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## Third Committee

### Summary record of the 54th meeting

Held at Headquarters, New York, on Tuesday, 20 November 2018, at 10 a.m.

*Chair:* Mr. Saikal . . . . . (Afghanistan)  
*later:* Ms. Shikongo (Vice-Chair) . . . . . (Namibia)  
*later:* Mr. Saikal (Chair) . . . . . (Afghanistan)

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- (b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

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*The meeting was called to order at 10.20 a.m.*

**Agenda item 74: 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** (*continued*) (A/C.3/73/L.39/Rev.1, A/C.3/73/L.41/Rev.1, A/C.3/73/L.43/Rev.1, A/C.3/73/L.49/Rev.1 and A/C.3/73/L.65)

*Draft amendment A/C.3/73/L.65 to draft resolution A/C.3/73/L.39/Rev.1 (continued)*

1. **Mr. Moussa** (Egypt), speaking on a point of order and in his capacity as coordinator of the Organization of Islamic Cooperation (OIC) on humanitarian issues and human rights in the Third Committee, said that draft amendment [A/C.3/73/L.65](#) should be reflected as submitted by Bangladesh “on behalf of the States Members of the United Nations that were members of OIC, with the exception of Albania, Algeria, Jordan, Lebanon, Tunisia and Turkey”.

2. **The Chair** said that, as had been made clear prior to the vote, once those delegations had withdrawn their sponsorship, the proposed amendment could no longer be deemed to be before the Committee on behalf of OIC member States.

3. **Ms. Elmansouri** (Tunisia), speaking on a point of order, said that her delegation had not been consulted on the statement just made by the representative of Egypt. Since Tunisia had withdrawn its sponsorship of the draft amendment, her delegation kindly requested that no further statements be made on behalf of OIC on the subject.

4. **Mr. Verdier** (Argentina), speaking also on behalf of Brazil, Chile, Colombia, Costa Rica, El Salvador, Mexico and Uruguay, said that there could be no exceptions to the principle of the universality of human rights, especially where the right to life was concerned. Member States must provide effective guarantees against all forms of violence, including violence directed against individuals because of their sexual orientation or gender identity. It was absolutely vital to include the list of vulnerable groups in paragraph 7 (b) of the draft resolution in order to urge States to give greater protection to the right to life of individuals who were more at risk. Not including those groups would have weakened the draft resolution and represented a step backwards. It would have also conveyed the message to those groups that they were not valued by the United Nations and were not even entitled to protection from execution. It was inconsistent to argue

that the inclusion of a list constituted a form of positive discrimination and suggested that other groups were of lesser importance. The principle of universality could not be used to deny rights to certain individuals. For those reasons, the delegations named above had voted against the proposed amendment to paragraph 7 (b) and urged other delegations to vote in favour of the draft resolution.

5. **Ms. Charrier** (France) said that her delegation had voted against the proposed amendment to paragraph 7 (b). Not only would it have called into question language that had been agreed since 2012, it would also have removed one of the most important parts of the text. The draft resolution must continue to underline, as it had done for many years, the importance of protecting all individuals who were particularly at risk. France could not agree to the deletion of the list of vulnerable individuals, who all too often were victims of extrajudicial, summary or arbitrary executions. Her delegation was pleased that the proposed amendment had been rejected and called for the draft resolution to be supported.

6. **Ms. Alfeine** (Comoros) said that it was not the place of the Committee or the Secretariat to determine what constituted a group proposal.

*Draft resolution A/C.3/73/L.39/Rev.1: Extrajudicial, summary or arbitrary executions*

7. **The Chair** invited the Committee to take action on draft resolution [A/C.3/73/L.39/Rev.1](#) as a whole and said that a recorded vote had been requested.

8. **Mr. Sauer** (Finland) said that the text before the Committee was the best possible compromise. He deeply regretted that a vote had been called. The issue that lay at the heart of the draft resolution, the right to life, was a prerequisite for the enjoyment of all other human rights. The draft resolution concerned perhaps the most fundamental of responsibilities, which was to bring to justice those responsible for extrajudicial, summary and arbitrary killings. On behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), he called on all delegations to support the draft resolution.

*Statements made in explanation of vote before the voting*

9. **Mr. Moussa** (Egypt), speaking also on behalf of Afghanistan, Azerbaijan, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Chad, the Comoros, Côte d’Ivoire, Djibouti, Gabon, the Gambia, Guinea, Guinea-Bissau, Guyana, Indonesia, Iran, Iraq, Kazakhstan, Kuwait, Kyrgyzstan, Libya, Malaysia, Maldives, Mali, Mauritania, Morocco, Mozambique, the

Niger, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, the Sudan, Suriname, Tajikistan, Togo, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan and Yemen, said that, while those States believed that extrajudicial, summary and arbitrary executions must never take place on discriminatory grounds and reaffirmed their commitment to combating all forms of discrimination, stereotyping, intolerance and violence directed against all peoples, communities and individuals, they strongly rejected any attempt to undermine the international human rights system by seeking to impose undefined concepts pertaining to social matters, including private individual conduct that fell outside the internationally agreed human rights framework. Such attempts constituted an expression of disregard for the universality of human rights and disrespect for cultural and social specificities, norms and diversities.

10. While recognizing that the rights enshrined in the Universal Declaration of Human Rights were codified in subsequent international legal instruments, they were alarmed at systematic attempts to misinterpret that Declaration and international treaties as including such undefined notions, which had never been articulated or agreed to by the United Nations membership, and to impose them in United Nations resolutions. His delegation, on behalf of the aforementioned OIC member States, called for a vote and called on all countries with similar positions to abstain from voting on the draft resolution as a whole.

11. **Ms. Eckels-Currie** (United States of America) said that her country condemned extrajudicial, summary or arbitrary executions against any individuals, regardless of their status. All States had an obligation to protect human rights and fundamental freedoms and must take effective action to combat all extrajudicial killings. The United States also strongly supported language condemning extrajudicial, summary or arbitrary executions that targeted members of vulnerable groups, including members of the lesbian, gay, bisexual and transgender community and women and girls. Countries that had capital punishment must abide by their international obligations, including those relating to fair trial guarantees and use of such punishment for the most serious crimes only. For those reasons, her delegation would vote in favour of the draft resolution and encouraged others to do likewise.

12. The United States did not interpret the draft resolution as changing the current state of conventional or customary international law, particularly with respect to articles 2 and 6 of the International Covenant on Civil and Political Rights.

13. The United States fully supported the use of less-than-lethal devices when appropriate. However, it disagreed that the use of less-than-lethal devices decreased the need to use any kind of weapon in all circumstances. In some situations, the use of less-than-lethal devices could increase the risk of injury or death to the law enforcement officer. Her Government supported a balanced approach that recognized that situations were fact-specific.

14. It was up to individual Member States to decide on lawful implementation of the death penalty. International human rights law clearly established that Member States could impose that sentence as a form of punishment, as confirmed by article 6 of the International Covenant on Civil and Political Rights. The United States did not endorse the resolutions and reports referenced in paragraph 5, which inaccurately attempted to redefine “most serious crimes” as limited to intentional killings.

15. The United States did not recognize the principle of proportionality in law. Instead, the use of force by law enforcement officers was governed by the “objective reasonableness” standard set forth by the United States Supreme Court.

16. The terms “conform” and “to ensure” incorrectly suggested that Member States had undertaken obligations to apply the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, all of which were non-binding.

17. While country visits were an important human rights tool, United States prison officials were unable to grant to the Special Rapporteur the kind of access that he sought in all circumstances.

18. The unlawful killing of individuals by Governments was regulated by international human rights law and international humanitarian law, which were complementary and mutually reinforcing bodies of law and set forth two legal frameworks. Determining which rules applied to any particular government action during an armed conflict was highly fact-specific, but international humanitarian law was the *lex specialis* regarding situations of armed conflict and the United States interpreted the text on that basis.

19. *At the request of the representative of Egypt, a recorded vote was taken on draft resolution A/C.3/73/L.39/Rev.1.*

*In favour:*

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Bahamas, Barbados, Belgium,

Belize, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Cabo Verde, Cambodia, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Grenada, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Ireland, Italy, Jamaica, Japan, Kazakhstan, Kiribati, Latvia, Lebanon, Liberia, Liechtenstein, Lithuania, Luxembourg, Malawi, Maldives, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Saint Vincent and the Grenadines, Samoa, San Marino, Serbia, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

*Against:*

None.

*Abstaining:*

Afghanistan, Algeria, Azerbaijan, Bahrain, Bangladesh, Belarus, Botswana, Brunei Darussalam, Burkina Faso, Cameroon, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Jordan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Libya, Madagascar, Malaysia, Mali, Mauritania, Morocco, Mozambique, Niger, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Russian Federation, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, South Sudan, Sudan, Suriname, Syrian Arab Republic, Tajikistan, Togo, Tonga, Uganda, United Arab Emirates, United Republic of Tanzania, Uzbekistan, Viet Nam, Yemen, Zambia, Zimbabwe.

20. *Draft resolution A/C.3/73/L.39/Rev.1 was adopted by 110 votes to none, with 67 abstentions.*

21. **Mr. Omer Mohamed** (Sudan) said that his delegation disassociated itself from the references to the International Criminal Court. The United Nations should distance itself from the jurisdiction of that Court, which was charting a deplorable path of discrimination. His delegation also distanced itself from clauses calling for an end to capital punishment, since that was a matter for countries' legal systems, each of which was valid in its own right.

*Draft resolution A/C.3/73/L.41/Rev.1: Promotion and protection of human rights and fundamental freedoms, including the rights to peaceful assembly and freedom of association*

22. **The Chair** said that the draft resolution contained no programme budget implications.

23. **Ms. Eckels-Currie** (United States of America), introducing the draft resolution on behalf of the sponsors, said that the text drew attention to the alarming increase in the violation of fundamental freedoms by Governments, especially freedom of peaceful assembly and of association. Peaceful protests were often met with violence from government security forces, resulting in the death of those speaking out against corruption and misrule. State and non-State actors were also violating those freedoms online through Internet shutdowns and censorship, particularly during online gatherings related to upcoming elections. For the first time, the importance of respecting and promoting fundamental freedoms, including freedom of peaceful assembly and of association, was being addressed by the Third Committee in a separate draft resolution rather in a few paragraphs of draft resolutions on other issues.

24. **Mr. Khane** (Secretary of the Committee) said that Andorra, Argentina, Armenia, Austria, Belgium, Botswana, Bulgaria, Burkina Faso, Cabo Verde, Cyprus, Equatorial Guinea, Ghana, Guatemala, Honduras, Ireland, Liechtenstein, Maldives, Mexico, Mongolia, Morocco, the Niger, Nigeria, Norway, Panama, the Republic of Moldova, Serbia, Sri Lanka, Switzerland, Tunisia and Uruguay had joined the sponsors.

25. **Mr. Charwath** (Austria), speaking on behalf of the European Union; the candidate countries Albania, Montenegro, Serbia and the former Yugoslav Republic of Macedonia; the stabilization and association process country Bosnia and Herzegovina; and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the new draft resolution on fundamental freedoms was well placed in the Third Committee. It was a welcome initiative at a time when civil society space, and thus civil and political rights, were being restricted, including the right to peaceful protest. The European

Union and its member States condemned violence and intimidation against journalists, media workers and human rights defenders exercising that right online or offline. They were particularly concerned about all forms of violence against women and girls, including sexual harassment.

26. Under the guise of maintaining public order or combating terrorism, abusive restrictions on the exercise of freedom of association or peaceful assembly frequently targeted individuals because of their opinions, political affiliation, ethnic or religious background, or sexual orientation or gender identity. Domestic frameworks governing peaceful demonstrations must uphold international human rights law and must not be used as a pretext for abusively repressing the exercise of freedom of opinion and expression. The draft resolution called on States to put an end to those practices, to fight impunity and to promote an environment that respected diversity and the exercise of all fundamental freedoms, all of which were commitments that lay at the heart of the European project.

27. The draft resolution stressed that freedom of association and assembly was a prerequisite for democratic debate and good governance. Respect for rights and fundamental freedoms was the responsibility of States, yet that responsibility was also at the service of States. The exercise of individual freedoms contributed to the development of peaceful societies that trusted their institutions. That was a universal reality. The European Union hoped that the draft resolution would be supported by all.

28. **Mr. Aldahhak** (Syrian Arab Republic) said that his delegation wished to express its condolences to Afghanistan for the suicide attack that morning in Kabul.

29. Despite its firm support for many elements of the draft resolution, and despite its sincere participation during the informal consultations, the Syrian Arab Republic regretted that the facilitator had not taken into account the comments and suggestions of numerous delegations. The draft resolution ignored the use of the rights of peaceful assembly and freedom of expression to protest foreign occupation and demand the right to self-determination, and the Syrian delegation was among several that had requested the inclusion of wording to that effect in the draft. The rights of self-determination and freedom from foreign occupation were fundamental because they provided the framework for the enjoyment of other rights. The facilitator had nevertheless rejected the proposal.

30. The draft singled out certain cases as legitimating the right to peaceful assembly and failed to mention others, which was a politically motivated move and not

in line with international law or the Charter of the United Nations. However, demand for the right to protest imperialism or foreign occupation was not in line with the policy of the facilitator's country. Some Member States evidently viewed themselves as akin to doctors who prescribed certain rights and dissuaded the exercise of other, unhealthy, rights. Such a stance was unacceptable and explained why his delegation believed that the draft resolution in its current form was hypocritical and not reflective of consensus. The Syrian Arab Republic had therefore called for a recorded vote and would abstain from voting.

31. **Mr. Yaremenko** (Ukraine) said that the effective exercise of the right to freedom of peaceful assembly and of association was essential to the enjoyment of other human rights and constituted a fundamental pillar of a democratic society. Ukraine condemned violations and abuses of those rights by State and non-State actors and called upon all States to promote a safe and enabling environment in which individuals and groups could exercise them. His delegation would vote in favour of the draft resolution and called on other States to do the same.

32. **Mr. Verdier** (Argentina) said that individuals must be able to exercise their rights to freedom of peaceful assembly, of expression and of association in a safe environment in accordance with national legislation and international human rights law. It was important to address the management of assemblies in accordance with paragraph 7 of the draft resolution, taking into account that exercising the rights in question should not mean violating the human rights of others. Argentina supported the work carried out by human rights defenders and recognized their valuable contribution. His country condemned acts that made their work more difficult and urged Member States to intensify their efforts to safeguard their lives, personal integrity and freedom of expression. Argentina supported Member States in the promotion, dissemination and implementation of international instruments on the subject.

33. **Mr. Guillermet-Fernandez** (Costa Rica) said that it was regrettable that a vote had been called on such an important draft resolution. The rights to freedom of peaceful assembly and of association were guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and played a fundamental role in democratic societies, in particular by protecting civil society actors and human rights defenders. His delegation would vote in favour of the draft resolution and he encouraged others to do likewise.

34. **Ms. Pritchard** (Canada), expressing disappointment that a vote had been called, said that the

text was the outcome of open and transparent negotiations and most of its language was based on previously agreed wording. The draft resolution came at a critical time, since individuals exercising the rights to freedom of peaceful assembly and of association online and offline were facing a rising number of threats. The text drew attention to those threats and called on States to address them. Its adoption would send a valuable message to those who sought to curtail those rights and fundamental freedoms. Canada would vote in favour of the draft resolution and urged Member States to follow suit.

35. **Ms. Feldman** (Australia) said that her delegation strongly supported the draft resolution. Australia was extremely concerned about the increased number of threats made against individuals seeking to exercise their rights to freedom of peaceful assembly and of association. It was positive that the text included Human Rights Council language on peaceful protests and highlighted individuals who faced particular threats. Australia would vote in favour of the draft resolution and urged Member States to do the same.

36. **Ms. Eckels-Currie** (United States of America), making a general statement before the voting, said that her delegation was deeply disappointed that a vote had been called on an important draft resolution that would allow the Third Committee to draw attention to the threats and attacks against individuals and groups exercising the rights to freedom of peaceful assembly and of association witnessed around the world. The text included different perspectives, as demonstrated by its broad, cross-regional support, and was rooted in fundamental human rights documents. As a result, it should have been adopted by consensus. She urged delegations to vote in favour and to reject a cynical attempt to undermine fundamental rights that should be enjoyed by all.

*Statements made in explanation of vote before the voting*

37. **Mr. Kuzmin** (Russian Federation) said that the rights of all persons to peaceful assembly and freedom of speech were guaranteed in the Constitution of the Russian Federation. All citizens had the right to carry out meetings, demonstrations, marches and picketing. The right to individual and collective disputes, including the right to strike, was also recognized in the Constitution.

38. However, the right to peaceful assembly, including in public places, was not an absolute right. States must strike the right balance between upholding that right and protecting society and its members. That was why the International Covenant on Civil and Political Rights, as

well as regional human rights agreements, contained a list of legitimate restrictions on civil liberties and provisions for possible deviations by Governments from certain provisions. The authors of the draft resolution had unfortunately failed to fully reflect that aspect. Such inconsistency raised questions as to the real motives behind bringing the draft resolution for the consideration of the Third Committee.

39. The fulfilment of the right to peaceful assembly and freedom of association should not be accompanied with violations of human rights on the part of the authorities or disregard for those rights on the part of protestors. It was unfortunate that the authors of the draft resolution had not taken into consideration that and other concerns which had been shared by a significant number of delegations during the consultations. The draft resolution was unbalanced and one-sided, and his delegation would abstain from voting on it.

40. **Mr. Xing Jisheng** (China) said that his country supported the promotion and protection of the rights to peaceful assembly and freedom of association and expression. It was, however, the responsibility of Governments to protect those rights and manage assemblies, including peaceful protests, in accordance with national law. According to the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, everyone was subject to limitations in the exercise of their rights and freedoms under the law and for reasons of national security and public order and the protection of the rights and freedoms of other people. China and other Member States had suggested amendments to the draft resolution that, regrettably, had not been taken into account. His delegation would therefore abstain from voting.

41. **Ms. Bellout** (Algeria) said that the Constitution of her country provided a strong legal arsenal in defence of fundamental freedoms for everyone. Algeria was committed to protecting all fundamental rights in line with the international instruments to which it was a State party. Her delegation was concerned, however, that the rights of people living under foreign occupation, including the rights to peaceful assembly and freedom of association, had not been taken into account in the draft resolution. For that reason, Algeria would abstain from voting.

42. **Mr. Hassani Nejad Pirkouhi** (Islamic Republic of Iran) said that the thousands of mostly peaceful demonstrations that had been held in his country in recent years were a clear indication of a vibrant, democratic and open society. As long as demonstrators did not resort to violence or attack public property, the Government of his country was committed to protecting

fundamental human rights such as the right to peaceful assembly. The failure to include references in the draft resolution to relevant provisions of international law, such as articles 12 (3), 19, 21 and 22 (2) of the International Covenant on Civil and Political Rights, meant that the final text lacked balance. Moreover, the wording of the draft was unclear in places; paragraph 4, for instance, included a reference to online peaceful assembly, which was difficult to comprehend, let alone ensure. Lastly, his delegation was concerned that the proliferation of resolutions with similar subjects and coverage was adding to the already heavy workload of the Third Committee. For all those reasons, his delegation would abstain from voting and invited other delegations to do the same.

43. **Ms. González Tolosa** (Bolivarian Republic of Venezuela) said that her country, which actively promoted and defended the rights to peaceful assembly and freedom of association, shared the overarching principles and values that informed the draft resolution. Some language therein, however, was selective and politicized and suggestions made by numerous delegations to render the draft more balanced had been ignored. An attempt had been made, running roughshod over the spirit of inclusion, dialogue and respect for international law, to include concepts in the draft resolution that reflected the political and ideological agendas of certain Governments. Doing so ran counter to the objective and impartial approach to the matter of human rights that had been agreed upon by Member States in line with the principles set forth in the Charter of the United Nations. For all those reasons, her country would abstain from voting.

44. **Mr. Aldahhak** (Syrian Arab Republic) said that for days, his delegation had witnessed the delegation of the United States ask for amendment after amendment on draft resolutions and for recorded vote after recorded vote, which had tried the delegations' patience and wasted time. Those draft resolutions had been based on agreed language. The United States did not feel frustrated in making those requests but did when another delegation asked for a recorded vote.

45. The delegation of the United States claimed that the Syrian delegation was obstructing the work of the Committee, whereas it had been the United States that had submitted several amendments and put several resolutions to a vote. Furthermore, the United States had withdrawn from the Human Rights Council and had asked for the removal of agenda item 7 of the Human Rights Council on the human rights situation in Palestine and other occupied Arab territories. How could those who claimed to be a "champion" of human rights refuse the right to peaceful assembly and freedom

of expression to peoples who demanded independence, self-determination and freedom from foreign occupation? The Syrian delegation had taken a positive and constructive stance in the Committee and had rejected neither the rights of freedom of expression and peaceful assembly nor the draft resolution. It had merely said that it would abstain from the vote, and it once again urged other delegations to also abstain out of respect for international law, the right to self-determination and the right to call for an end to foreign occupations.

46. *At the request of the representatives of Belarus, the Bolivarian Republic of Venezuela, China, the Islamic Republic of Iran, Nicaragua, the Russian Federation and the Syrian Arab Republic, a recorded vote was taken on A/C.3/73/L.41/Rev.1.*

*In favour:*

Afghanistan, Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bangladesh, Belgium, Belize, Benin, Bhutan, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Cabo Verde, Canada, Central African Republic, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Maldives, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Senegal, Serbia, Seychelles, Sierra Leone, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America,

Uruguay, Uzbekistan, Vanuatu, Zambia, Zimbabwe.

*Against:*

None.

*Abstaining:*

Algeria, Bahrain, Belarus, Bolivia (Plurinational State of), Brunei Darussalam, Burundi, Cambodia, China, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Guinea, Indonesia, Iran (Islamic Republic of), Iraq, Lao People's Democratic Republic, Libya, Malaysia, Mauritania, Myanmar, Nicaragua, Pakistan, Palau, Russian Federation, Saudi Arabia, Singapore, South Sudan, Sudan, Syrian Arab Republic, Uganda, United Arab Emirates, United Republic of Tanzania, Venezuela (Bolivarian Republic of), Viet Nam, Yemen.

47. *Draft resolution A/C.3/73/L.41/Rev.1 was adopted by 143 votes to none, with 38 abstentions.*

48. **Ms. Makwabe** (South Africa) said that her delegation had voted in favour of the draft resolution because South Africa fully supported the promotion and protection of human rights and fundamental freedoms. Nonetheless, the draft resolution could have been strengthened and some issues raised in it were covered in other resolutions. The indication in the draft resolution that the freedom of peaceful assembly was essential for the attainment of all other human rights was contrary to the spirit of the Vienna Declaration and Programme of Action, according to which all human rights were equally important, indivisible, interrelated and interdependent. Moreover, restrictions on the rights to peaceful assembly and freedom of association were provided for under the Bill of Rights, which was part of the Constitution of South Africa, and also under article 19 of the International Covenant on Civil and Political Rights.

49. **Mr. Marzooq** (Iraq) said that while paragraph 4 of the draft resolution contained important points related to peaceful assembly, it did not mention the role played by Governments in responding to media that incited violence and extremism and thereby promoted terrorism. Such media had had an impact on Iraq, leading to the recruitment and illegal entry of 25,000 foreign terrorists who were responsible for killing thousands of innocent people and committing other heinous atrocities. All delegations were no doubt aware of what Islamic State in Iraq and the Levant (ISIL) had done in Iraq and of the efforts of the Government and the United States-led international coalition to crush ISIL. Iraq had therefore abstained from the vote and would work with the facilitators during the next round

of discussions to ensure that its concerns were taken into consideration.

50. **Mr. Habib** (Indonesia) said that the rights of peaceful assembly and freedom of association and expression were guaranteed under his country's Constitution, in which limits on those rights were also set forth. Their exercise should not infringe the rights of others or compromise national security, public order, public health or morals. The protection of human rights should apply equally to all. Rights should be balanced with responsibilities, including in the case of human rights defenders, and the same rights and responsibilities applied offline and online. Suggested amendments made by the delegations of Indonesia and other Member States regarding responsibilities had not been taken into account. Indonesia was also opposed to the listing of particular groups in the draft resolution. For all those reasons, his country had abstained from the vote.

51. *Ms. Shikongo (Namibia) took the Chair.*

52. **Mr. Cepero Aguilar** (Cuba) said that his country had abstained from voting on the draft resolution, above all because of its uneven and selective nature. The first draft submitted by the delegation of the United States had been riddled with technical shortcomings. It had been clear from the outset that that delegation, far from seeking consensus, had sought merely to win the vote. Its lack of good faith had been made apparent by the few meetings it had called to discuss the draft and the uneven choice of language, which had been drawn mainly from General Assembly resolution 72/247 and Human Rights Council resolutions 15/21, 32/32 and 38/11. Various delegations had suggested the inclusion of additional agreed language from the aforementioned resolutions in order to strengthen the draft and make it more balanced. Those suggestions had been ignored. Indeed, the United States delegation had gone so far as to deliberately alter agreed language on areas such as the right to development. The failure to include in the draft resolution wording based on article 17 of 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 was a serious shortcoming. Cuba would continue to promote, protect and guarantee the rights to peaceful assembly and freedom of association.

53. **Ms. Nguyen Lien Huong** (Viet Nam) said that her country's commitment to the promotion and protection of human rights and fundamental freedoms was reflected in its Constitution and laws, and in day-to-day practice. Viet Nam had therefore welcomed the submission by the United States of the draft resolution. However, due attention should have been paid to all

aspects of the exercise of the rights to peaceful assembly and freedom of association, which must not run counter to national interests or infringe the rights or legitimate interests of others. The draft resolution failed to reflect the balance between the rights and obligations of individuals and organizations or to include any reference to the need to ensure national security, public order, public health or morals or the rights and freedoms of others. Viet Nam had therefore been compelled to abstain from the vote.

54. **Mr. Tarar** (Pakistan) said that fundamental rights, including to peaceful assembly and freedom of association and expression, were enshrined in his country's Constitution and laws. A source of great concern was the tendency in various parts of the world to use the freedom of expression as a cover for offending the sensibilities of millions of people. Issues such as those addressed in the draft resolution required cooperation, dialogue and understanding. The delegations of Pakistan and other Member States had made proposals, including on striking a balance between international human rights standards and national legislation, that would have improved the draft. They had, however, been ignored. For those reasons, in terms of process and substance, his delegation had abstained from the vote.

55. **Ms. Alzouman** (Kuwait) said that her country attached great importance to human rights and sought to strengthen and protect those rights in accordance with national legislation and international instruments. In line with international instruments and its Constitution, Kuwait had voted in favour of the draft resolution.

56. **Ms. Ali** (Singapore) said that her delegation had taken part in the discussions on the draft resolution in good faith and with a view to protecting and promoting human rights and fundamental freedoms, including the rights to peaceful assembly and freedom of association, which were protected under the Constitution of Singapore. Those rights, however, were not unqualified, as was recognized in the Universal Declaration of Human Rights. Her delegation was disappointed that its constructive proposals on many paragraphs in the draft resolution had been disregarded, despite the support they had received from other delegations. It had reservations with regard to paragraphs that included references to unqualified rights. The exercise of individual rights and freedoms came with corresponding responsibilities. The rights of the individual must be balanced with those of society and it was for each country to determine where that balance lay. Because that point was not acknowledged in the draft resolution, her delegation had abstained from the vote.

57. **Mr. Hawke** (New Zealand) said that his country had been pleased to sponsor the draft resolution, the wording of which was based on agreed language from previous resolutions and reflected an accurate and balanced approach to international human rights law on the topic. The rights to peaceful assembly and freedom of association were coming under increasing threat. It was critical for a healthy society that dissenting views could be expressed without fear of reprisals, threats or violence, and therefore important that the Third Committee adopt a principled position on the matter. In the draft resolution, States were called on to promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly, expression and association, and to take concrete measures to prevent and put an end to the arbitrary arrest, detention and harassment of, and violence against, peaceful protestors and human rights defenders. Such measures reflected existing obligations under international human rights instruments and customary international law. His delegation welcomed the adoption of the draft resolution and regretted that a vote had been called for.

58. *Mr. Saikal (Afghanistan) resumed the Chair.*

59. **Mr. Ajayi** (Nigeria) said that his delegation had sponsored the draft resolution in the light of his Government's transparent, inclusive and democratic support for the fundamental freedoms of all people in Nigeria. Even in the context of its efforts to combat terrorism, his Government was committed to protecting basic human rights. By way of example, a human rights desk had been established within the military to ensure a prompt response to alleged human rights violations. The rights to peaceful assembly, freedom of association and participation in lawful gatherings lay at the core of President Muhammadu Buhari's social contract with the people of Nigeria. His Government would continue to ensure that people and groups could express their views and engage in other forms of lawful association. There was no hierarchy of rights, which were interdependent and interrelated.

60. Although his country supported the draft resolution, it remained convinced that the exercise of the rights to peaceful assembly and freedom of association was subject to national laws and national security considerations and must not infringe the rights of others.

*Draft resolution A/C.3/73/L.43/Rev.1: Terrorism and human rights*

61. **The Chair** said that the draft resolution contained no programme budget implications.

62. **Mr. Ríos Sánchez** (Mexico), introducing the draft resolution on behalf of the sponsors, said that he wished to present a series of oral amendments that had been communicated to Member States previously. First, the revised seventh preambular paragraph would now read as follows: “*Reaffirming* the primary responsibility of States to protect the population throughout their territory, and recalling in this regard that all parties to armed conflict must comply fully with the obligations applicable to them under international humanitarian law related to the protection of civilians and medical personnel in armed conflict”. Second, paragraph 4 would read as follows: “*Stresses* the responsibility of States to protect persons in their territory against such acts, in full compliance with their obligations under international law, and in particular international human rights law, international refugee law and international humanitarian law”. Third, the final sentence of paragraph 20 would read as follows: “... participates, or attempts to participate, in the financing, planning or preparation of terrorist acts”.

63. Language in all three cases had been agreed upon by the Member States. The aim of the draft resolution was to address terrorism-related issues from an integral human rights perspective. Fundamental freedoms must not be restricted in efforts to combat terrorism and the primacy of human rights must not be forgotten in attempts to achieve collective peace and security.

64. Merging the content of General Assembly resolutions 72/180 and 72/246 into a single draft resolution would facilitate the taking of more coordinated and effective counter-terrorism measures in which human rights and fundamental freedoms were respected. While the draft resolution might not currently address all the concerns of delegations, it nonetheless represented a practical effort to narrow differences on the sensitive subjects of terrorism and human rights. At the same time, it helped to streamline the work of the Third Committee, the Human Rights Council and the broader United Nations system.

65. **Mr. Khane** (Secretary of the Committee) said that Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, the Dominican Republic, El Salvador, Estonia, Finland, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Jordan, Latvia, Lebanon, Lithuania, Luxembourg, Mali, Malta, Montenegro, the Netherlands, Nigeria, Poland, Portugal, Romania, Serbia, Slovakia, Slovenia, Spain,

Sweden, the former Yugoslav Republic of Macedonia and Uruguay had joined the sponsors.

66. **Ms. Eckels-Currie** (United States of America) requested that the draft resolution be amended through the deletion of paragraph 14.

67. **Mr. Ríos Sánchez** (Mexico) said that the draft resolution was the result of painstaking efforts on the part of the delegations of his country and Egypt to achieve consensus. Paragraph 14 did not establish any obligation on Member States and reflected agreed language that had already been adopted by Member States in paragraph 79 of General Assembly resolution 72/284. The amendment suggested by the delegation of the United States was therefore regrettable and Member States should vote against it.

68. **Ms. Eckels-Currie** (United States of America) said that her delegation had proposed the amendment owing to concerns that the language in paragraph 14 was contradictory to United States law, which did not permit assistance to be provided to individuals or groups that were involved in the material support of terrorism. While the United States supported the vital role of humanitarian actors in alleviating the suffering of those displaced and otherwise victimized by terrorism, countries were not obligated under international law to allow the unrestricted delivery of humanitarian or other assistance to terrorist groups or individual terrorists or to allow the provision of support to terrorist groups or individual terrorists for any purported humanitarian or other activities. Should the amendment be rejected, her delegation would support consensus on the resolution as a whole.

69. *A recorded vote was taken on the oral amendment proposed by the representative of the United States to delete paragraph 14.*

*In favour:*

Israel, Senegal, United States of America.

*Against:*

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahrain, Bangladesh, Belarus, Belgium, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burundi, Cameroon, Canada, Chile, Colombia, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czechia, Democratic People’s Republic of Korea, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gambia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Hungary,

Iceland, Indonesia, Ireland, Italy, Jamaica, Japan, Jordan, Kuwait, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malaysia, Mali, Malta, Mauritania, Mexico, Monaco, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Romania, San Marino, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Sudan, Spain, Sudan, Suriname, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen.

*Abstaining:*

Belize, Benin, Cambodia, China, Côte d'Ivoire, Djibouti, Equatorial Guinea, Ethiopia, Honduras, India, Iran (Islamic Republic of), Iraq, Kazakhstan, Kenya, Kiribati, Lesotho, Liberia, Mongolia, Nepal, Papua New Guinea, Republic of Korea, Russian Federation, Rwanda, Sao Tome and Principe, Solomon Islands, Sri Lanka, Syrian Arab Republic, Togo.

70. *The amendment proposed by the representative of the United States was rejected by 116 votes to 3, with 28 abstentions.\**

71. **Mr. Kuzmin** (Russian Federation) said that his delegation could not understand why the sponsors had, at the last minute, decided to remove the word “incitement” from paragraph 20 of the draft resolution. The concept of “incitement” appeared in documents related to General Assembly resolution [72/284](#) on the United Nations Global Counter-Terrorism Strategy Review, in particular paragraph 48. His delegation proposed that the draft resolution should be left in the form in which it had been distributed originally, with the word “incitement” retained.

72. **Mr. Moussa** (Egypt), speaking also on behalf of Mexico, said that, in a bid to accommodate every delegation's point of view, the sponsors had incorporated that language into the text, but it had failed to receive the required support by the wider membership. It had therefore been decided to revert to agreed language that had appeared in Human Rights Council resolutions. He asked the delegation of the

Russian Federation to withdraw its amendment, as it was not acceptable to the sponsors.

73. **Mr. Kuzmin** (Russian Federation) said that it was his delegation's understanding that the amendment proposed by his delegation would in fact be welcomed by a significant number of States. Practically all delegations had been prepared to vote in favour of the draft resolution without the amendment proposed by Egypt. His delegation was bewildered by such backroom deals and attempts to have as few votes as possible to the detriment of the text, and was therefore forced to request a vote on the issue. He called upon all delegations to support the amendment proposed by his delegation, as it would be strange to vote against the condemnation of incitement to terrorism.

74. **Mr. Ríos Sánchez** (Mexico), speaking on behalf of the sponsors, requested that the oral amendment proposed by the Russian Federation be put to a vote. He invited all delegations to vote against it, since the text as it stood was agreed language.

75. **Mr. Kuzmin** (Russian Federation) clarified that his delegation had proposed that paragraph 20 should revert to the original wording in document [A/C.3/73/L.43/Rev.1](#), which retained the word “incitement”.

76. *At the request of the representative of Mexico, a recorded vote was taken on the oral amendment proposed by the representative of the Russian Federation.*

*In favour:*

Afghanistan, Belarus, Burundi, China, Democratic People's Republic of Korea, Guyana, India, Iran (Islamic Republic of), Iraq, Kazakhstan, Myanmar, Nicaragua, Nigeria, Russian Federation, Rwanda, South Sudan, Sudan, Syrian Arab Republic, Tajikistan, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Zimbabwe.

*Against:*

Albania, Andorra, Argentina, Australia, Austria, Bahrain, Belgium, Belize, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czechia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Guinea, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kuwait, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Luxembourg, Malta,

\* The delegation of Senegal subsequently informed the Committee that it had intended to vote against the proposed amendment.

Mexico, Monaco, Montenegro, Netherlands, New Zealand, Norway, Oman, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, San Marino, Saudi Arabia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yemen.

*Abstaining:*

Angola, Bangladesh, Barbados, Benin, Bhutan, Brunei Darussalam, Cambodia, Cameroon, Chile, Djibouti, Equatorial Guinea, Ethiopia, Fiji, Ghana, Honduras, Indonesia, Jamaica, Kenya, Kiribati, Lesotho, Liberia, Malaysia, Mali, Mongolia, Mozambique, Namibia, Nepal, Pakistan, Papua New Guinea, Samoa, Senegal, Singapore, Solomon Islands, Sri Lanka, Thailand.

77. *The amendment proposed by the representative of the Russian Federation was rejected by 80 votes to 23, with 35 abstentions.\*\**

78. **Mr. Mohamed** (Sudan) said that his delegation noted the difficulties that had led the sponsors to remove the word “incitement” from the draft resolution. Nevertheless, as the word appeared in virtually all counter-terrorism agreements, his delegation saw the need for its inclusion and had therefore voted in favour of the proposed amendment.

79. **The Chair** invited the Committee to take action on draft resolution [A/C.3/73/L.43/Rev.1](#), as orally revised.

80. **Mr. Charwath** (Austria), speaking on behalf of the European Union; the candidate countries Albania, Montenegro and the former Yugoslav Republic of Macedonia; and the stabilization and association process country Bosnia and Herzegovina, said that the European Union and its member States fully supported a single text merging the resolution on the protection of human rights and fundamental freedoms while countering terrorism, led by Mexico, and the resolution on the effect of terrorism on the enjoyment of human rights, led by Egypt.

81. Counter-terrorism laws and policies were being used in some countries to restrict peaceful dissent and target opposition groups, journalists and human rights defenders. As stated by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism,

counter-terrorism laws and measures must be consistent with international law. The human rights and fundamental freedoms of all human beings needed to be protected from the negative impact of terrorism and from the possible negative impact of counter-terrorism measures.

82. The draft resolution was a compromise. The European Union would have appreciated the inclusion of more human rights-oriented language, and a more transparent approach should be taken to improve the overall balance in the future.

83. **Ms. Pritchard** (Canada), speaking also on behalf of Iceland, Lichtenstein, New Zealand and Switzerland, said that, in general, their delegations supported efforts to streamline resolutions on similar topics in the Third Committee. With regard to the draft resolution, however, they had expressed deep concern about the process of merging two resolutions that addressed two related but very different types of human rights violations. In General Assembly resolution [72/180](#), the importance of Governments fully respecting their human rights obligations in their counter-terrorism efforts was underlined, while in General Assembly resolution [72/246](#), the ways in which terrorists themselves violated human rights were examined. Their delegations were dissatisfied with the fact that the draft resolution had been introduced in a year in which neither resolution had been scheduled to be considered and with the last-minute nature of the consultations. Furthermore, as crucial human rights language from resolution [72/180](#) had not been retained the draft resolution did not consolidate the two resolutions. Their delegations therefore could not accept draft resolution [A/C.3/73/L.43/Rev.1](#) as a successor to resolution [72/180](#), which should be revisited during the seventy-fourth session of the General Assembly.

84. **Mr. Kuzmin** (Russian Federation) said that his delegation was traditionally in favour of strengthening international cooperation in combating terrorism on the firm basis of international law, above all the Charter of the United Nations, including the principles of the sovereignty and equality of States and non-interference in their internal affairs. Ensuring counter-terrorism security and protecting human rights were mutually reinforcing objectives that should not be pitted against each other. State institutions responsible for preventing and countering terrorism should act in strict compliance with international human rights obligations.

\*\* The delegation of Algeria subsequently informed the Committee that it had intended to abstain from voting on the proposed amendment.

85. The decision of the facilitators of the draft resolution to introduce, at the last minute, revisions that had not been agreed with the participants in the consultations had come as an unwelcome surprise. The nature of the consultations had reaffirmed his delegation's concerns about futile attempts to destroy the existing international legal basis for the fight against terrorism. In particular, his delegation could not understand why the concept of the prevention of violent extremism had been equated with counter-terrorism in the draft resolution, as that brought no added value. The role of States in counter-terrorism and the need to combat external forces that fuelled extremism in society needed to be defined more clearly in the draft resolution.

86. His delegation was surprised that a number of delegations had voted against the call to bring to justice persons involved in the incitement of terrorist acts and attributed that to the fact that the Third Committee did not have counter-terrorism expertise. It must have been a mistake given the ongoing efforts of counter-terrorism bodies in that regard.

87. Violence was often promoted under the pretext of the protection of free speech, resulting in the uninhibited recruitment of young people to terrorist groups. The consequences for the realization of human rights, namely, the right to life, were catastrophic. The collective efforts of the international community should be aimed at ensuring that terrorism did not adversely affect human rights and preventing the abuse of certain categories of rights at the expense of other fundamental rights.

88. *Draft resolution A/C.3/73/L.43/Rev.1 was adopted, as orally revised.*

89. **Ms. Eckels-Currie** (United States of America) said that, while commending the efforts of the sponsors to combine two previously disparate texts, her delegation wished to align itself with the concerns expressed by Canada regarding the failure to retain key human rights provisions that would have helped to achieve a more balanced text that protected fundamental rights and freedoms. As the proposed amendment to delete paragraph 14 had been rejected, her delegation wished to disassociate itself from that paragraph.

90. The fact that States bore the primary responsibility under international law to protect and promote human rights in the context of counter-terrorism must continue to be the principle guiding the international community in addressing that topic. States must respect their human rights obligations and commitments, including with regard to the freedom of opinion and expression, while addressing the scourge of terrorism. Certain language in the draft resolution ran counter to that fundamental principle, in particular paragraph 30, in which States

were called upon to take actions that were inconsistent with not only the United States Constitution but also its understanding of article 19 of the International Covenant on Civil and Political Rights. Her delegation therefore wished to disassociate itself from paragraph 30.

91. While the representative of the Russian Federation had noted that the Third Committee did not have expertise in terrorism, the Committee did have expertise in human rights. Her delegation therefore stressed the importance for draft resolutions considered by the Committee to reflect the fact that it was the primary body in New York addressing human rights concerns. When there was a question of balance, the balance should be in favour of human rights.

*Draft resolution A/C.3/73/L.49/Rev.1: The right to privacy in the digital age*

92. **The Chair** said that the draft resolution contained no programme budget implications.

93. **Mr. Duque Estrada Meyer** (Brazil), introducing the draft resolution, said that the right to privacy remained an important consideration in the development of new technologies, which were ubiquitous and influenced social, political and economic interactions. The draft resolution served to reaffirm the commitments of States and business enterprises to upholding human rights offline and online.

94. **Mr. Khane** (Secretary of the Committee) said that Albania, Andorra, Angola, Antigua and Barbuda, Argentina, Bosnia and Herzegovina, Bulgaria, Costa Rica, Denmark, the Dominican Republic, El Salvador, Estonia, France, Ghana, Greece, Guatemala, Iceland, Ireland, Italy, Latvia, Lebanon, Lithuania, Malta, Norway, Panama, Peru, Poland, Portugal, Romania, Saint Vincent and the Grenadines, San Marino, Sao Tome and Principe, Serbia, Slovakia, Sweden, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine and Uruguay had joined the sponsors.

95. *Draft resolution A/C.3/73/L.49/Rev.1 was adopted.*

96. **Mr. Xing Jisheng** (China) said that his delegation had joined the consensus but wished to comment on specific elements of the draft resolution. The eleventh preambular paragraph referred to the principles of legality, necessity and proportionality in relation to surveillance practices, while paragraph 4 recalled that any interference with the right to privacy should take into account its legality, necessity and proportionality. It was explicitly stated in the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights that no one could be subjected to

arbitrary interference with his or her privacy and that everyone had the right to the protection of the law against such interference or attacks. China was of the view that the privacy-related elements of the draft resolution should be consistent with the pertinent provisions of international human rights law and should use consensus language acceptable to all parties. In particular, his delegation cautioned against oversimplified or overly subjective wording. During the consultations, with a view to avoiding misinterpretation, China had insisted that the wording should be deleted, or replaced with the consensus language used in previous versions of the resolution. However, its proposal had not been taken on board by the sponsors, which China found regrettable. In the light of the foregoing, China reserved its position on the eleventh preambular paragraph and paragraph 4 of the draft resolution.

97. **Mr. Weatherall** (United States of America) said that, while concern was expressed in the draft resolution that the automatic processing of personal data in the commercial context for profiling might lead to discrimination or other negative effects on the enjoyment of human rights, it was worth noting that data flows and data analytics could create great benefits for economies and societies when combined with appropriate data protection and privacy safeguards. The portion of the draft resolution addressing business enterprises was too prescriptive. With regard to the concern about obtaining free, explicit and informed consent for the commercial reuse of personal data, it should be noted that other mechanisms, such as opt-out agreements, might be appropriate in many commercial contexts. In some situations, a reasonable inference of meaningful consent might be drawn from the behaviour of consumers. His delegation understood the reference to consent to refer to contexts in which explicit consent was important, not ones in which such a requirement served little purpose.

98. His delegation understood the draft resolution to be consistent with long-standing United States views on the International Covenant on Civil and Political Rights, including its position on articles 2, 17 and 19 thereof. It also interpreted the draft resolution, in particular paragraphs 20, 22 and 28, in accordance with the long-standing position of the United States that a State's obligations under the Covenant were applicable only to individuals within that State's territory and subject to its jurisdiction. His delegation welcomed the reference in the draft resolution to the standard under article 17 of the Covenant, whereby interference with privacy was impermissible when it was unlawful or arbitrary. However, it disassociated itself from paragraph 4, which

referred to the principles of legality, necessity and proportionality, as States were not obligated to take such principles into account in implementing their obligations under article 17. His delegation understood that the draft resolution did not imply that States must join human rights instruments to which they were not parties, nor that they must implement those instruments or any obligations under them. Furthermore, any reaffirmation of prior documents applied only to those States that had affirmed them initially.

99. His delegation hoped that further work on the topic, including the work of the Special Rapporteur on the right to privacy, would address other areas relating to privacy rights beyond the digital environment, including how abuses of privacy might be implicated in the broader repression of the exercise of human rights and fundamental freedoms within States.

100. **The Chair** suggested that the Committee should take note, in accordance with General Assembly decision [55/488](#), of the following documents under agenda item 72, sub-item (a): the report of the Committee against Torture ([A/73/44](#)); the report of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families ([A/73/48](#)); the report of the Committee on Enforced Disappearances ([A/73/56](#)); the note by the Secretary-General transmitting report of the Chairs of the human rights treaty bodies on their 30th meeting ([A/73/140](#)); the note by the Secretary-General transmitting the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment ([A/73/207](#)); the report of the Secretary-General on the United Nations voluntary trust fund on contemporary forms of slavery ([A/73/264](#)); the report of the Secretary-General on the United Nations Voluntary Fund for Victims of Torture ([A/73/281](#)); and the note by the Secretariat on the Special Fund established by the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ([A/73/282](#)).

101. Under sub-item 72 (b), the Committee should take note of the following documents: the note by the Secretariat on the right to development ([A/73/138](#)); the note by the Secretary-General transmitting the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences ([A/73/139](#) and [A/73/139/Corr.1](#)); the note by the Secretariat transmitting the report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity ([A/73/152](#)); the note by the Secretary-General transmitting the report of the Special Rapporteur on the rights of persons with disabilities ([A/73/161](#)); the note

by the Secretariat transmitting the report of the Special Rapporteur on the human rights to safe drinking water and sanitation (A/73/162); the note by the Secretary-General transmitting the report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (A/73/163); the note by the Secretariat transmitting the report of the open-ended intergovernmental working group on a United Nations declaration on the rights of peasants and other people working in rural areas (A/73/165); the report of the Secretary-General on globalization and its impact on the full enjoyment of all human rights (A/73/172); the note by the Secretary-General transmitting the report of the Special Rapporteur on the human rights of internally displaced persons (A/73/173); the note by the Secretary-General transmitting the report of the Special Rapporteur on the human rights of migrants (A/73/178/Rev.1); the note by the Secretary-General transmitting the report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights (A/73/179); the note by the Secretary-General transmitting the report of the Independent Expert on the enjoyment of human rights by persons with albinism (A/73/181); the note by the Secretary-General transmitting the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/73/188); the note by the Secretary-General transmitting the report of the Special Rapporteur on minority issues (A/73/205); the note by the Secretary-General transmitting the report of the Independent Expert on human rights and international solidarity (A/73/206); the note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights defenders (A/73/215); the note by the Secretary-General transmitting the interim report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/73/216); the note by the Secretary-General transmitting the report of the Special Rapporteur in the field of cultural rights (A/73/227); the report of the Secretary-General on the twentieth anniversary of 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 (A/73/230); the note by the Secretary-General transmitting the report of the Special Rapporteur on the right to education (A/73/262); the note by the Secretary-General transmitting the report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/73/279); the note by the Secretary-

General transmitting the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (A/73/310/Rev.1); the note by the Secretary-General transmitting the report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (A/73/336); the report of the Secretary-General on the effects of terrorism on the enjoyment of human rights (A/73/347); the note by the Secretary-General transmitting the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/73/348); the note by the Secretary-General transmitting the report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/73/361); the note by the Secretary-General transmitting the report of the Special Rapporteur on the independence of judges and lawyers (A/73/365); the note by the Secretary-General transmitting the report of the Special Rapporteur on the right to privacy (A/73/438); and the note by the Secretary-General transmitting the report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (A/73/567).

102. Under sub-item 72 (c), the Committee should take note of the following documents: the note by the Secretariat on the report of the Independent Expert on the situation of human rights in Somalia (A/73/330); the note by the Secretariat on the report of the Commission of Inquiry on Burundi (A/73/363); the note by the Secretary-General transmitting the report of the Special Rapporteur on the situation on human rights in Belarus (A/73/380); and the note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (A/73/447); and, under sub-item 72 (d), the note by the Secretariat on the report of the United Nations High Commissioner for Human Rights (A/73/36).

103. *It was so decided.*

*The meeting rose at 1.10 p.m.*