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**Third Committee****Summary record of the 47th meeting**

Held at Headquarters, New York, on Monday, 24 November 2008, at 3 p.m.

*Chairman:* Mr. Majoor . . . . . (Netherlands)**Contents**Agenda item 64: Promotion and protection of human rights (*continued*)

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*The meeting was called to order at 3.35 p.m.*

**Agenda item 64: 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.3/63/L.35/Rev.1 and L.75)

*Amendment to draft resolution A/C.3/63/L.35/Rev.1: Extrajudicial, summary or arbitrary executions (continued)* (A/C.3/63/L.75)

1. **The Chairman**, recalling that a recorded vote had been taken on the first two amendments contained in document A/C.3/63/L.75 (paragraph 1 (a) and (b)) at the Committee's 46th meeting, invited delegations to make statements in explanation of vote.

2. **Mr. González** (Costa Rica) said that his delegation had abstained from voting on the first two amendments not because the issue of peoples under foreign occupation was unimportant, but because it went beyond the scope of the draft resolution, which Costa Rica had traditionally supported.

3. **Mr. Attiya** (Egypt) said that the two amendments reproduced the exact language used in the Universal Declaration of Human Rights and the two International Covenants. He regretted that they had not been adopted, particularly in view of the Committee's support for peoples under foreign occupation and its commitment to the right of peoples to self-determination.

4. **The Chairman** said that a recorded vote had been requested on the third amendment contained in document A/C.3/63/L.75 (paragraph 1 (c)).

5. **Ms. Bustos** (Argentina), speaking in explanation of vote before the voting, said that her delegation considered it important to work towards the eradication of extrajudicial, summary or arbitrary executions, on account of both Argentina's own history and its awareness of the persistence of such universally condemned practices. The purpose of the draft resolution was to extend protection to all individuals and groups that continued to be subjected to extrajudicial killings. The different groups specifically mentioned in the draft resolution were equally deserving of protection, including victims of extrajudicial killings motivated by sexual orientation;

they should not be referred to in code but clearly identified. Her delegation would therefore vote against the amendment and urged all delegations to do likewise.

6. **Mr. Nagan** (Netherlands), said that his delegation would vote against the amendment because violence, including extrajudicial killings, based on sexual orientation was a worldwide phenomenon. By failing to ensure that such crimes were duly investigated, States implicitly accepted them. The Special Rapporteur on extrajudicial, summary or arbitrary executions had clearly established a link between sexual orientation and arbitrary killings. The reference to sexual orientation in the draft resolution was a response to an ongoing problem that needed to be addressed by the Committee. He accordingly urged delegations to vote against the amendment and thus help to put an end to impunity for such crimes.

7. **Ms. Schlyter** (Sweden), said that the continued inclusion in the draft resolution of a reference to sexual orientation had been extensively discussed during the informal consultations. In connection with the corresponding draft resolutions submitted at previous sessions, amendments deleting the reference had been introduced but had always been rejected. The reason for the original inclusion of the reference had been the observation first made in 1999 by the Special Rapporteur on extrajudicial, summary or arbitrary executions that sexual orientation was frequently the motive for such crimes. That risk still persisted. While no group of people was more deserving of protection than any other, States had to be alerted to the explicit need to ensure the necessary protection. Her delegation would vote against the amendment and she urged other delegations to do likewise.

8. *A recorded vote was taken on the third amendment contained in document A/C.3/63/L.75 (paragraph 1 (c)).*

*In favour:*

Azerbaijan, Bahrain, Bangladesh, Belarus, Belize, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Chad, China, Comoros, Congo, Democratic People's Republic of Korea, Djibouti, Dominica, Egypt, Gambia, Guinea, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Liberia, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mali, Mauritania, Morocco, Niger, Nigeria, Oman, Pakistan, Qatar,

Russian Federation, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, South Africa, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Tunisia, Uganda, United Arab Emirates, Uzbekistan, Viet Nam, Yemen, Zambia, Zimbabwe.

*Against:*

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Montenegro, Nepal, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

*Abstaining:*

Angola, Antigua and Barbuda, Bahamas, Barbados, Botswana, Burundi, Cambodia, Equatorial Guinea, Ethiopia, Guinea-Bissau, Haiti, Jamaica, Kazakhstan, Kenya, Lao People's Democratic Republic, Lesotho, Madagascar, Mongolia, Namibia, Rwanda, Singapore, Sri Lanka, Togo, Trinidad and Tobago, United Republic of Tanzania.

9. *The third amendment contained in document A/C.3/63/L.75 was rejected by 77 votes to 59, with 25 abstentions.*

*Draft resolution A/C.3/63/L.35/Rev.1: Extrajudicial, summary or arbitrary executions*

10. **Mr. Babadoudou** (Benin) said that his delegation wished to withdraw its sponsorship of draft resolution A/C.3/63/L.35/Rev.1.

11. **Ms. Schlyter** (Sweden) expressed regret that a vote was to be taken on the draft resolution, which was

the result of lengthy negotiations. It addressed an issue of major importance and reflected widespread agreement among delegations on what should be included. Her delegation would vote in favour of it and called on all delegations to do the same.

12. *A recorded vote was taken on draft resolution A/C.3/63/L.35/Rev.1.*

*In favour:*

Afghanistan, Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Barbados, Belarus, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kyrgyzstan, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Morocco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Suriname, Sweden, Switzerland, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of).

*Against:*

None.

*Abstaining:*

Angola, Bahamas, Bahrain, Bangladesh, Benin, Brunei Darussalam, Burkina Faso, Burundi, China, Comoros, Democratic People's Republic of Korea, Djibouti, Egypt, Equatorial Guinea, Gambia, Guinea, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Kenya, Kuwait, Lao

People's Democratic Republic, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Mali, Myanmar, Niger, Nigeria, Oman, Pakistan, Palau, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Turkey, Uganda, United Arab Emirates, United Republic of Tanzania, United States of America, Viet Nam, Yemen, Zambia, Zimbabwe.

13. *Draft resolution A/C.3/63/L.35/Rev.1 was adopted by 121 votes to none, with 57 abstentions.*

14. **Ms. Phipps** (United States of America) said that, although her delegation had abstained from voting, it wished to join the sponsors in condemning extrajudicial, summary or arbitrary executions. Countries such as her own where the death penalty remained in force must abide by international human rights law and international humanitarian law, which were complementary and mutually reinforcing, as was recognized in the draft resolution. The two bodies of law should not be confused, however. The Geneva Conventions of 1949 provided a related but separate framework for dealing with such abhorrent conduct in situations of armed conflict. Moreover, the draft resolution contained an error: under the Rome Statute, the International Criminal Court had no jurisdiction over extrajudicial, summary or arbitrary executions as such. She regretted that it had not been possible to agree on more neutral wording in that regard and, in particular, that the International Criminal Court, which had been the subject of a draft resolution recently adopted by the Sixth Committee, had been mentioned in the context of matters unrelated to it. In addition, the text had been unduly politicized through the inclusion of a reference to foreign occupation. While the text contained a number of improvements over those submitted in previous years, it still needed further refinement.

15. **Mr. Bahreini** (Islamic Republic of Iran) said that his delegation condemned all extrajudicial, summary or arbitrary executions and that all States had a duty to combat them. His delegation had hoped for a consensus resolution on that important subject and had participated actively in the informal consultations with a view to arriving at a balanced text. Unfortunately the proposed amendments had not been adopted. His delegation had strong reservations about paragraph 5, which, by referring specifically to States in which the

death penalty had not been abolished, failed to reflect the idea that the prevention of such executions was a universal responsibility of all States. His delegation also regretted that the Committee had decided to retain the mention of sexual orientation, which had no legal definition in any international human rights instrument.

16. **Mr. Limon** (Israel) said that his delegation fully supported the prevention of extrajudicial, summary and arbitrary executions. It had, however, regretfully abstained from voting as it could not accept the language of the draft resolution, which blurred the distinction between the legal regimes applicable to various situations, including armed conflict. Israel was committed to upholding international law and opposed attempts to restate its provisions in a manner inconsistent with existing standards. His delegation was very concerned about the cynical politicization of such an important resolution, which reflected a lack of transparency in the negotiations.

17. **Mr. Saeed** (Sudan) said that his country had abstained from voting on the draft resolution, in accordance with the position of the Organization of the Islamic Conference. While the Conference members had reached a satisfactory agreement on paragraph 5, they still objected to paragraph 6. Paragraph 9 was also problematic, as the International Criminal Court's jurisdiction did not supersede that of national Governments. The Rome Statute, which had established the Court, stated that the Court's jurisdiction was complementary to national jurisdictions. The competence of the Court extended only to areas not covered by national jurisdiction. Moreover, paragraph 9 applied only to States that had ratified the Rome Statute.

18. **Mr. Degia** (Barbados) said that his delegation had supported the first two amendments contained in document A/C.3/63/L.75. His delegation nevertheless supported the overall intent of the draft resolution and had therefore voted in favour of the text as a whole. Barbados condemned all extrajudicial, summary or arbitrary executions and supported international efforts to combat such acts.

19. **Ms. Mills** (Jamaica) said that her country supported efforts to combat extrajudicial, summary or arbitrary executions. Her delegation welcomed the fact that paragraph 5 had been amended, and had voted in favour of the draft resolution. She wished to state that references to the death penalty in such contexts implied

that the death penalty automatically amounted to extrajudicial, summary or arbitrary execution, an interpretation that Jamaica did not share.

20. **Mr. Attiya** (Egypt) said that his delegation noted the significant improvement in the text of the draft resolution. Had the amendments to paragraph 6 (b) been accepted, Egypt would have joined the sponsors. Unfortunately, those issues remained unresolved, and he hoped that they would be discussed with greater openness in future.

#### **Agenda item 60: Promotion and protection of the rights of children** (*continued*)

##### **(a) Promotion and protection of the rights of children** (*continued*) (A/63/203; A/C.3/63/L.16/Rev.1 and L.69)

##### *Draft resolution A/C.3/63/L.16/Rev.1: Rights of the child*

21. **Mr. Khane** (Secretary of the Committee) said that the statement of programme budget implications of draft resolution A/C.3/63/L.16 contained in document A/C.3/63/L.69 applied also to draft resolution A/C.3/63/L.16/Rev.1. The reference, in paragraph 1 of document A/C.3/63/L.69, to paragraphs 54 and 72 (b) of the earlier text of the draft resolution now applied to paragraphs 60 and 80 (b) of the revised text.

22. **Ms. Pi** (Uruguay) said that Angola, Australia, Belarus, Botswana, Cameroon, Canada, Cape Verde, Chad, Congo, Côte d'Ivoire, Egypt, Ethiopia, Gabon, Ghana, Lebanon, Liechtenstein, Mongolia, Nigeria, Rwanda, Senegal, Turkmenistan and the United Republic of Tanzania had joined the list of sponsors.

23. She read out some oral revisions to the text of the draft resolution. In paragraph 43 (a), the phrase "as soon as possible" should be deleted, and the word "including" inserted between the phrase "the commission of the offence" and the phrase "by taking all necessary measures". The word "and" should be inserted at the end of subparagraph (a), after the semicolon. In paragraph 47 (a), the word "consideration" should be inserted after the phrase "To give priority". In paragraph 52, the phrase "that all parties immediately put an end to them" should be replaced with the phrase "that an end is immediately put to them". In paragraph 54 (d), the phrase "those who have been detained" should be replaced with the phrase "detained children".

24. The text had been improved through extensive consultations. In particular, it highlighted the issue of child labour and its causes, and called on the Secretary-General to submit to the General Assembly a report on the rights of the child and the issues addressed in the draft resolution. It also expressed deep concern about the delay in appointing a Special Representative of the Secretary-General on violence against children, and requested urgent action to that end. The text was intended to be as inclusive as possible, and for that reason might not completely satisfy all Member States. She nevertheless hoped that it would enjoy ample majority support.

25. **Mr. Khane** (Secretary of the Committee) said that Algeria, Burkina Faso, the Gambia, Georgia, Guinea, Lesotho, Liberia, Morocco, Mozambique, the Niger, the Russian Federation, South Africa, Swaziland, Tajikistan, Togo and Uganda had also become sponsors.

26. **Mr. Şen** (Turkey) said that his delegation wished to dissociate itself from paragraphs 54 (d) and 55 of the draft resolution.

27. **Mr. Malhotra** (India) said that his delegation supported the draft resolution. However, in section III of the draft resolution, child labour was defined in accordance with International Labour Organization conventions to which India was not a party. Thus, India would define child labour in accordance with its domestic law. The problem of child labour could not be solved through legislative action alone; a more holistic approach was needed. Nevertheless, India continued to improve its domestic legislation in that regard, in line with the Convention on the Rights of the Child, to which it was a party.

28. *At the request of the representative of the United States of America, a recorded vote was taken on draft resolution A/C.3/63/L.16/Rev.1, as orally revised.*

##### *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, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Democratic

People's Republic of Korea, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Vincent and the Grenadines, Samoa, San Marino, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe.

*Against:*

United States of America.

*Abstaining:*

None.

29. *Draft resolution A/C.3/63/L.16/Rev.1, as orally revised, was adopted by 180 votes to 1.*

30. **Ms. Phipps** (United States of America) said that her country was engaged in a wide range of multilateral and bilateral activities benefiting children, and appreciated the contributions of other Member

States. Her country had ratified both Optional Protocols to the Convention on the Rights of the Child, and supported many of the principles underlying the draft resolution.

31. Her delegation had, however, voted against the draft resolution. She was disappointed that the sponsors had been unwilling to revise the second preambular paragraph, which stated that the Convention must constitute the standard in the promotion and protection of the rights of the child. It would moreover have been preferable for paragraph 2 to urge States to "consider becoming" parties to the Convention, since each State had a sovereign right to decide which treaties it wished to ratify. Paragraph 31 referred to the contribution of the International Criminal Court in ending impunity for the most serious crimes against children, but the Court had not tried any cases involving such crimes. The draft resolution as a whole contained language to which her delegation had repeatedly expressed objections. Her delegation was, however, pleased that paragraph 13 expressed the recognition that, in the case of children growing up without parents or caregivers, family- and community-based care should be promoted over placement in institutions.

32. **Ms. Kurosaki** (Japan) said that the protection and promotion of the rights of the child was one of her country's major domestic and foreign policy goals. However, her delegation was concerned about the draft resolution's programme budget implications. In particular, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict should be funded with voluntary contributions, as provided in General Assembly resolution 51/77.

33. **Ms. Halabi** (Syrian Arab Republic) said that her delegation had voted in favour of the draft resolution. The Syrian Arab Republic was active in protecting the rights of the child, and had ratified the Convention on the Rights of the Child and its two Optional Protocols. Her delegation had no difficulties with the substance of the draft resolution, but reserved the right to interpret paragraphs 12, 14, 15 and 39 in accordance with national legislation.

34. **Mr. Sng** (Singapore) said that while his delegation had supported the draft resolution just adopted, it had concerns regarding paragraph 3, which urged States parties to the Convention on the Rights of the Child to consider regularly reviewing reservations

with a view to withdrawing them. The Vienna Convention on the Law of Treaties made a distinction between permissible and impermissible reservations. Impermissible reservations were those reservations that were incompatible with the object and purpose of the relevant treaty or convention. The purpose of allowing reservations was to encourage States to accede to treaties and conventions as early as possible, while providing them with the flexibility required by national circumstances. The trend of discouraging reservations could be counterproductive, as it could prompt countries to decide not to accede to international instruments, when in fact they should be encouraged to do so.

35. **Mr. Michelsen** (Norway), speaking also on behalf of New Zealand and Switzerland, said that those delegations had concerns about the negotiating framework for the draft resolution. A more open process would allow greater progress to be made on the promotion and protection of the rights of the child, as well as greater participation by all regions and civil society.

36. The omnibus approach to the consideration of children's rights was unwieldy and made it difficult to pay attention to all the relevant issues. It could create the misleading impression that issues not in the omnibus draft resolution were not important. The omnibus approach should not be the exclusive vehicle for promoting the rights of the child. There was value in other complementary initiatives. He hoped that the sponsors would continue to streamline and improve the omnibus draft resolution.

37. **Mr. Doring** (Liechtenstein) said that he regretted that Security Council resolution 1820 (2008) had not been explicitly referred to in all relevant portions of the text of the draft resolution, although it was directly related. It was not mentioned in the section on children and armed conflict even though it was of clear relevance to that issue.

38. A fundamental review of the negotiating framework for the draft resolution was needed. The current process was too protracted, involved many delegations only at a late stage and resulted in a text that was long and difficult to read. While the omnibus approach was appropriate and a separate text on each issue was not desired, fresh ideas were needed on how to approach the text. For example, it might not be

necessary to include a chapter on each issue every single year.

39. **The Chairman** suggested that, in accordance with General Assembly decision 55/488, the Third Committee should take note of the note by the Secretariat on the appointment of the Special Representative of the Secretary-General on violence against children (A/63/203).

40. *It was so decided.*

*The meeting rose at 5.15 p.m.*