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SUMMARY RECORD OF THE 60th MEETING

Chairman: Mr. MADAR (Somalia)

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10 December 1984

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The meeting was called to order at 11.05 a.m.

AGENDA ITEM 96: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS
(continued) (A/C.3/39/L.55)

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AGENDA ITEM 99: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR
PUNISHMENT: REPORTS OF THE SECRETARY-GENERAL (continued) (A/C.3/39/L.40, L.49,
L.50, L.62, L.63, L.64, L.66 and L.67)

Draft resolution A/C.3/39/L.55

1. A recorded vote was taken on draft resolution A/C.3/39/L.55.

In favour: Afghanistan, Algeria, Angola, Argentina, Bahrain, Bangladesh, Barbados, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gambia, German Democratic Republic, Ghana, Greece, Guatemala, Guyana, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ivory Coast, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Saudi Arabia, Senegal, Singapore, Somalia, Sri Lanka, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia.

Against: Canada, France, Germany, Federal Republic of, Italy, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Australia, Austria, Belgium, Denmark, Finland, Iceland, Ireland, Israel, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Turkey.

2. Draft resolution A/C.3/39/L.55 was adopted by 97 votes to 6, with 17 abstentions.

3. Ms. JONES (United States of America), speaking in explanation of vote, said that her delegation had voted against the draft resolution because it bore no relation to the protection and promotion of human rights and dealt with highly contentious issues which were wholly outside the competence of the Committee.
4. Mr. ESSAIEM (Tunisia) said that, although his delegation had voted in favour of the draft resolution because it believed that the spectre of nuclear war must be banished, it had reservations about certain formulations, particularly those contained in paragraph 5.
5. Mr. HAMER (Netherlands) said that his delegation had abstained in the vote because the content of the draft resolution was outside the scope of the agenda item and the purview of the Committee. He urged members to address themselves to matters which were relevant to the Committee's task and mandate.
6. Ms. BAZIYAKA (Rwanda) said that, although her delegation had voted in favour of the draft resolution, it had reservations, primarily with regard to paragraph 5.
7. Mr. de la SABLIERE (France) said that his delegation had voted against the draft resolution because the issue of disarmament was outside the competence of the Committee.
8. Mr. RUSI (Finland), speaking on behalf of the five Nordic countries, said that they had abstained because they felt that the Committee was not the forum competent to discuss the elimination of the arms race. They also had reservations concerning preambular paragraphs 4 and 5, and concerning paragraph 5 based on their expressed reservation to article 20 of the International Covenant on Civil and Political Rights.
9. Mrs. YAMAZAKI (Japan) said that her delegation had abstained in the vote because the focus of the draft resolution was not relevant to the agenda item.
10. Mr. XIE Qimei (China) said that his country had voted in favour of the draft resolution because nuclear disarmament was a common aspiration and an important aspect of United Nations work. The two super-Powers bore a special responsibility for disarmament, and his delegation hoped that all peace-loving peoples would urge them to stop the arms race. His delegation had abstained at the previous General Assembly session on resolution 38/75, referred to in the preamble of draft resolution A/C.3/39/L.55, and its position in that regard remained unchanged.
11. Mr. PERUGINI (Italy) said that his delegation had voted against the draft resolution because its main thrust was outside the competence of the Committee and because it referred to resolutions which his delegation had voted against in the past.
12. Mr. BRAUN (Federal Republic of Germany) said that although his delegation shared the concern to maintain peace and security, it had voted against the draft resolution because the far-reaching issues with which it dealt should be discussed in more competent forums.

13. Mr. HAWKES (Canada) said that Canada's commitment to the right to life was still fundamental, and it had indeed increased its commitment to the pursuit of disarmament. His delegation would have abstained in the vote on draft resolution A/C.3/39/L.55 on the basis of its strongly-held view that agenda items should be dealt with in the proper forums. However, it had voted against the draft resolution because the text referred to previous resolutions which Canada had rejected in the belief that, by doing so, it would advance the cause of peace.

14. Miss RUTAGERUKA (Tanzania), Mr. OUEDRAOGO (Burkina Faso) and Mr. LALEYE (Benin) said that, had their delegations been present during the voting, they would have voted in favour of the draft resolution.

15. Mr. FURLAND (United Kingdom of Great Britain and Northern Ireland) said that disarmament was not an appropriate subject for the Committee to discuss. His delegation had abstained in the vote on similar resolutions in the Third Committee and in the Commission on Human Rights. The resolution on the subject in the Commission on Human Rights at its fortieth session had been considerably more contentious than in previous years and had led to a motion to take no action on it because it was irrelevant to the Commission's work. When that motion had been narrowly defeated, his delegation had taken the logical step of voting against the resolution as a whole. Consistent with that position, and for similar reasons, his delegation had voted against draft resolution A/C.3/39/L.55.

16. Mr. TROUVEROY (Belgium) said that his delegation had abstained in the vote because it did not consider that it was competent to take a decision on the material contained in the draft resolution.

17. Miss RUTAGERUKA (Tanzania), Mr. OUEDRAOGO (Burkina Faso), Mr. LALEYE (Benin), Mr. PHIRI (Malawi), Mr. JESUS (Cape Verde), Mr. MOHAMED (Sudan), Mr. MINTSA-ZUE-ONDO (Gabon) and Mrs. MIGNOTT (Jamaica) said that had they been present during the vote on draft resolution A/C.3/39/L.55, they would have voted for it.

Draft resolution A/C.3/39/L.48/Rev.1

18. Mr. BORCHART (Federal Republic of Germany), speaking on behalf of the sponsors of draft resolution A/C.3/39/L.48/Rev.1, said that the revised text was the result of lengthy consultations with a large number of delegations from all regions, in particular with delegations from Islamic countries.

19. The sponsors wished to emphasize that the draft did not pass judgement on those countries which had not abolished capital punishment. They felt that their proposal was balanced and did not run counter to the interests of any State. In any case, the question of an optional protocol would require further thorough examination by the Commission on Human Rights and its Sub-Commission before the General Assembly could take a decision on the substance of the proposal. The sponsors had therefore tabled a purely procedural resolution and had encountered no difficulty in accepting all the wordings proposed in the course of the consultations.

(Mr. Borchart, Federal Republic of Germany)

20. He read out the specific changes in the revised draft resolution. In preambular paragraphs 3 and 4, minor reformulations had been made to bring the text into line with previous resolutions on the subject. In preambular paragraph 2, the phrase "its resolution 37/192 of 18 December 1982 requesting" should be inserted after the words "Recalling also". Paragraph 1 extended the mandate of the Commission on Human Rights to consider further the idea of elaborating an optional protocol. The new formulation was identical with paragraph 1 of General Assembly resolution 37/192. In paragraph 2, the words "Member States which are in a position to do so" had been incorporated to accommodate the concerns of those countries which felt that they were unable to contribute to the discussion in the Commission and its Sub-Commission. In paragraphs 3 and 4, the words "forty-first session" had been replaced by "forty-second session" and reflected a realistic appraisal of the workload of the Human Rights Commission and its Sub-Commission.
21. Lastly, he stressed that all the relevant decisions and resolutions on the proposal had been adopted by the plenary of the General Assembly without a vote. The sponsors therefore hoped that the Committee would adopt the revised text also without a vote.
22. Mr. ZEDAN (Saudi Arabia) said that his delegation had called for a vote on the draft resolution because the abolition of the death penalty was incompatible with the Islamic principle that premeditated murder must be punished by the death penalty.
23. Mrs. WARZAZI (Morocco) said that her delegation had participated in consultations with the sponsors of the draft resolution because, as a procedural draft, it did not commit her country to oppose the death penalty. Of course, if the draft resolution proposed the abolition of capital punishment, her delegation would be the first to vote against it. Since a vote had been called for, her delegation would not participate.
24. Mr. RAZZOOQI (Kuwait) said that, although the sponsors had taken a constructive approach to negotiations, his delegation regrettably could not support any formulation that might be interpreted as consent to abolish capital punishment.
25. At the request of the representative of Saudi Arabia, a recorded vote was taken on draft resolution A/C.3/39/L.48/Rev.1.

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burundi, Canada, Central African Republic, Chile, Colombia, Congo, Costa Rica, Cyprus, Denmark, Dominican Republic, Ecuador, El Salvador, Fiji, Finland, France, Gabon, Germany, Federal Republic of, Greece, Guatemala, Guyana, Haiti, Honduras, Iceland, Ireland, Ivory Coast, Jamaica, Japan, Kenya, Luxembourg, Mali, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Portugal, Rwanda, Samoa, Sao Tome and Principe, Spain, Suriname, Sweden, Togo, Trinidad and Tobago, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Bahrain, Bangladesh, Iraq, Jordan, Kuwait, Libyan Arab Jamahiriya, Maldives, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Singapore, Somalia, Sudan, Syrian Arab Republic, United Arab Emirates, Yemen.

Abstaining: Afghanistan, Algeria, Angola, Bahamas, Barbados, Benin, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burma, Byelorussian Soviet Socialist Republic, Cameroon, China, Cuba, Czechoslovakia, Egypt, Ethiopia, Gambia, German Democratic Republic, Ghana, Hungary, India, Iran (Islamic Republic of), Israel, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Madagascar, Malawi, Malaysia, Mauritania, Mongolia, Niger, Nigeria, Paraguay, Poland, Sri Lanka, Swaziland, Thailand, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Tanzania, Viet Nam, Yugoslavia, Zaire, Zambia.

26. Draft resolution A/C.3/39/48/Rev.1 was adopted by 57 votes to 18, with 50 abstentions.

Draft resolution A/C.3/39/L.70

27. Ms. CAO PINNA (Italy) said that the sponsors had agreed to delete the phrase "under duly ratified or acceded instruments" from the last sentence of paragraph 1. Secondly, paragraph 3 should begin with the phrase "Expresses the view that the presence of the Chairpersons of all bodies ...". The sponsors hoped that with those changes, the draft resolution would be adopted without a vote.

28. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that provided that there were no programme budget implications, his delegation would not object to the adoption of the draft resolution without a vote despite its reservations on some of its provisions. For example, the reference in the seventh preambular paragraph to the "need to improve the existing reporting systems" could be interpreted as interfering with the procedures for the implementation of the various international instruments. Consultations with respect to a given instrument could be carried out only within the body entrusted with monitoring the implementation of that instrument and that was not the function of the Third Committee or the Commission on Human Rights.

29. Mr. MITREV (Bulgaria) said that with the amendments made by the representative of Italy, his delegation could agree to the adoption of the draft resolution without a vote even though it had difficulty with some of the language. His delegation understood paragraph 7 to mean that when the Commission on Human Rights considered the suggestions made by the Chairpersons, it would take into account the comments made by delegations during the discussion in the General Assembly. It also understood paragraph 8 to mean that the Chairperson of the Committee on the Elimination of Discrimination against Women would be invited to the meeting referred to.

30. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said the the Committee should bear in mind that the decision on the format of the reports submitted were the sovereign right of the States parties.
31. Mrs. DOWNING (Secretary of the Committee) said that Belgium, Canada, the Federal Republic of Germany and Jamaica had become sponsors of the draft resolution.
32. In the last preambular paragraph of the Arabic text, the word "harmonize" should be replaced by "improve".
33. The CHAIRMAN said that he took it that the Committee wished to adopt the draft resolution without a vote.
34. Draft resolution A/C.3/39/L.70 was adopted without a vote.
35. Ms. JONES (United States of America) said that her delegation did not envisage the abolition of the death penalty in the United States and had stated its position at the 1984 second regular session of the Economic and Social Council. It had voted in favour of draft resolution A/C.3/39/L.48/Rev.1 because it was procedural and the United States did not object to the initiative of States parties with regard to the elaboration of a second optional protocol to the International Covenant on Civil and Political Rights.
36. Mr. THWAITES (Australia) said that his delegation welcomed the adoption of draft resolution A/C.3/39/L.70 without a vote. Australia had long had an interest in the reporting obligations of States parties and believed that all international human rights bodies should endeavour to exchange views on the matter. Australia would have sponsored the draft resolution had it expressed firmer support for future meetings of the Chairpersons of all the bodies concerned.
37. Mr. AL-MERREE (United Arab Emirates) said that his delegation would have preferred to have the Committee adopt draft resolution A/C.3/39/L.48/Rev.1 without a vote because it was purely procedural. His delegation had been forced to vote against it because its contents were contrary to Islamic principles.
38. Mr. ESSAIEM (Tunisia) said his delegation had participated in the adoption of draft resolution A/C.3/39/L.70 because it was aware of the importance of the reporting obligations of States and the problems which could arise from the late submission of reports. While the draft resolution did not exclude the General Assembly from exercising a vote in the protection of human rights, it was the States parties to the various conventions that were authorized to supervise the implementation of the various instruments; his delegation therefore had reservations with respect to the second preambular paragraph.
39. Ms. BAZIYAKA (Rwanda) said that her delegation had voted in favour of draft resolution A/C.3/39/L.48/Rev.1 because it was merely procedural and did not commit her country to any change in its position with respect to the death penalty.
40. Mrs. YAMAZAKI (Japan) said that her delegation's vote for procedural draft resolution A/C.3/39/L.48/Rev.1 should not be interpreted as affecting her country's position on the abolition of capital punishment.

41. Mr. JESUS (Cape Verde) said that his delegation would have voted in favour of draft resolution A/C.3/39/L.48/Rev.1 had it been present during the vote.
42. Mr. HAWKES (Canada) said that his delegation had voted in favour of draft resolution A/C.3/39/L.48/Rev.1 because it was procedural. However, Canada reserved its position with respect to its substance.
43. Mr. HAMER (Netherlands) said that his delegation attached great importance to draft resolution A/C.3/39/L.70 and would have sponsored it if paragraph 3 had taken note of the positive results of the meeting of the Chairpersons of the bodies concerned with the reporting obligations of the States parties to human rights conventions and if it had expressed a clear desire for more such meetings.
44. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that his delegation had abstained in the vote on draft resolution A/C.3/39/L.48/Rev.1 because of its well-known position on the issue. Paragraph 2 should have been formulated in a different manner because only States members of the Commission on Human Rights and the Sub-Commission were able to assist those bodies in the consideration of the elaboration of a second optional protocol.
45. Mr. FURLAND (United Kingdom) said that his delegation had supported draft resolution A/C.3/39/L.48/Rev.1 because it was purely procedural. The United Kingdom did not object to the Commission on Human Rights giving consideration to the elaboration of a second optional protocol. However, that should not be interpreted to mean that his delegation had taken a position on the substance of the proposal.
46. Mrs. TOURE (Mali) said that her delegation had voted in favour of draft resolution A/C.3/39/L.48/Rev.1 because it was procedural. That vote should not be construed as a position on the substance because Mali had legislation dealing with the death penalty.
47. Mr. NIYONGABO (Burundi) said that his delegation's affirmative vote for the procedural draft resolution A/C.3/39/L.48/Rev.1 should not be regarded as a commitment on the part of his country with respect to the substance of the proposal.
48. Mr. BAYONA MEDINA (Peru) said that had his delegation been able to participate during the vote, it would have voted in favour of draft resolution A/C.3/39/L.48/Rev.1 because it was a procedural resolution.
49. Ms. CAO PINNA (Italy) said that the affirmative vote of her delegation, a sponsor of draft resolution A/C.3/39/L.48/Rev.1, had not been reflected on the voting sheet and should be reflected in the summary record of the meeting.
50. Ms. AL-HAMMAMI (Yemen) said that her delegation had voted against draft resolution A/C.3/39/L.48/Rev.1 because the abolition of the death penalty was incompatible with the precepts of Islam.
51. The CHAIRMAN said that the Committee had thus concluded its consideration of agenda item 98.

Draft resolution A/C.3/39/L.40

52. The CHAIRMAN drew attention to the amendments contained in A/C.3/39/L.49, L.50, L.63, L.64, L.66, L.67 and L.68 and the programme budget implications in L.62.
53. Mr. HAMER (Netherlands) said that the sponsors of draft resolution A/C.3/39/L.40, after careful consideration of suggested amendments, could agree in a spirit of compromise to a number of changes.
54. To meet the concerns of the members of the Non-Aligned Movement, they were prepared to modify article 20, paragraph 1, by inserting "reliable" after "receives" and "well-founded" after "contain" and by replacing the last clause beginning "to submit" with "to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned." In article 20, paragraph 5, "and at all stages of the proceedings the co-operation of the State Party shall be sought" should be inserted at the end of the first sentence. In the second sentence, "at its discretion" should be replaced by "after consultations with the State Party concerned".
55. Although the sponsors believed that article 20 was crucial, they recognized that some delegations were hesitant about the commitment it would demand from their Governments. In order to facilitate the widest possible adherence to the Convention, the sponsors had reluctantly agreed to accept the draft amendments contained in document L.66, which would introduce a new article 28 enabling States to declare that they did not recognize the Committee's competence under article 20.
56. The sponsors had also agreed to one of the amendments proposed in document L.49; namely the deletion of "or suggestions" from article 19, paragraphs 3 and 4.
57. Those modifications were intended as a gesture towards those members of the Non-Aligned Movement which had expressed concern about possible interference in their internal affairs under articles 19 and 20, but were strictly conditional upon the withdrawal of all other amendments. Since adoption of the draft resolution would be a definite step towards the eradication of torture, one of the most abhorrent violations of human rights, he urgently appealed to the sponsors of the amendments to withdraw them and hoped that the draft resolution could be adopted by consensus.
58. Mr. YAKOVLEV (Union of Soviet Socialist Republics) requested that the meeting be suspended in order to enable the sponsors of the amendments to take a decision on the proposal made by the delegation of the Netherlands.
59. Mr. MATELJAK (Yugoslavia) proposed that a decision on the draft resolution be postponed in order to enable delegations to consult with their missions.
60. Mrs. WARZAZI (Morocco) said that her delegation, on the contrary, believed that a decision should be taken on the draft resolution immediately after suspension of the meeting; consultations had been in progress for many days and the Committee should be prepared to act by now.

61. Mr. RATHORE (India) said that the results of consultations among sponsors of the amendments should be announced before the Committee decided whether or not to take a decision on the draft resolution. He proposed that, in article 20, paragraph 1, "reliable" be replaced by "verifiable", if the sponsors had no objection.
62. Mr. HAMER (Netherlands) assured the representative of India that the sponsors would consider his suggestion, but pointed out that the procedure provided for in article 20, paragraph 1, related precisely to verification of information and that the inclusion of "verifiable" would therefore be superfluous. In response to a question by the representative of Cameroon, he said that article 17, paragraph 1, made it clear that the Committee would be made up of 10 experts who would serve in their personal capacity. Therefore, if a State declared, under the new article 28, that it did not recognize the Committee's competence, one of its nationals could still serve as an expert on the Committee. He reminded delegations that bodies established under other human rights instruments had adopted a similar approach.
63. Mr. AIDARA (Senegal) said that his delegation had no objection to the amendments to articles 19 and 20 submitted orally by the representative of the Netherlands. He hoped that the sponsors of the remaining amendments would withdraw them and that the Committee could adopt the draft resolution at that very meeting; he therefore appealed to the representative of Yugoslavia not to insist on his proposal to postpone a decision.
64. Mr. MATELJAK (Yugoslavia), responding to the statement by the representative of Senegal and to an appeal from the Chairman, said that he would withdraw his proposal.
65. The meeting was suspended at 1 p.m. and resumed at 1.20 p.m.
66. Mr. YAKOVLEV (Union of Soviet Socialist Republics) said that the sponsors of the amendments regretted that the sponsors of the draft resolution had not taken all their concerns into account, particularly with regard to the inclusion of "general" in article 19, paragraphs 3 and 4, as suggested in draft amendment L.49. In view of the appeals that had been made, however, the sponsors of the amendments contained in documents L.50, L.63 and L.64 had agreed to withdraw them and to support the adoption of draft resolution L.40 without a vote.
67. Mr. HAMER (Netherlands), responding to a question from the representative of the Byelorussian Soviet Socialist Republic, said that the sponsors of draft resolution L.40 had no objection to the insertion of "general" before "comments" in article 19, paragraphs 3 and 4, as long as the amendment contained in document L.67 was withdrawn.
68. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that the amendment contained in document L.67 was extremely important. It would enable more Governments to adhere to the Convention by alleviating their fears that the Convention might be used to facilitate intervention in their internal affairs. In a spirit of compromise, however, he agreed to withdraw the amendment.

69. Mrs. DOWNING (Secretary of the Committee) announced that Australia, Austria, France and the United Kingdom had become sponsors of draft resolution L.40.

70. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt draft resolution L.40, as orally revised, without a vote.

71. It was so decided.

The meeting rose at 1.30 p.m.