnesty, pardon or a reduced sentence in recent years. The Lao People's Democratic Republic had maintained a moratorium on the death penalty for many years and was currently revising its penal law to restrict the application of the death penalty to the most serious crimes. Nevertheless, because it recognized the right of each Member State to determine its own criminal justice system, including legal penalties, in accordance with international obligations, his country had abstained from voting on the draft resolution.

82. **Mr. Joshi** (India) said that, in his country, the death penalty was only exercised in the rarest cases, where heinous crimes shocked the society. Furthermore, Indian law provided for all the requisite safeguards, including the right to fair trial and the presumption of innocence. In addition, there were specific legal provisions suspending capital punishment for pregnant women and prohibiting it for juvenile offenders; death sentences must be confirmed by a superior court, and the accused had the right of appeal. India's Supreme Court had adopted guidelines on clemency and the treatment of death row prisoners and had determined that poverty, socioeconomic factors, psychic compulsions and undeserved adversity constituted mitigating factors in determining eligibility for the commutation of a death sentence to life imprisonment. The President of India and state Governors had the power to grant pardon or to suspend, remit or commute any sentence. His delegation had voted against the draft resolution as it was contrary to India's statutory law and failed to recognize the right of States to determine their own legal system, including criminal penalties. In that context, his country had also voted in favour of the proposed amendment to the draft resolution.

83. **Ms. Anjum** (Bangladesh) said that her delegation had voted against the draft resolution and had co-sponsored the amendment proposed by Saudi Arabia. The death penalty was part of the legal and criminal justice system of many sovereign countries,

applied in accordance with due legal process and safeguards. In Bangladesh, its application was restricted to the most heinous crimes and implemented only after an elaborate, exhaustive and transparent process; extreme caution was exercised at every stage to avoid the miscarriage of justice and convicts sentenced to death could seek presidential pardon. There was no international consensus on retention or abolition of capital punishment, a debate that was as old as the death penalty itself. Such a decision was the sovereign right of a State. Thus, as Bangladesh respected the decision of other countries to place a moratorium on the death penalty, it urged them to respect the decisions of States that might not share that view.

84. **Mr. Amorós Núñez** (Cuba) said that Cuba had not applied the death penalty since 2003 and there were no detainees on death row — in 2008 all death sentences had been commuted to 30-year or life prison sentences. While the death penalty was included in Cuban legislation, its application was exceptional and ordered by the competent court only for a small number of serious offences, notably terrorist crimes and crimes posing a threat to national security or the lives of citizens. Moreover, the application of capital punishment was regulated by a wide range of safeguards in strict compliance with the law and United Nations provisions. His country was philosophically opposed to the death penalty and was taking steps to ensure its removal from national legislation. Cuba respected the arguments of the draft resolution's sponsors and supported the international movement to abolish or establish a moratorium on capital punishment.

85. **Ms. Al-Temimi** (Qatar), speaking also on behalf of Kuwait, Oman and Saudi Arabia, said that they had voted against the draft resolution based on the conviction that the issue of the death penalty was first and foremost a criminal justice matter that was linked to the criminal legislation of States. As such, that issue must be considered in the context of the principle of State sovereignty stipulated by the Charter of the United Nations. They had therefore supported the amendment proposed by Saudi Arabia, which guaranteed the sovereign right of all States to determine their judicial systems and determine appropriate legal penalties, in line with their obligations under international law.

86. **Mr. Ruidiaz** (Chile) said that the draft resolution that was just adopted would contribute practically and constructively to the establishment of a moratorium on the death penalty with a view to its abolition. His delegation was convinced that the security concerns expressed by retentionist States could not be properly addressed by the continued application of the death penalty. Capital punishment, due to its inherent flaws, did not reduce criminality, a problem commonly linked to exclusion, which remained a major challenge for the international community.

**(c) Human rights situations and reports of special rapporteurs and representatives (continued)**  
(A/C.3/69/L.32 and A/C.3/69/L.62)

*Draft resolution A/C.3/69/L.32: Situation of human rights in Myanmar*

87. **The Chair** said that the statement of programme budget implications for the draft resolution was contained in document A/C.3/69/L.62.

88. **Mr. Khane** (Secretary of the Committee) said that Israel, Monaco, Palau, the Republic of Korea and San Marino had joined the list of sponsors.

89. **Mr. Lambertini**, introducing the draft resolution on behalf of the European Union, said that Norway, Serbia, Seychelles, Switzerland, the Former Yugoslav Republic of Macedonia and Turkey had joined the sponsors. In recognition of the continued positive developments in Myanmar and its increasing cooperation with the international community, a significant part of the draft resolution was dedicated to welcoming the important efforts undertaken by its Government to bring about change and encouraging further consolidation of that progress.

90. Serious challenges remained, however, and the draft resolution called on the Government of Myanmar to, inter alia, step up its efforts to end remaining human rights violations and abuses and to take necessary measures to ensure accountability and end impunity, as well as to accelerate its efforts to address the situation of ethnic and religious minorities. The international community remained concerned about the situation of the Rohingya minority. While noting steps taken to address that situation, the draft resolution called upon the Government to protect the human rights of all inhabitants of Rakhine State regardless of legal status and to permit unhindered access for humanitarian agencies across that State, urging the full



implementation of existing ceasefire agreements. Lastly, the draft resolution called on the Government to speed up the process of establishing a country office of the United Nations High Commissioner for Human Rights, as it had committed to doing the previous year, which would be an important step for addressing remaining human rights challenges.

91. The European Union had worked closely with Myanmar to produce a draft resolution that reflected both the important strides made over the past year and the main issues of concern still to be addressed. Bilateral consultations had also been held with other delegations with a view to reaching a consensus on the draft resolution.

92. He read out a few oral revisions to the text. In paragraph 3, the words “the steps” should be replaced with “some steps”; in paragraph 11, the words “with a full mandate” should be replaced with “in accordance with the mandate of the High Commissioner for Human Rights”.

93. *Draft resolution A/C.3/69/L.32, as orally revised, was adopted.*

94. **Mr. Tin** (Myanmar) reaffirmed his delegation’s principled opposition to the selective tabling of country-specific resolutions and its conviction that the universal periodic review was the most dependable and uncontroversial monitoring mechanism to address human rights situations in all countries. The promotion of human rights should be based on meaningful cooperation and dialogue. In keeping with the spirit of cooperation that Myanmar had demonstrated over the last two years through its engagement with the international community, including the European Union, and hosting of several special mandate holders, his delegation had refrained from calling for a vote on the draft resolution. He welcomed the recognition given to the various positive developments in his country.

95. His delegation nevertheless maintained reservations to paragraphs 7, 8 and 9, which contained misleading language. The reference to “attacks against Muslims and other religious minorities” was factually incorrect and could only contribute to inciting hatred among religious communities that had coexisted peacefully for centuries. Myanmar shared the international community’s concerns regarding the situation in Rakhine State, a situation that its Government was seeking to address, inter alia, through

a forthcoming comprehensive action plan. His delegation reiterated its long-standing opposition to the use of the term “Rohingya minority.” There was no such minority among his country’s ethnic groups; the inclusion of that term in the text did not imply recognition by Myanmar and would only hinder resolution of the issue by drawing the resentment of the people of Myanmar. The granting of full citizenship on an equal basis would be considered in accordance with domestic law. To that end, a pilot citizenship verification project had been conducted in Rakhine State, resulting in the granting of full citizenship to hundreds of persons. The right to self-identification in that context must never conflict with the aim of addressing the complex situation in Rakhine State.

96. The causes of inter-communal tensions, which were complex and rooted in a history of mistrust, could only be addressed through the long-term promotion of education and development. Avoiding controversial language and focusing on the needs of both communities were important for bringing about peace and stability. While the provision of humanitarian aid to those communities based on sensitivity to their specific needs was an important step, such assistance, in order to be truly effective, must be complemented by development aid.

97. Given that the democratic transition in Myanmar was proceeding apace and reaping tangible benefits, the time had come to remove the issue of its human rights situation from the General Assembly’s agenda and that of the Human Rights Council. Ending the tabling of the country-specific resolution on Myanmar, as had been urged by his country’s President and Foreign Minister, would be an appropriate response by the United Nations to the progress made by his country. His delegation stood ready to work with the international community to further advance peace, stability and development in Myanmar.

*The meeting rose at 6.05 p.m.*