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## Third Committee

### Summary record of the 42nd meeting

Held at Headquarters, New York, on Tuesday, 20 November 2012, at 3 pm.

*Chair:* Mr. Mac-Donald. . . . . (Suriname)

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*The meeting was called to order at 3.25 p.m.*

**Agenda item 64: Report of the Human Rights Council (continued) (A/C.3/67/L.59)**

*Draft resolution A/C.3/67/L.59: Report of the Human Rights Council*

1. *Draft resolution A/C.3/66/L.59, as orally revised during the 41st meeting, was adopted.*

2. **Ms. Alsaleh** (Syrian Arab Republic) said that her Government had participated actively in the Human Rights Council and had adopted a positive approach to decisions in the Council's report. It was regrettable, however, that the report contained resolutions on the human rights situation in her country that were based on unilateral sources and used misleading and hateful language. Those resolutions denounced the Syrian Arab Republic and served to support violence and terrorism and external intervention in Syrian affairs, while they failed to call for an end to violence, the disarmament of armed terrorist groups or for a return to the negotiating table.

3. The resolution also failed to mention the deteriorating economic and humanitarian situation in the Syrian Arab Republic due to unilateral coercive measures, which were in breach of the principle of State sovereignty and independence, and a violation of the Charter of the United Nations and human rights principles.

4. While her delegation had joined consensus on the draft resolution, it rejected politicized resolutions on the situation in her country which interfered with its internal affairs, and was not committed to their implementation.

5. That position did not change her Government's steadfast and principled position in support of recommendations in the report which addressed the condemnation of human rights violations committed by Israel in the occupied Syrian Golan and in Palestine, as those were just causes that merited support from all Member States.

6. **Mr. Makriyiannis** (Cyprus), speaking on behalf of the European Union and its Member States, said that procedural concerns on the current initiative remained: the Committee could consider, and, when necessary, take action on the Human Rights Council's recommendations, but did not need to take note of its resolutions in a generic manner. That undermined the

agreement on the report's allocation to both the General Assembly plenary and the Third Committee. He welcomed the opportunity to listen to the views of all delegations regarding the overall performance of the Council.

7. **Ms. Belskaya** (Belarus) said that her Government had not been able to join consensus on the Human Rights Council's report because it did not accurately depict the situation in her country. It presented politically motivated views and constituted intervention in the internal affairs of Belarus. The increase in activities intended to put pressure on States, in violation of the principles of objectivity and non-discrimination, was of concern. The use of double standards in the context of the universal periodic review was inadmissible; that approach had culminated in the fall of the Commission on Human Rights. Belarus would continue to work with the Council, its special procedures and other States in striving to bring the Council back on track as the main United Nations human rights body.

8. **Ms. Robl** (United States of America) said that her Government had been proud to work with other nations to adopt draft resolutions on the most pressing country-specific and thematic human rights issues, and had joined the consensus. While it remained concerned about the Council's disproportionate focus on Israel, it had seen significant improvements over the past year in its ability to fulfil its mandate to promote and protect human rights. Her Government was pleased to have been elected to a second term on the Council.

9. **Mr. Eshragh Jahromi** (Islamic Republic of Iran) said that his Government disassociated itself from the text because the Human Rights Council report contained resolutions and recommendations that mainly pursued politicized objectives rather than human rights. The adoption of country-specific resolutions such as that on Iran would lead the Council down the same futile path as the now-defunct Commission on Human Rights.

10. **Ms. Furman** (Israel) said that her Government had been actively involved in negotiations which had led to the establishment of the Human Rights Council, in order to renew public confidence in the United Nations human rights body. The founding resolution clearly stated that the Council's work should be guided by universality, impartiality and non-selectivity. Nevertheless, agenda item 7 on Israel constituted

discrimination against a Member State, defying the very principles on which the Council was founded, and distorted United Nations ideals. The singling out of Israel cast a dark shadow on the work of the United Nations as a whole, and Human Rights Council resolution 19/17 (2012) particularly reflected the Council's bias against Israel. Consequently, her Government could not support the resolution and disassociated itself from it.

11. **Ms. Loew** (Switzerland), speaking also on behalf of Iceland, Liechtenstein, New Zealand and Norway, said that those countries strongly supported the work of the Human Rights Council, and recalled that it was up to the General Assembly plenary, not the Third Committee, to take action on the Council's report. It was therefore regrettable that the draft resolution, which had no added value, disregarded that understanding. All recommendations should be considered, not collectively, but on the basis of individual merits.

12. **Ms. Murillo** (Costa Rica) said that it was crucial to preserve the work and decisions of the Human Rights Council, and the Council report should be considered in the plenary, not the Committee, in accordance with paragraph 5(j) of General Assembly resolution 60/251. The Committee should only consider the recommendations in the report.

13. **Ms. Semasinghe** (Sri Lanka) said that her Government had joined consensus on the draft resolution, but had some reservations. She recalled that the Human Rights Council should be guided by the principles of universality, impartiality, and non-selectivity in the promotion and protection of human rights. There must be genuine cooperation to assist States in complying with their obligations. That cardinal principle, however, had been violated, thus exacerbating country situations. Following the defeat of terrorism in her country, her Government had strengthened its democratic institutions and processes, was seeking reconciliation, and was promoting human rights through a national action plan. Sri Lanka had engaged with the Council and its mechanisms, including the universal periodic review, and had been steadfast in its reporting to treaty bodies. Despite those efforts, Council resolution 19/2 (2012) on promoting reconciliation and accountability in Sri Lanka was ill-conceived and set a negative precedent that challenged the Council's core values. In keeping with established international procedures, domestic processes must be

exhausted before proceeding to external review. Countries convulsed by terrorism must be given time to restore their systems of rights and freedoms. Collective, non-selective efforts were needed, based on the realities in countries.

14. **Ms. Burgess** (Canada) said that her delegation had joined consensus on the draft resolution, but was concerned about the repeated presentation of the matter in the Committee, when follow-up on the report should take place in the General Assembly plenary. It was also concerned about the establishment of a United Nations fact-finding mission on Israeli settlements, a final status issue which should be resolved by the parties concerned in the framework of a comprehensive peace agreement.

**Agenda item 69(b): Promotion and protection of human rights: Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (continued)** (A/C.3/67/L.36, A/C.3/67/L.45, A/C.3/67/L.60, A/C.3/67/L.67 and A/C.3/67/L.68)

*Draft resolution A/C.3/67/L.36: Extrajudicial, summary or arbitrary executions*

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

16. **Mr. Gustafik** (Secretary of the Committee) said that Albania, Andorra, Bosnia Herzegovina, Brazil, Chile, Georgia, Greece, Honduras, Iceland, Mexico, Paraguay, San Marino, Serbia, Slovakia, Somalia, the former Yugoslav Republic of Macedonia and Uruguay had joined the sponsors.

17. **Mr. Mendonça** (Cape Verde), speaking on a point of order on behalf of the African Group, requested a brief suspension of the meeting so that the group could discuss its action on the draft resolution.

*The meeting was suspended at 3.55 p.m. and resumed at 4.10 p.m.*

18. **Ms. Burgstaller** (Sweden), speaking on behalf of the original sponsors representing all regions, and the new sponsors: Armenia, Costa Rica, Ecuador, Malta, the Netherlands, the Republic of Korea, Spain, Timor Leste, Ukraine and the Bolivarian Republic of Venezuela, introduced draft resolution A/C.3/67/L.36.

19. The aim of the draft resolution was to stress the importance of protecting individuals from

extrajudicial, summary or arbitrary executions as well as to effectively investigate and bring perpetrators of such killings to justice. It addressed two core issues: the right to life and the fight against impunity.

20. **The Chair** drew attention to draft amendment A/C.3/67/L.67 to draft resolution A/C.3/67/L.36, and noted that the amendment contained no programme budget implications.

21. **Mr. Lim** (Singapore) said that Botswana, Brunei Darussalam, China, the Islamic Republic of Iran, the Lao People's Democratic Republic, Malaysia, Uganda and Viet Nam had joined the sponsors of the draft resolution.

22. The proposed amendment to the draft resolution would delete the eighth preambular paragraph, which noted with deep concern the continuing instances of the arbitrary deprivation of life, as a result of the imposition and implementation of capital punishment in a manner that violated international law.

23. His delegation rejected any association of capital punishment to extrajudicial, summary or arbitrary executions. The death penalty was not arbitrary but was part of a judicial process. There was no international consensus on capital punishment, which was maintained in law and practice in many countries. There was nothing arbitrary about prescribing the death penalty for the most serious offences. Many viewed the death penalty as an issue of law and order to be resolved by countries in accordance with their own national political, economic and social circumstances. The paragraph should thus not be included in the draft resolution.

24. **The Chair** said that a recorded vote had been requested on the draft amendment contained in A/C.3/67/L.67.

25. **Mr. Elbahi** (Sudan), speaking on behalf of the Group of Arab States, said that the Group remained fully committed to the Universal Declaration of Human Rights. However, it resented attempts to insert into resolutions language that had not been agreed on by the General Assembly and had no basis in international law. There were some who would resort to any ruse to seize on general observations made by a particular body to reinterpret international instruments in a way that focused disproportionately on discrimination on the basis of sexual tendency and behaviour as opposed to other types of discrimination. The expression

"sexual orientation or gender identity" could cover a wide range of activities that went beyond relations between consenting adults and might include, for example, paedophilia.

26. International human rights instruments, and in particular article 6 of the International Covenant on Civil and Political Rights, did not criminalize the death penalty. Even in the draft resolution under discussion, article 5 listed the conditions under which the death penalty could be implemented. Consequently, the eighth preambular paragraph, which implied that the imposition of capital punishment was a violation of international law, was itself a violation of international law.

27. The Group of Arab States objected to the politicization of civil rights questions, and to the introduction into resolutions of language based on subjective interpretations of international law. A decade's worth of attempts to insert such language into the resolution under discussion had ended up forcing a vote on what had formerly been a matter of consensus. The Member States of the Arab Group would consequently vote in favour of the two amendments.

28. **Ms. Burgstaller** (Sweden) said that her delegation, on behalf of the Nordic countries, had held four open informal consultations on the draft resolution. During those consultations and in many bilateral discussions, it had done its utmost to explain and discuss the aim of the paragraph and the reasoning behind why it was deemed important.

29. **Mr. Selim** (Egypt), speaking on a point of order, asked the Secretariat to read rule 128 of the rules of procedure of the General Assembly.

30. **Mr. Gustafik** (Secretary of the Committee) read out rule 128.

31. **Mr. Selim** (Egypt) asked the Chair to confirm whether or not the meeting was at the stage of explanation of vote.

32. **The Chair** said that the Committee was at the stage of explanation of vote before the voting, and it was in that context that Sweden had been given the floor.

33. **Mr. Selim** (Egypt) said that, in accordance with article 128 of the rules of procedure, proposers of a proposal or of an amendment could not take the floor to explain their vote on their own proposal, and pointed

out that the Committee was at the juncture of explanation of vote before the voting on an amendment.

34. **Mr. Zeloli** (Italy), also speaking on point of order, said that Sweden was not the proposer of the amendment.

*Statements in explanation of vote before the voting*

35. **Ms. Burgstaller** (Sweden) said that her delegation, on behalf of the Nordic countries, had done its utmost to clarify, in open informal consultations and bilaterally, that the paragraph in question was important. That paragraph did not claim that capital punishment per se was non-compliant with international law, but aimed to ensure that, where capital punishment was carried out, it was in compliance with international law and the safeguards guaranteeing protection of the rights of those facing the death penalty set out under Economic and Social Council resolution 1984/50. Instances of non-compliance with international law in that context could be an arbitrary deprivation of life. She thus appealed to the Committee to vote against the proposed amendment.

36. **Ms. Boissiere** (Trinidad and Tobago) said that the reference made in the paragraph in question to the arbitrary deprivation of life was not a concern in her country, where the death sentence was imposed only for the most serious crimes according to law, and after all appeals were exhausted. Nevertheless, the implicit recognition in that paragraph that capital punishment might be contrary to international law was unacceptable. The juxtaposition of capital punishment and arbitrary deprivation of life could be regarded as an effort to delegitimize the imposition and implementation of an act that was both lawful and a practice sanctioned by international law. The approach set out in that preambular paragraph was neither constructive nor respectful of States' sovereign right to determine their own laws and policies, in keeping with international obligations on the issue of capital punishment. Her delegation would thus vote in favour of the proposed amendment.

37. **Ms. Loew** (Switzerland) said that the proposed amendment to the draft resolution was regrettable, since it was clear that if capital punishment was not implemented in accordance with international human rights guidelines, then it constituted arbitrary

execution. Her delegation would thus vote against the proposed amendment.

38. **Ms. Syed** (Norway) said that her delegation would oppose the proposed amendment. The right to life was a supreme right, without which no other right could be enjoyed. The paragraph in question did not claim that capital punishment per se was not in compliance with international law. For States where the death penalty continued to be used, stringent requirements must be met under international law. Norway thus called on delegations to vote against the proposed amendment.

39. *A recorded vote was taken on the proposed amendment to draft resolution A/C.3/66/L.36, contained in document A/C.3/67/L.67*

*In favour:*

Algeria, Antigua and Barbuda, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, Cameroon, China, Congo, Democratic People's Republic of Korea, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Lao People's Democratic Republic, Lesotho, Libya, Malaysia, Myanmar, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sudan, Swaziland, Syrian Arab Republic, Togo, Trinidad and Tobago, Tunisia, Uganda, United Arab Emirates, Viet Nam, Yemen, Zimbabwe.

*Against:*

Albania, Andorra, Argentina, Australia, Austria, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Marshall Islands, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Serbia, Seychelles, Slovakia, Slovenia, Spain, Sweden,

Switzerland, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela (Bolivarian Republic of).

*Abstaining:*

Afghanistan, Angola, Belarus, Benin, Bhutan, Burkina Faso, Burundi, Central African Republic, Cuba, Democratic Republic of the Congo, Djibouti, Fiji, Ghana, Guinea, Guinea-Bissau, Kazakhstan, Kenya, Kyrgyzstan, Lebanon, Malawi, Mali, Mauritania, Morocco, Mozambique, Namibia, Nigeria, Philippines, Senegal, South Africa, Sri Lanka, Suriname, Tajikistan, Thailand, Tuvalu, United Republic of Tanzania, United States of America, Vanuatu, Zambia.

40. *The proposed amendment to draft resolution A/C.3/67/L.36 contained in document A/C.3/67/L.67 was rejected by 78 votes to 50, with 38 abstentions.*

*Proposed amendment to draft resolution A/C.3/L.67/36, contained in document A/C.3/67/L.68*

41. **The Chair** said that the proposed amendment contained no programme budget implications.

42. **Mr. Al-Yafei** (United Arab Emirates), speaking on behalf of the Organization of Islamic Cooperation (OIC), introduced the proposed amendment, and reaffirmed that all human rights were universal, interdependent and mutually reinforcing, and no country or territory could claim that all human rights had been fully realized at all times for all. The OIC was gravely concerned about the systematic attempts to introduce into the United Nations certain notions that had no legal basis in human rights instruments, and were also concerned about the attempt to focus on persons on the grounds of their sexual interests or behaviours, while disregarding the fact that killings, intolerance and discrimination regrettably existed the world over.

43. The notion of sexual orientation and gender identity covered a wide range of personal choices extending well beyond individuals' sexual interests; that notion was not, nor should it be, linked to existing international human rights instruments. People were not inherently vulnerable; it was the socio-economic setting in which they lived which made some vulnerable.

44. Thus, vulnerable individuals and groups included women, children, the elderly, foreign occupation refugees, asylum seekers and internally displaced persons, migrants, persons deprived of their liberty, individuals living in extreme poverty or persons who, because of their nationality, ethnicity, religion or language, became vulnerable as a result inter alia of intolerance and discrimination against them. He called on Member States to step up their efforts towards the total elimination of all forms of racism, racial discrimination, xenophobia and related intolerance and to refrain from attempting to give priority to the rights of certain individuals which could result in positive discrimination at the expense of others' rights, and thus ran counter to the principles of non-discrimination and equality.

45. **The Chair** said that a recorded vote had been requested.

*Statements in explanation of vote before the voting*

46. **Ms. Burgstaller** (Sweden) said that, as the main sponsor of the draft resolution, her country objected to the proposal to delete the reference to sexual orientation and gender identity in paragraph 6 (b). Those words had been specifically included because sexual orientation and gender identity had often been the motive for extrajudicial, summary and arbitrary executions. Their deletion would be tantamount to looking the other way or even condoning the killing of individuals solely on the basis of their sexual orientation or gender identity, not to mention impunity for the perpetrators of that crime. Member States must fulfil their international obligations to investigate suspected cases of extrajudicial, summary or arbitrary executions and bring to justice those responsible regardless of who the victim was. Denying the right to life and disregarding the plight of persons who were already in a vulnerable position could never be acceptable. Sweden would therefore vote against the proposed amendment and appealed to other delegations to do the same.

47. **Mr. Gilroy** (Ireland) said that the core message of the draft resolution as a whole and paragraph 6 (b) in particular was that no person should be extrajudicially, summarily or arbitrarily executed, and that certain individuals were more likely to be the victim of such violence. People the world over suffered violence as a result of their sexual orientation or gender identity, and such crimes had been repeatedly

documented by the human rights treaty bodies and the special procedures of the Human Rights Council, as well as by the Special Rapporteur on extrajudicial, summary or arbitrary executions. That continuing grave situation deserved to be explicitly highlighted in the resolution. Although there could be no hierarchy of rights, Member States had a common duty to ensure that the human rights of all persons were respected, and addressing violations on the basis of the non-exhaustive grounds mentioned in paragraph 6 (b) in no way diminished Member States' shared commitment to combat violations on other grounds. Ireland would therefore vote against the proposed amendment.

48. **Ms. Cousens** (United States of America) said that her country vehemently opposed the proposed amendment and would therefore vote against it. Deletion of the words concerned would suggest that persons targeted for extrajudicial killing on account of their sexual orientation or gender identity did not enjoy the same right to life as others. Surely no country would condone the extrajudicial, summary or arbitrary execution of any individual on that basis. That basic right to life was at stake, and Member States must affirm that all human rights applied to all by rejecting the proposed amendment. In 2010, the General Assembly had overwhelmingly voted to reinsert language on sexual orientation to the resolution concerned. Since that time, the Human Rights Committee had reiterated that all human rights applied to every individual regardless of their sexual orientation or gender identity. As in 2010, Member States should reaffirm that principle by rejecting the proposed amendment.

49. **Mr. de Séllos** (Brazil) said that paragraph 6 (b) should remain as originally proposed, since it concerned groups of individuals who were in a vulnerable position and more likely to suffer deadly violence, as well as situations in which impunity was more common. The draft resolution addressed the most serious human rights violation: the denial of the right to life because of discrimination. Paragraph 6 (b) must therefore be clear in providing that no State could accept any execution carried out on discriminatory grounds, including on account of a person's sexual orientation or gender identity. Brazil would vote against the proposed amendment.

50. **Mr. Mashabane** (South Africa) said that his country was fully committed to respecting the fundamental values and freedoms laid down in the

International Covenant on Civil and Political Rights, and the principle of equality and non-discrimination permeated all spheres of life in South African society. His country's Constitution had been modelled on the Universal Declaration of Human Rights, and sexual orientation was expressly mentioned as one of the grounds on which discrimination was prohibited. The purpose of paragraph 6 (b) was to protect a category of persons who were particularly vulnerable, and South Africa would therefore vote against the proposed amendment.

51. *A recorded vote was taken on the amendment proposed by the United Arab Emirates on behalf of the States Members of the United Nations that were members of the Organization of Islamic Cooperation contained in A/C.3/67/L.68.*

*In favour:*

Afghanistan, Algeria, Azerbaijan, Bahrain, Bangladesh, Belarus, Botswana, Brunei Darussalam, Cameroon, China, Democratic People's Republic of Korea, Djibouti, Egypt, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Lebanon, Libya, Malaysia, Maldives, Mauritania, Morocco, Myanmar, Namibia, Oman, Pakistan, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Sudan, Swaziland, Syrian Arab Republic, Tajikistan, Tunisia, Uganda, United Arab Emirates, Uzbekistan, Yemen.

*Against:*

Andorra, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Belize, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Latvia, Liberia, Liechtenstein, Lithuania, Luxembourg, Malawi, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Papua New Guinea, Paraguay, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Serbia, Seychelles, Singapore, Slovakia, Slovenia, South

Africa, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela (Bolivarian Republic of).

*Abstaining:*

Angola, Antigua and Barbuda, Benin, Bhutan, Burkina Faso, Burundi, Central African Republic, Congo, Democratic Republic of the Congo, Ethiopia, Gabon, Ghana, Grenada, Guinea-Bissau, Guyana, Kenya, Kyrgyzstan, Mali, Mozambique, Nigeria, Peru, Philippines, Saint Kitts and Nevis, Sri Lanka, Togo, Trinidad and Tobago, Tuvalu, United Republic of Tanzania, Vanuatu, Zambia, Zimbabwe.

52. *The proposed amendment contained in A/C.3/67/L.68 was rejected by 86 votes to 44, with 31 abstentions.*

*Draft resolution A/C.3/67/L.36*

53. **The Chair** said that a recorded vote had been requested.

54. **Ms. Burgstaller** (Sweden) said that the issue at the heart of the draft resolution was the right to life, which was a precondition for the enjoyment of all other human rights. The draft resolution addressed Member States' most fundamental responsibilities, in particular their duty to bring to justice those responsible for extrajudicial, summary and arbitrary killings. Sweden was grateful for all the support that it had received from Member States during the discussions on the draft resolution, and on behalf of the Nordic countries it urged all delegations to vote in favour.

*Statements made in explanation of vote before the voting*

55. **Mr. Ansari Dogaheh** (Islamic Republic of Iran) said that, as a party to the International Covenant on Civil and Political Rights, his country was fully committed to its international obligations, especially those relating to extrajudicial, summary or arbitrary executions, and it therefore agreed with the core message of the draft resolution. However, the nature of the negotiations, in particular the organization of a limited number of informal sessions, had resulted in a draft resolution that exclusively reflected the views of certain Member States which firmly supported the overall objective of the draft resolution but had

different views about capital punishment. In addition, the issue of sexual orientation and gender identity had been included in the text even though it did not enjoy global support. The lack of flexibility on the part of the sponsors in accommodating the different views of Member States could undermine the overall objective of the draft resolution. Iran looked forward to a more constructive approach in future negotiations. In the meantime, it would vote against the draft resolution.

56. **Mr. Mashabane** (South Africa), expressing his delegation's support for the draft resolution, said that the extrajudicial or arbitrary killing of a human being could not be justified under any circumstances. Taking a person's life was the ultimate violation of human rights, and the right to life should not be restricted to specific categories of individuals.

57. **Ms. Boissiere** (Trinidad and Tobago) said that her country was a firm supporter of the rule of law and strongly condemned the extrajudicial, summary or arbitrary killing of any person. It would therefore vote in favour of the draft resolution, even though it was unable to support certain provisions contained in the eighth preambular paragraph and paragraph 6 (b). A more general wording of paragraph 6 (b) would have been adequate to cover all persons executed for any and all discriminatory reasons. Moreover, the specific reference to gender identity presented challenges for Trinidad and Tobago, since its national gender policy was still under consideration, and accepting the inclusion of that language in the draft resolution could have public policy implications. All citizens of Trinidad and Tobago were afforded full, unconditional protection against extrajudicial, summary or arbitrary execution, even without the explicit mention of sexual orientation and gender identity. The inclusion of those words in the draft resolution could also present practical problems at the international level, given that a universally agreed definition of the concept of gender identity remained elusive. Consequently, while Trinidad and Tobago recognized that the draft resolution as a whole addressed a critical issue, it maintained reservations concerning the eighth preambular paragraph and paragraph 6 (b).

58. **Mr. Lim** (Singapore) said that his country unequivocally condemned extrajudicial, summary or arbitrary executions, and all countries had a solemn duty to prevent and investigate any killing of innocent civilians during armed or civil conflicts. That had been the traditional focus of the resolution and Singapore



had therefore been surprised that a link was now being drawn between capital punishment and arbitrary deprivation of life on the basis of the latest report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/67/275). Capital punishment was outside the remit of the Special Rapporteur, and it was deeply regrettable that the draft resolution referred to capital punishment in the context of arbitrary execution. Any attempt to liken capital punishment to extrajudicial, summary or arbitrary execution was frivolous and extralegal, and certain provisions of the draft resolution could be equating the death penalty with genocide and war crimes. Singapore could not accept that association and would therefore abstain. The purpose of the draft resolution was to galvanize the international community and coordinate efforts to protect innocent civilians against genocide and mass atrocities. It should not be politicized or used as a platform by groups arbitrarily to impose their views about countries' domestic legislation on the death penalty. Singapore remained committed to strengthening global efforts to combat extrajudicial, summary and arbitrary executions, and stood ready to engage in dialogue to that end.

59. **Mr. Selim** (Egypt) said that his country was gravely alarmed at the systematic attempts being made through the resolution to legitimize undefined notions of sexual orientation and gender identity, and reinterpret the internationally agreed human rights instruments by equating discrimination on the basis of undefined notions with other forms of discrimination universally recognized and clearly codified in those instruments. Universal consensus and clear definitions had not yet been achieved for the controversial concepts contained in paragraph 6 (b) of the draft resolution.

60. Extrajudicial, summary and arbitrary executions must not take place on any basis. However, Egypt's strong commitment to combating all forms of discrimination and violence should not be exploited to impose undefined notions that restricted social and cultural norms, as well as the obligation of Member States to protect morality, public order and the general welfare of a democratic society.

61. Egypt was gravely concerned at the attempts to create new rights and standards not agreed on by Member States. Such attempts seriously jeopardized the entire human rights framework, which had been established on the basis of dialogue, mutual

understanding and respect for the specificities of Member States. Egypt would continue to reject any attempt to impose undefined concepts that fell outside the international human rights framework negotiated and adopted by Member States, and would therefore continue to abstain on the resolution concerned. It urged all Member States to uphold the universally recognized human rights and fundamental freedoms, and refrain from imposing controversial undefined notions on the United Nations.

62. **Ms. Williams** (Grenada) said that her country strongly condemned the taking of human life and fully complied with its obligations under the various human rights conventions. However, the eighth preambular paragraph of the draft resolution created an unacceptable link between the arbitrary deprivation of life and capital punishment. Grenada would vote in favour of the draft resolution but maintained a strong reservation to the eighth preambular paragraph.

63. *A recorded vote was taken on draft resolution A/C.3/67/L.36.*

*In favour:*

Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Bosnia and Herzegovina, Brazil, Bulgaria, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Gabon, Georgia, Germany, Greece, Grenada, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, India, Ireland, Italy, Jamaica, Japan, Kazakhstan, Kyrgyzstan, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Maldives, Malta, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Montenegro, Myanmar, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Rwanda, Samoa, San Marino, Serbia, Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Suriname, Sweden, Switzerland, Tajikistan, Thailand, the former Yugoslav Republic of Macedonia, Timor-Leste, Togo, Turkmenistan, Ukraine, United Kingdom of Great Britain and

Northern Ireland, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of).

*Against:*

Iran (Islamic Republic of).

*Abstaining:*

Afghanistan, Algeria, Angola, Bahamas, Bahrain, Bangladesh, Botswana, Brunei Darussalam, Burkina Faso, Cameroon, Central African Republic, China, Democratic People's Republic of Korea, Democratic Republic of the Congo, Egypt, Ethiopia, Ghana, Guinea, Guyana, Indonesia, Iraq, Israel, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Mali, Mauritania, Morocco, Mozambique, Namibia, Nigeria, Oman, Pakistan, Palau, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Singapore, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Tunisia, Turkey, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, United States of America, Uzbekistan, Viet Nam, Yemen, Zambia, Zimbabwe.

64. *Draft resolution A/C.3/67/L.36 was adopted by 108 votes to 1, with 65 abstentions.*

65. **Ms. Boissiere** (Trinidad and Tobago) said that for technical reasons her country's vote had not been recorded, but it had intended to vote in favour of the resolution.

*Statements made in explanation of vote after the voting*

66. **Mr. Kumar** (India) said that his country attached great importance to the resolution, but the issue of capital punishment had no place in it. The death penalty was carried out in India only in very severe cases, and the national legislation provided full safeguards. A death sentence must be confirmed by a superior court and the accused had the right to appeal. India shared the concerns raised by Singapore concerning the eighth preambular paragraph, but had voted in favour of the resolution since it supported its core objective. However, it looked forward to more open, inclusive, transparent discussions on the resolution in the future, so that broader consensus could be reached on Member States' collective endeavour to prevent and eliminate extrajudicial, summary and arbitrary executions.

67. **Mr. Wolfe** (Jamaica) said that his country condemned all forms of extrajudicial, summary or arbitrary executions carried out on any basis and supported efforts at all levels to combat such acts. However, it had reservations concerning the eighth preambular paragraph and certain provisions of paragraph 5. Although Jamaica had voted in favour of the resolution as a whole, the wording of those two paragraphs implied that the use of the death penalty constituted extrajudicial, summary or arbitrary execution, which was an interpretation not shared by his country. Capital punishment was not arbitrary and did not conflict with domestic or international law. As a result, Jamaica did not support specific calls upon States which retained the death penalty, since the responsibility to comply with international human rights instruments was a universal one accepted by all States parties.

68. Jamaica's reservation to paragraph 6 went beyond the issue of sexual orientation and gender identity. The paragraph was cumbersome and unwieldy, and a more holistic approach was required instead of a non-exhaustive list of categories of individuals. The focus of the paragraph should be the broad concept of preventing discrimination against all vulnerable persons. Jamaica hoped that future negotiations on the resolution would result in a more general reference to all vulnerable groups. The resolution should not include politically divisive issues or impose one value system over another.

69. **Ms. Cousens** (United States of America) said that all States must protect human rights and fundamental freedoms, and take effective action to combat extrajudicial killings and punish the perpetrators. Countries with the death penalty must also abide by their international obligations relating to due process, fair trial and the use of such punishment for only the most serious of crimes. The United States agreed with much of the resolution, including the wording of the provisions which condemned the extrajudicial killing of members of vulnerable groups, especially those targeted on account of their sexual orientation or gender identity. However, it had concerns about the language of the draft resolution in some parts and had therefore abstained. Unfortunately, the text did not make clear that there was not one but two bodies of law that regulated unlawful killings of individuals by Governments: international human rights law and international humanitarian law. Those two bodies of

law were complementary and mutually reinforcing, and determining which rules applied to Government action during an armed conflict was highly fact-specific. The wording of the resolution contributed to legal uncertainty about how those two important bodies of law applied, and the United States had therefore not been in a position to vote in favour of the draft resolution.

70. **Mr. Hisajima** (Japan) said that his country had concerns about the reference in paragraph 5 of the draft resolution to reports by the Special Rapporteur on the death penalty, since some of the recommendations made in those reports went beyond the provisions of the International Covenant on Civil and Political Rights. Clearly, the death penalty did not constitute extrajudicial, summary or arbitrary execution, nor did it violate international law. Japan had therefore voted in favour of the resolution as a whole on the understanding that paragraph 5 did not stipulate that Member States were obliged to abide by specific recommendations concerning the death penalty made in the reports of the Special Rapporteur unless they were required to do so under international law.

71. **Ms. Li Xiaomei** (China) said that it was regrettable that references to capital punishment appeared in the 2012 draft resolution, since it was an issue of national sovereignty. For that reason China had abstained. It urged the sponsors to respect the judicial sovereignty of Member States in the spirit of mutual respect and to refrain from imposing their views on others.

72. **Ms. Ibrahim** (Brunei Darussalam) said that her country fully supported the principles enshrined in the Universal Declaration of Human Rights and international human rights laws, taking into account specific national circumstances. While it agreed with the overall objectives of the draft resolution, it had abstained owing to its reservation to the eighth preambular paragraph. The issue of capital punishment should not be included in the draft resolution, since it was a matter of criminal justice, not human rights. In Brunei Darussalam, the death penalty was applied as a deterrent, and to enable people to live in peace and security. Due process, fair conduct of trials and judicial safeguards were strictly enforced, and the country's capital punishment process did not violate any international law.

*Draft resolution A/C.3/67/L.45: Committee against Torture*

73. **The Chair** drew attention to the programme budget implications of draft resolution A/C.3/67/L.45 contained in document A/C.3/67/L.60.

74. **Mr. Gustafik** (Secretary of the Committee) announced that Albania, Chile, Cyprus, France, Guatemala, Latvia, Lithuania, Luxembourg, Madagascar, Mali, Montenegro, Poland, Sweden, the former Yugoslav Republic of Macedonia and Turkey had joined the sponsors.

75. **Ms. Kofoed** (Denmark) said that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment laid down the fundamental principle of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The Committee against Torture had been established to monitor implementation of that important principle and the Convention as a whole by its States parties. However, in order to undertake its mandated functions, the Committee needed sufficient time to meet each year to consider State party reports and individual complaints. In 2010 the General Assembly had decided to authorize the Committee to meet for an additional week per session in 2011 and 2012, during which time the Committee had considered an additional 10 reports and 20 individual communications. However, the work was far from done, and the draft resolution therefore authorized the Committee to continue meeting for an additional week per session in 2013 and 2014.

76. At the last informal session the decision had been taken to replace the word "encourages" with "urges" in paragraph 1 of the draft resolution. Lastly, Argentina, Armenia, Belgium, Benin, Bolivia (Plurinational State of), Brazil, Bulgaria, Cyprus, Dominican Republic, Ecuador, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Peru, Poland, Republic of Korea, Republic of Moldova, Romania, Serbia, Slovakia, Slovenia, Sweden, the former Yugoslav Republic of Macedonia, Turkey, Uruguay and Venezuela (Bolivarian Republic of) had joined the sponsors.

77. **Mr. Gustafik** (Secretary of the Committee) announced that Bosnia and Herzegovina, Georgia, Kyrgyzstan and Ukraine had also joined the sponsors.

78. *Draft resolution A/C.3/67/L.45, as orally revised, was adopted.*

79. **Ms. Razzouk** (United States of America) said that her country was strongly committed to eliminating torture and other forms of cruel, inhuman or degrading treatment or punishment and holding the perpetrators accountable, and had adopted strong legislative measures to that end. Treaty bodies played a critical role in reviewing implementation of human rights obligations by States parties to international conventions, and the United States fully supported the work of the Committee against Torture. However, in view of the current economic situation, her country must dissociate itself from the draft resolution because of the provisions of paragraph 2, which authorized the Committee to meet for an additional week per session beginning in 2013. It was important to assess and enhance the effectiveness of all treaty bodies through the treaty body strengthening process.

80. **Ms. Walker** (United Kingdom of Great Britain and Northern Ireland), speaking on behalf of her own country and Japan, said that both countries had joined the consensus on the resolution, but had serious concerns about the approach taken as a solution to a much wider problem. The Committee had taken positive steps to increase the efficiency of its working methods, but a solution must be found to the Committee's continued backlog, since temporary extensions of meeting time did not solve the problem. It was regrettable that their concerns about the ad hoc solution provided in the draft resolution had not been taken into account and that compromise proposals had not been properly considered. Member States should focus their efforts on the wider treaty body strengthening process in order to tackle the underlying causes of the backlog and ensure a holistic solution instead of ineffective and costly ad hoc measures.

81. **Mr. Hisajima** (Japan) said that a long-term solution to the backlog must be found, and efforts should be made to minimize additional expenditure in view of the severe financial constraints in the regular budget. It would make more sense to consider an extension of meeting time at the sixty-eighth session on the basis of the outcome of the ongoing treaty body strengthening process. For financial reasons, Japan had serious concerns about approving an extension of four weeks at the current time, and had hoped to find ways to minimize additional expenditure through compromise solutions. It was regrettable that it had not

been given sufficient time to hold constructive discussions to that end. Japan therefore urged the Secretariat to minimize additional resource requirements arising from the extension of meeting time, and encouraged the Committee against Torture to continue its efforts to enhance the efficiency of its working methods.

*The meeting rose at 5.55 p.m.*