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## INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Report of the Third CommitteeRapporteur: Mr. Wilfried GROLIG (Federal Republic of Germany)

## I. INTRODUCTION

1. At its 3rd plenary meeting, on 22 September 1989, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "International Covenants on Human Rights" and to allocate it to the Third Committee.
2. The Committee considered the item jointly with items 95, 106, 107, 108, 112, 114 and 115 at its 36th to 43rd, 50th, 52nd and 54th meetings, on 8 to 10, 13 to 15, 21, 22 and 24 November 1989. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/44/SR.36-43, 50, 52 and 54).
3. For its consideration of the item, the Committee had before it the following documents:
  - (a) Report of the Economic and Social Council (A/44/3, chap. V, sect. A); 1/
  - (b) Report of the Human Rights Committee; 2/

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1/ To be issued as Official Records of the General Assembly, Forty-fourth Session, Supplement No. 3 (A/44/3/Rev.1).

2/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 40 (A/44/40).

(c) Report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights (A/44/441);

(d) Report of the Secretary-General containing views expressed by Governments pursuant to Commission on Human Rights resolution 1989/35 of 6 March 1989 (A/44/592 and Add.1);

(e) Note by the Secretary-General on the elaboration of a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty (A/44/662);

(f) Letter dated 19 June 1989 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the Secretary-General (A/44/331);

(g) Letter dated 27 June 1989 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the Secretary-General (A/44/364-S/20706);

(h) Letter dated 19 July 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Zimbabwe to the United Nations addressed to the Secretary-General (A/44/409-S/20743 and Corr.1 and 2);

(i) Letter dated 22 September 1989 from the Permanent Representative of Yugoslavia to the United Nations addressed to the Secretary-General (A/44/551-S/20870);

(j) Letter dated 26 October 1989 from the Permanent Representative of Malaysia to the United Nations addressed to the Secretary-General (A/44/689-S/20921);

(k) Letter dated 31 October 1989 from the Permanent Representative of Saudi Arabia to the United Nations addressed to the Secretary-General (A/44/700-S/20934 and Corr.1);

(l) Letter dated 3 November 1989 from the Permanent Representative of Democratic Kampuchea to the United Nations addressed to the Secretary-General (A/44/710-S/20948);

(m) Report of the Committee on Economic, Social and Cultural Rights on its third session; 3/

(n) Analysis by the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: elaboration of a second optional

protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (E/CN.4/Sub.2/1987/20);

(o) Summary records of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1988/SR.13, 16, 18-24 and 26; and E/CN.4/Sub.2/1987/SR.22-27 and Corr.1);

(p) Summary records of the Commission on Human Rights (E/CN.4/1989/SR.26-33).

4. At the 36th meeting, on 8 November 1989, the Chairman informed the Committee of a letter he had received from the Chairman of the Human Rights Committee regarding paragraphs 26 and 27 of the report of the Committee 2/ (see A/C.3/44/SR.36).

5. At the same meeting, the Under-Secretary-General for Human Rights made an introductory statement (see A/C.3/44/SR.36).

## II. CONSIDERATION OF PROPOSALS

### A. Draft resolution A/C.3/44/L.42

6. At the 50th meeting, on 21 November, the representative of the Federal Republic of Germany, on behalf of Argentina, Australia, Austria, Belgium, Brazil, Cape Verde, Colombia, Costa Rica, Cyprus, Denmark, the Dominican Republic, El Salvador, Finland, France, the German Democratic Republic, Germany, Federal Republic of, Haiti, Honduras, Iceland, Ireland, Italy, Luxembourg, Malta, the Netherlands, New Zealand, Nicaragua, Norway, the Philippines, Portugal, Samoa, Spain, Sweden, the Ukrainian Soviet Socialist Republic, Uruguay and Venezuela, introduced a draft resolution (A/C.3/44/L.42) entitled "Elaboration of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty". Subsequently, Greece joined in sponsoring the draft resolution.

7. At the 52nd meeting, on 22 November, the representatives of Egypt, Algeria, Iraq, Saudi Arabia, Botswana, Iran (Islamic Republic of), Indonesia, China, Jordan, Morocco, Oman, Afghanistan, Guatemala, Somalia and Pakistan made statements in explanation of vote before the vote (see A/C.3/44/SR.52).

8. At the same meeting, the Committee adopted draft resolution A/C.3/44/L.42 by a recorded vote of 55 to 28, with 45 abstentions (see para. 34, draft resolution I). The voting was as follows:

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Cape Verde, Central African Republic, Colombia, Costa Rica, Cyprus, Czechoslovakia, Democratic Kampuchea, Denmark, Ecuador, El Salvador, Finland, France, German Democratic Republic, Germany, Federal Republic of, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Luxembourg, Malta,

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Mexico, Mongolia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Peru, Philippines, Poland, Portugal, Samoa, Spain, Sweden, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Yugoslavia.

**Against:** Afghanistan, Bahrain, Bangladesh, China, Comoros, Egypt, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Jordan, Kuwait, Malaysia, Maldives, Morocco, Nigeria, Oman, Pakistan, Qatar, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syrian Arab Republic, United Republic of Tanzania, United States of America, Yemen.

**Abstaining:** Algeria, Antigua and Barbuda, Bahamas, Barbados, Botswana, Burkina Faso, Burundi, Cameroon, Chile, Congo, Côte d'Ivoire, Cuba, Djibouti, Equatorial Guinea, Ethiopia, Fiji, Gambia, Ghana, Guinea, Guyana, India, Israel, Jamaica, Kenya, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Mali, Mozambique, Myanmar, Paraguay, Romania, Rwanda, Singapore, Sri Lanka, Suriname, Swaziland, Trinidad and Tobago, Turkey, Uganda, Zaire, Zambia, Zimbabwe.

9. Also at the same meeting, the representatives of Senegal, Yugoslavia, the United Kingdom of Great Britain and Northern Ireland, Israel, Bangladesh, Japan, Zaire and Nepal made statements in explanation of vote after the vote (see A/C.3/44/SR.52).

**B. Draft resolution A/C.3/44/L.46**

10. At the 50th meeting, on 21 November, the representative of Norway, on behalf of Algeria, Australia, Bulgaria, the Byelorussian Soviet Socialist Republic, Canada, Costa Rica, Denmark, Ecuador, Finland, Hungary, Iceland, Italy, the Netherlands, Norway, Peru, the Philippines, Spain, Sweden, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and Venezuela, introduced a draft resolution (A/C.3/44/L.46) entitled "International Covenants on Human Rights". Subsequently, Guatemala, El Salvador and Senegal joined in sponsoring the draft resolution.

11. At its 52nd meeting, on 22 November, the Committee adopted draft resolution A/C.3/44/L.46 without a vote (see para. 34, draft resolution II).

**C. Draft resolution A/C.3/44/L.48**

12. At the 50th meeting, on 21 November, the representative of the German Democratic Republic, on behalf of Algeria, Bulgaria, the Byelorussian Soviet Socialist Republic, the German Democratic Republic, Mongolia and Nicaragua, introduced a draft resolution (A/C.3/44/L.48) entitled "Indivisibility and interdependence of economic, social, cultural, civil and political rights". Subsequently, Guatemala joined in sponsoring the draft resolution.

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13. At the same meeting, the representative of the German Democratic Republic, on behalf of the sponsors, orally revised the draft resolution by adding the words ", in co-operation with the" after the words "United Nations" in the first line of operative paragraph 5.

14. At the 52nd meeting, on 22 November, the representatives of France (on behalf of the 12 States Members of the United Nations that are members of the European Community) and the United States of America made statements in explanation of vote before the vote (see A/C.3/44/SR.52).

15. At the same meeting, the Committee adopted draft resolution A/C.3/44/L.48, as orally revised, by a recorded vote of 116 to none, with 24 abstentions (see para. 34, draft resolution III). The voting was as follows:

In favour: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Fiji, Gabon, Gambia, German Democratic Republic, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: None.

Abstaining: Austria, Belgium, Canada, Chile, Denmark, El Salvador, Finland, France, Germany, Federal Republic of, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

16. At the same meeting, the representatives of Sweden (on behalf of the Nordic countries) and Japan made statements in explanation of vote after the vote (see A/C.3/44/SR.52).

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D. Draft resolution A/C.3/44/L.49 and Rev.1

17. At the 50th meeting, on 21 November, the representative of Mongolia, on behalf of Bulgaria, the Byelorussian Soviet Socialist Republic, the German Democratic Republic, Iraq, the Lao People's Democratic Republic, Mongolia, Morocco and Viet Nam, introduced a draft resolution (A/C.3/44/L.49) entitled "Need to ensure a healthy environment for the well-being of individuals". Subsequently, Guatemala joined in sponsoring the draft resolution.

18. At its 52nd meeting, on 22 November, the Committee had before it a revised draft resolution (A/C.3/44/L.49/Rev.1). Following a statement by the representative of Brazil, the Committee decided to postpone consideration of the draft resolution to a later meeting (see A/C.3/44/SR.52).

19. At the 54th meeting, on 24 November, the representative of Mongolia, on behalf of the sponsors, now joined by Guinea, introduced the revised draft resolution (A/C.3/44/L.49/Rev.1), which read as follows:

"The General Assembly,

"Recalling that, in accordance with the provisions of the Universal Declaration of Human Rights, 4/ 'everyone has the right to a standard of living adequate for the health and well-being of himself and of his family',

"Recognizing the need to promote universal respect for, and observance of, human rights and freedoms in all their aspects,

"Considering that a better and healthier environment can help to contribute towards the full enjoyment of human rights by all,

"Recalling the Declaration of the United Nations Conference on the Human Environment, 5/ adopted on 16 June 1972, which states that 'both aspects of man's environment, the natural and man-made, are essential to his well-being',

"Referring also to the 1987 report of the World Commission on Environment and Development, 6/ which recognizes that the 1972 United Nations Conference on the Human Environment brought together the industrialized and developing countries to tackle the questions related to a healthy and productive environment,

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4/ Resolution 217 A (III).

5/ Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14 and corrigendum), chap. I, para. 1.

6/ See A/42/427, annex.

"Considering that meeting the aspirations of individuals for a better and healthier environment plays an important role for the full realization of economic and social rights,

"1. Recognizes that every individual is entitled to live in an environment adequate for the health and well-being of himself/herself and of his/her family;

"2. Calls upon Member States and intergovernmental and non-governmental organizations dealing with environmental questions to endeavour to ensure a better and healthier environment;

"3. Invites the Commission on Human Rights, through its Sub-Commission, to consider studying the effects of environmental degradation on the full enjoyment of the right to a standard of living adequate for the health and well-being of individuals and to report on it to the General Assembly through the Economic and Social Council;

"4. Decides to consider this question at its forty-sixth session under the item entitled 'Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms'."

20. At the same meeting, the representative of Brazil, on behalf of Argentina, Brazil, Colombia, Mexico, Uruguay and Venezuela, introduced the amendments to draft resolution A/C.3/44/L.49/Rev.1 contained in document A/C.3/44/L.76, which read as follows:

"1. Replace, in the title, the words 'a healthy environment' by the words 'healthier standards of living'.

"2. Insert a new preambular paragraph between the second and third preambular paragraphs, as follows:

'Reaffirming that everyone is entitled to a social and international order in which those rights and freedoms can be fully realized',.

"3. Replace the words 'a better and healthy environment can help to contribute towards the' by the words 'better and healthier standards of living are needed to ensure the', in the third preambular paragraph.

"4. Delete the fourth preambular paragraph.

"5. Delete the fifth preambular paragraph.

"6. Replace the last (sixth) preambular paragraph by a new paragraph as follows:

'Considering that meeting the aspirations of individuals for better and healthier standards of living should constitute one of the basic objectives of a new international order predicated on justice, peace and development for all',.

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"7. Replace the words 'live in an environment', in operative paragraph 1, by the words 'freedom from fear and want, as well as to a standard of living'.

"8. Replace the last part of operative paragraph 2, after the words 'dealing with', by the following words: 'social and humanitarian questions to endeavour to promote better and healthier standards of living, particularly in developing countries'.

"9. Delete the words 'through its Sub-Commission' in operative paragraph 3 and replace the last part of the same paragraph, starting from the words 'environmental degradation', by the words 'the deterioration of standards of living, particularly in developing countries, on the full enjoyment of human rights'."

21. At the same meeting, following a proposal by the representative of Peru, and a statement made by the representative of Mongolia, the Committee decided to defer consideration of draft resolution A/C.3/44/L.49/Rev.1 and the amendments thereto (A/C.3/44/L.76) to the forty-fifth session of the General Assembly. The representative of Brazil made a statement.

E. Draft resolution A/C.3/44/L.50/Rev.1

22. At the 50th meeting, on 21 November, the representative of the Netherlands, on behalf of Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Finland, France, Germany, Federal Republic of, Greece, Hungary, Ireland, Italy, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution (A/C.3/44/L.50/Rev.1) entitled "Freedom of expression and peaceful assembly". Subsequently, Guatemala and the United States of America joined in sponsoring the draft resolution, the text of which read as follows:

"The General Assembly,

"Guided by the purposes and principles of the Charter of the United Nations and bearing in mind the Universal Declaration of Human Rights, 7/

"Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms and determined to remain vigilant with regard to violations of human rights wherever they occur,

"Recalling articles 19 and 21 of the International Covenant on Civil and Political Rights, 8/

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7/ Resolution 217 A (III).

8/ See resolution 2200 A (XXI), annex.



"Mindful of the Code of Conduct for Law Enforcement Officials, 9/

"Noting the pertinent resolutions of the Commission on Human Rights, most recently its resolution 1989/31 of 6 March 1989, on the right to freedom of opinion and expression,

"Seriously concerned over recent reports from different regions of the world on the quelling of peaceful assemblies and demonstrations,

"1. Expresses its concern at the occurrence of the use of force against and the detention of persons who exercise the rights to freedom of opinion and expression and of peaceful assembly as affirmed in the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights;

"2. Calls upon all States to respect existing international standards in the field of human rights relating to the freedom of expression and peaceful assembly;

"3. Appeals to all States to ensure respect for the rights of all persons who exercise the right to freedom of opinion and expression and, where any persons have been detained solely for exercising the right to freedom of opinion and expression, to release them immediately."

23. At its 52nd meeting, on 22 November, the Committee decided to postpone consideration of the draft resolution to a later meeting (see A/C.3/44/SR.52).

24. At its 54th meeting, on 24 November, the Committee had before it amendments to draft resolution A/C.3/44/L.50/Rev.1, which were contained in document A/C.3/44/L.77.

25. At the same meeting, the representative of China, on behalf of Angola, Bahrain, Bangladesh, China, Cuba, Ghana, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, the Libyan Arab Jamahiriya, Nepal, Pakistan, Saudi Arabia, Sri Lanka and Zimbabwe, introduced the amendments to draft resolution A/C.3/44/L.50/Rev.1 contained in document A/C.3/44/L.77, which read as follows:

"A. Preamble

"1. Add a new preambular paragraph after the first preambular paragraph:

'Recalling the principle enshrined in Article 2, paragraph 7, of the Charter of the United Nations',.

- "2. Add at the end of the second preambular paragraph, the following:

'and to accord priority to the search for solutions to the mass and flagrant violations of human rights',.

- "3. Add a new preambular paragraph after the fourth preambular paragraph:

'Reaffirming its support for and adherence to the Charter and urging all States to abide by its provisions, in particular, to respect the principles of sovereign equality, political independence and territorial integrity of States and non-intervention in internal affairs, to refrain from the threat or use of force, to settle disputes peacefully, to adhere to the principles of equal rights and self-determination of peoples, respect for human rights and fundamental freedoms and co-operation among States, and to comply in good faith with their obligations assumed in accordance with the Charter',.

- "4. Add a new preambular paragraph after the fifth preambular paragraph:

'Recognizing the legitimacy of the struggles against apartheid, racial discrimination in all its forms, foreign occupation and domination',.

- "5. Redraft the sixth preambular paragraph as follows:

'Recalling the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty contained in its resolution 2131 (XX) adopted on 21 December 1965, which declared that "no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State"',.

"B. Operative part

- "1. Replace operative paragraphs 1 and 2 by the following:

'1. Calls upon all States to respect the right to freedom of expression and the right of peaceful assembly in accordance with the Universal Declaration of Human Rights;

'2. Also calls upon all States to support the just struggles against apartheid, racial discrimination, in all its forms, foreign occupation and domination through various means, including peaceful assemblies and demonstrations;'

/...

"2. Add three new operative paragraphs after operative paragraph 2:

'3. Condemns the Israeli authorities' use of force against the Palestinian civilians under Israeli occupation, who carried on non-violent and peaceful demonstrations;

'4. Condemns the policy of apartheid that deprives the majority of the South African population of their dignity, fundamental freedoms and human rights, including the right of freedom of expression and the right of peaceful assembly;

'5. Reaffirms that no State shall organize, assist, foment, finance, incite or tolerate subversive, terrorist or armed activities directed towards the violent overthrow of the régime of another State, or interfere in civil strife in another State;'

"3. Renumber the remaining operative paragraph accordingly."

26. At the same meeting, the representative of Iraq made a statement in which he moved, under rule 117 of the rules of procedures of the General Assembly, to adjourn the debate and to take immediate action (see A/C.3/44/SR.54).

27. The representative of Egypt made a statement in support of the motion made by the representative of Iraq.

28. At the same meeting, the representative of the Netherlands made a statement on a point of order, in which he moved, under rule 113 of the rules of procedure of the General Assembly, that a ruling by the Committee be made to consider document A/C.3/44/L.77 as a new proposal and not as an amendment to draft resolution A/C.3/44/L.50/Rev.1.

29. At the same meeting, following statements by the representatives of China, Cameroon and by the Chairman, the Committee then proceeded to vote on the motion proposed by the Netherlands. The motion was rejected by a recorded vote of 85 to 30, with 9 abstentions. The voting was as follows:

In favour: Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Fiji, Finland, France, Germany, Federal Republic of, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Malta, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Afghanistan, Algeria, Angola, Argentina, Bahrain, Bangladesh, Benin, Bolivia, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Chad, Chile, China, Colombia, Congo, Cuba, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Djibouti, Ecuador, Egypt, Ethiopia, German Democratic Republic,

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Ghana, Guinea, India, Indonesia, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Myanmar, Nepal, Nicaragua, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Romania, Rwanda, Saudi Arabia, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Abstaining: Bhutan, Brunei Darussalam, Central African Republic, Côte d'Ivoire, El Salvador, Malawi, Nigeria, Poland, Singapore.

30. After the motion was rejected, the representative of the Netherlands made a statement, on behalf of the sponsors of A/C.3/44/L.50/Rev.1, and withdrew the draft resolution.

31. The representative of China made a statement, in which he proposed that, since draft resolution A/C.3/44/L.50/Rev.1 was withdrawn, no action should be taken on the amendments contained in A/C.3/44/L.77.

32. Statements were made by the representatives of Egypt and Cameroon.

33. The representatives of Costa Rica and Iraq spoke in explanation of vote after the vote.

### III. RECOMMENDATIONS OF THE THIRD COMMITTEE

34. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

#### DRAFT RESOLUTION I

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, in which it requested the Commission on Human Rights to consider this idea and its resolution 39/137 of 14 December 1984, in which it requested the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to consider further the idea of elaborating a draft 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, 10/

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 the relevant reports of the Secretary-General, 11/

Referring to its decision 42/421 of 7 December 1987, Commission on Human Rights resolution 1989/25 of 6 March 1989 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 that 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, which was 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;

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

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

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

ANNEX

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 12/ adopted on 10 December 1948 and article 6 of the International Covenant on Civil and Political Rights 13/ 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 that 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.

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12/ Resolution 217 A (III).

13/ See resolution 2200 A (XXI), annex.

## Article 2

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that 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 shall 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.

3. The State party having made such a reservation shall 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 that they have adopted to give effect to the present Protocol.

## Article 4

With respect to the States parties to the Covenant that have made a declaration under article 41, the competence of the Human Rights Committee to receive and consider communications when 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.

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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 that has signed the Covenant.

2. The present Protocol is subject to ratification by any State that 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 that 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 that 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;
- (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.

#### DRAFT RESOLUTION II

##### International Covenants on Human Rights

##### The General Assembly,

Recalling its resolutions 33/51 of 14 December 1978, 34/45 of 23 November 1979, 35/132 of 11 December 1980, 36/58 of 25 November 1981, 37/191 of 18 December 1982, 38/116 and 38/117 of 16 December 1983, 39/136 and 39/138 of 14 December 1984, 40/115 and 40/116 of 13 December 1985, 41/32 of 3 November 1986, 41/119 and 41/121 of 4 December 1986, 42/103 and 42/105 of 7 December 1987 and 43/114 of 8 December 1988 and the general comments adopted by the Human Rights Committee under article 40, paragraph 4, of the International Covenant on Civil and Political Rights at its 891st meeting, on 5 April 1989, 14/

Mindful that the International Covenants on Human Rights 13/ constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights, 12/ form the core of the International Bill of Human Rights,

Taking note of the report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the

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14/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 40 (A/44/40), annex VI.

International Covenant on Civil and Political Rights, and the Optional Protocol to the International Covenant on Civil and Political Rights, 15/

Recalling the International Covenant on Economic, Social and Cultural Rights 2/ and the International Covenant on Civil and Political Rights, 2/ and reaffirming that all human rights and fundamental freedoms are indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto, 13/

Also recognizing the important role of the Committee on Economic, Social and Cultural Rights in the implementation of the International Covenant on Economic, Social and Cultural Rights,

Bearing in mind the important responsibilities of the Economic and Social Council in relation to the International Covenants on Human Rights,

Welcoming the submission to the General Assembly of the annual report of the Human Rights Committee 16/ and the report of the Committee on Economic, Social and Cultural Rights on its third session, 17/

Considering that the effective functioning of treaty bodies established in accordance with the relevant provisions of international instruments on human rights plays a fundamental role and hence represents an important continuing concern of the United Nations,

Noting with concern the critical situation with regard to overdue reports from States parties to the International Covenants on Human Rights,

Taking note with appreciation of the results of the meeting of persons chairing human rights treaty bodies, held at Geneva from 10 to 14 October 1988, 18/

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15/ A/44/441.

16/ Official Records of the General Assembly, Forty-fourth Session, Supplement No. 40 (A/44/40).

17/ Official Records of the Economic and Social Council, 1989, Supplement No. 4 (E/1989/22).

18/ See HRI/MC/1988/CRP.1.

1. Takes note with appreciation of the report of the Human Rights Committee on its thirty-fourth, thirty-fifth and thirty-sixth sessions, 16/ including the suggestions and recommendations of a general nature approved by the Committee;
2. Also takes note with appreciation of the report of the Committee on Economic, Social and Cultural Rights on its third session, including its suggestions and recommendations;
3. Expresses its satisfaction with the serious and constructive manner in which both Committees are carrying out their function;
4. Urges States parties to the International Covenants on Human Rights to pay active attention to the protection and promotion of civil and political rights, as well as economic, social and cultural rights;
5. Expresses its appreciation to the States parties to the International Covenant on Civil and Political Rights that have submitted their reports to the Human Rights Committee under article 40 of the Covenant and urges States parties that have not yet done so to submit their reports as speedily as possible;
6. Urges those States parties to the International Covenant on Civil and Political Rights that have been requested by the Human Rights Committee to provide additional information to comply with that request;
7. Commends the States parties to the International Covenant on Economic, Social and Cultural Rights that have submitted their reports under article 16 of the Covenant and urges States parties that have not yet done so to submit their reports as soon as possible;
8. Notes with satisfaction that the majority of States parties to the International Covenant on Civil and Political Rights and an increasing number of States parties to the International Covenant on Economic, Social and Cultural Rights have been represented by experts in the presentation of their reports, thereby assisting the respective monitoring bodies in their work, and hopes that all States parties to both Covenants will arrange such representation in the future;
9. Again urges all States that have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights;
10. Invites the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant;

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11. Emphasizes the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocol to the International Covenant on Civil and Political Rights;

12. Stresses the importance of avoiding the erosion of human rights by derogation, and underlines the necessity of strict observance of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties to provide the fullest possible information during states of emergency, so that the justification for and appropriateness of measures taken in these circumstances can be assessed;

13. Appeals to States parties to the Covenants that have exercised their sovereign right to make reservations in accordance with relevant rules of international law to consider whether any such reservation should be reviewed;

14. Urges States parties to the International Covenant on Economic, Social and Cultural Rights, the specialized agencies and other relevant United Nations bodies to extend their full support and co-operation to the Committee on Economic, Social and Cultural Rights;

15. Requests the Secretary-General to keep the Human Rights Committee and the Committee on Economic, Social and Cultural Rights informed of the relevant activities of the General Assembly, the Economic and Social Council, the Commission on Human Rights, the Commission on the Status of Women, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and, where appropriate, other functional commissions of the Economic and Social Council and the specialized agencies, and also to transmit the annual reports of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to those bodies;

16. Also requests the Secretary-General, within existing resources, to ensure that the Human Rights Committee and the Committee on Economic, Social and Cultural Rights are able to hold the necessary sessions and are provided with administrative support and summary records;

17. Further requests the Secretary-General to ensure that the Centre for Human Rights of the Secretariat effectively assists the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates;

18. Again urges the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps, within existing resources, to give more publicity to the work of that Committee and, similarly, to the work of the Committee on Economic, Social and Cultural Rights;

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19. Encourages all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights in as many languages as possible and to distribute them and make them known as widely as possible in their territories;

20. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session, under the agenda item entitled "International Covenants on Human Rights", a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights.

### DRAFT RESOLUTION III

#### Indivisibility and interdependence of economic, social, cultural, civil and political rights

##### The General Assembly,

Mindful of the obligations of States under the Charter of the United Nations to promote social progress and better standards of life in larger freedom and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming the Universal Declaration of Human Rights, 12/ the International Covenant on Civil and Political Rights, 13/ the International Covenant on Economic, Social and Cultural Rights 13/ and the Declaration on Social Progress and Development, 19/

Recalling that, in the preambles to the International Covenants on Human Rights, 2/ it is recognized that the ideal of free human beings enjoying freedom from fear and want can be achieved only if conditions are created whereby persons may enjoy their economic, social and cultural rights as well as their civil and political rights,

Also recalling its resolutions 40/114 of 13 December 1985, 41/117 of 4 December 1986, 42/102 of 7 December 1987 and 43/113 of 8 December 1988,

Reaffirming the provisions of its resolution 32/130 of 16 December 1977 that all human rights and fundamental freedoms are indivisible and interdependent and that the promotion and protection of one category of rights can never exempt or excuse States from the promotion and protection of the other rights,

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19/ Resolution 2542 (XXIV).

Convinced that equal attention and urgent consideration should be given to the implementation, promotion and protection of economic, social, cultural, civil and political rights,

Desirous of removing all obstacles to the full realization of human rights, in particular mass and flagrant violations of human rights,

Reaffirming that there is a close and multidimensional relationship between disarmament and development, that progress in disarmament would considerably promote progress in development and that resources released through disarmament measures could contribute to the economic and social development and well-being of all peoples,

Recognizing that the realization of the right to development may help to promote the enjoyment of all human rights and fundamental freedoms,

Recalling Commission on Human Rights resolutions 1985/42 of 14 March 1985, 20/ 1986/15 of 10 March 1986, 21/ 1987/19 and 1987/20 of 10 March 1987, 22/ 1988/22 and 1988/23 of 7 March 1988 23/ and 1989/12 and 1989/13 of 2 March 1989, 24/ in which the Commission stated that the implementation, promotion and protection of economic, social and cultural rights have not received sufficient attention within the framework of the United Nations system,

1. Notes the essential importance of national efforts and international co-operation to achieve the full and effective realization of all human rights recognized in the International Covenants on Human Rights and other international instruments;

2. Appeals to all States to pursue policies directed towards the implementation, promotion and protection of economic, social, cultural, civil and political rights recognized in the International Covenants on Human Rights and other international instruments;

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20/ See Official Records of the Economic and Social Council, 1985, Supplement No. 2 (E/1985/22), chap. II, sect. A.

21/ Ibid., 1986, Supplement No. 2 (E/1986/22), chap. II, sect. A.

22/ Ibid., 1987, Supplement No. 5 and corrigenda (E/1987/18 and Corr.1 and 2), chap. II, sect. A.

23/ Ibid., 1988, Supplement No. 2 and corrigendum (E/1988/12 and Corr.1), chap. II, sect. A.

24/ Ibid., 1989, Supplement No. 2 (E/1989/20), chap. II, sect. A.

3. Requests the Secretary-General to intensify his efforts under the programme of advisory services to States in the implementation, promotion and protection of human rights and fundamental freedoms set forth in the International Covenants on Human Rights and other international instruments;

4. Urges the Secretary-General to take determined steps, within existing resources, to give publicity to the Human Rights Committee and to the Committee on Economic, Social and Cultural Rights and to ensure that they receive full administrative support in order to enable them to discharge their functions effectively;

5. Requests the organs of the United Nations, in co-operation with the specialized agencies, Member States and non-governmental organizations, to pay equal attention to economic, social, cultural, civil and political rights in the World Public Information Campaign for Human Rights;

6. Decides to consider the question of the indivisibility and interdependence of economic, social, cultural, civil and political rights at its forty-fifth session under the item entitled "International Covenants on Human Rights".

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