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### INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Argentina, Australia, Austria, Belgium, Cape Verde, Colombia, Costa Rica, Cyprus, Denmark, Dominican Republic, Finland, France, German Democratic Republic, Germany, Federal Republic of, Honduras, Iceland, Italy, Luxembourg, Malta, Netherlands, New Zealand, Nicaragua, Norway, Philippines, Portugal, Samoa, Spain, Sweden, Ukrainian Soviet Socialist Republic, Uruguay and Venezuela: draft resolution

Elaboration of a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty

The General Assembly,

Recalling article 3 of the Universal Declaration of Human Rights adopted in its resolution 217 A (III) of 10 December 1948,

Recalling also article 6 of the International Covenant on Civil and Political Rights adopted in its resolution 2200 A (XXI) of 16 December 1966,

Mindful of its decision 35/437 of 15 December 1980, reaffirmed in its resolution 36/59 of 25 November 1981, to consider the idea of elaborating a draft of a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty,

Mindful also of its resolution 37/192 of 18 December 1982 by which it requested the Commission on Human Rights to consider this idea, and its resolution 39/137 of 14 December 1984 by which it requested the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider further the idea of a second optional protocol,

Taking note of the comparative analysis prepared by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, 1/

Taking note also of the views expressed by Governments in favour of and against the death penalty, and of their comments and observations regarding such a second optional protocol as reproduced in reports of the Secretary-General, 2/

Referring to its decision 42/421 of 7 December 1987, to Commission on Human Rights resolution 1989/25 of 6 March 1989 3/ and Economic and Social Council decision 1989/139 of 24 May 1989 by which the comparative analysis and the draft second optional protocol were transmitted to the General Assembly for suitable action,

Wishing to give States parties to the International Covenant on Civil and Political Rights which choose to do so the opportunity to become parties to a second optional protocol to that convention,

Having considered the draft second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty prepared by the Special Rapporteur,

1. Expresses its appreciation for the work achieved by the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities;

2. Adopts and opens for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty contained in the annex to the present resolution;

3. Calls upon all Governments in a position to do so to consider signing and ratifying or acceding to the Second Optional Protocol.

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1/ E/CN.4/Sub.2/1987/20.

2/ A/36/441 and Add.1 and 2, A/37/407 and Add.1, A/44/592 and Add.1.

3/ See Official Records of the Economic and Social Council, 1989, Supplement No. 2 (E/1989/20), chap. X.

Annex

DRAFT SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT  
ON CIVIL AND POLITICAL RIGHTS AIMING AT THE ABOLITION OF THE  
DEATH PENALTY

The States parties to the present Protocol,

Believing that abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights,

Recalling article 3 of the Universal Declaration of Human Rights adopted on 10 December 1948 and article 6 of the International Covenant on Civil and Political Rights adopted on 16 December 1966,

Noting that article 6 of the International Covenant on Civil and Political Rights refers to abolition of the death penalty in terms which strongly suggest that abolition is desirable,

Convinced that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life,

Desirous to undertake hereby an international commitment to abolish the death penalty,

Have agreed as follows:

Article 1

1. No one within the jurisdiction of a State party to the present Optional Protocol shall be executed.

2. Each State party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2

1. No reservation is admissible to the present Protocol except for a reservation made at the time of ratification or accession which provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

2. The State party making such a reservation will at the time of ratification or accession communicate to the Secretary-General of the United Nations the relevant provisions of its national legislation applicable during wartime.

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3. The State party having made such a reservation will notify the Secretary-General of the United Nations of any beginning or ending of a state of war applicable to its territory.

#### Article 3

The States parties to the present Protocol shall include in the reports they submit to the Human Rights Committee in accordance with article 40 of the Covenant information on the measures they have adopted to give effect to the present Protocol.

#### Article 4

With respect to the States parties to the Covenant which have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications that a State party claims that another State party is not fulfilling its obligations shall extend to the provisions of the present Protocol, unless the State party concerned has made a statement to the contrary at the moment of ratification or accession.

#### Article 5

With respect to the States parties to the (First) Optional Protocol to the International Covenant on Civil and Political Rights adopted on 16 December 1966, the competence of the Human Rights Committee to receive and consider communications from individuals subject to its jurisdiction shall extend to the provisions of the present Protocol, unless the State party concerned has made a statement to the contrary at the moment of ratification or accession.

#### Article 6

1. The provisions of the present Protocol shall apply as additional provisions to the Covenant.

2. Without prejudice to the possibility of a reservation under article 2 of the present Protocol, the right guaranteed in article 1, paragraph 1, of the present Protocol shall not be subject to any derogation under article 4 of the Covenant.

### Article 7

1. The present Protocol is open for signature by any State which has signed the Covenant.

2. The present Protocol is subject to ratification by any State which has ratified the Covenant or acceded to it. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Protocol shall be open to accession by any State which has ratified the Covenant or acceded to it.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

### Article 8

1. The present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or accession.

### Article 9

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

### Article 10

The Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- (a) Reservations, communications and notifications under article 2 of the present Protocol;
- (b) Statements made under its articles 4 or 5;
- (c) Signatures, ratifications and accessions under its article 7;

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(d) The date of the entry into force of the present Protocol under its article 8.

Article 11

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.