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Chairman: Mr. Wolfe (Jamaica)

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

Agenda item 70: Promotion and protection of human rights (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/C.3/62/L.29)

Draft resolution A/C.3/62/L.29: Moratorium on the use of the death penalty

1. **The Chairman** said that a recorded vote had been requested on the draft resolution as a whole.

2. **The Reverend Robert Meyer** (Observer for the Holy See), said that the Holy See had consistently advocated absolute respect for the right to life. While understanding and respecting the many deeply held positions on the matter, the Holy See welcomed the draft resolution as a sign of the growing public opposition to the death penalty.

3. The right to life and respect for the human dignity of all people was an inalienable right of all persons and a founding principle of the United Nations. Member States should therefore promote and protect that right from the time of conception until the time of natural death and should work to reverse attitudes that tried to justify the destruction of human life on legal or medical grounds. As modern society had many other ways of protecting its citizens from aggressors, the death penalty was no longer necessary. It often reflected public desire for vengeance or revenge, yet it was the poor and religious, ethnic and racial minorities who all too often suffered its effects. Member States supporting the resolution should be consistent and extend their protection to the life of the unborn child. States should show true courage by rejecting killing of any kind and by using bloodless methods of deterrence and punishment.

4. **Mr. Hetanang** (Botswana) deeply regretted that the Committee was being forced to vote on a very divisive resolution that did not in any way contribute to the promotion and protection of human rights. Botswana would vote against the resolution and dissociate itself from the text to be adopted by the General Assembly on that subject.

5. The submission of a draft resolution calling for the abolition of capital punishment could only promote the same politicization of the work of the Committee

that had led to the demise of the Commission on Human Rights. It was unnecessary at a time when the Human Rights Council had just adopted a package on institution-building to promote and protect human rights. Botswana had joined a group of countries that had proposed amendments to the text, but the European Union and other sponsors had refused to accept them, violating the principles of open dialogue and transparency. No amount of intimidation would cause the Government of Botswana to go against the expressed wish of its people to retain the death penalty.

6. Botswana had been founded on the principles of democracy, equality, just and honest government, respect for human rights and the rule of law. For the last four decades, consistent efforts had been made to build a more open, just and tolerant society that was responsive to the needs of its people and engaged in dialogue with a view to building national consensus. Capital punishment was not prohibited in international law and the State exercised its sovereign authority on that matter, defining what was a crime and what was the appropriate punishment. The State was responsible for order, stability and security and anyone inclined to commit a serious crime should be aware of the consequences of their actions if convicted by a competent and independent court. Botswana was not prepared to give advance assurances that it would provide lifelong facilities and care for the perpetrators of serious crimes at the taxpayers' expense.

7. Some countries had exercised their sovereign right to either abolish or impose a moratorium on capital punishment. He commended them for their noble decisions but reminded them that their actions did not set norms and standards for other States in different national circumstances.

8. It was war, and the right of States to wage war, that should be abolished. War was the most blatant violation of the right to life and security of the person, as it killed people indiscriminately and left many others homeless and disabled. If States were serious about protecting the right to life and security then they should focus on stopping wars. If States retained the right to wage war, then they retained the right to kill.

9. **Mr. Spatafora** (Italy) hoped that approval of the draft resolution would begin a process of cooperation characterized by dignity and mutual respect. The culture of the United Nations was not one of fighting but one of building together under the guidance of the

United Nations Charter and of bridging different visions and interests.

10. A former President of the General Assembly, Jan Eliasson, had said that “Without passion, nothing happens in life. Without compassion, the wrong things happen”. That was the spirit in which States should approach the vote.

11. **Mr. Saeed** (Sudan) said that his delegation had voted in favour of the proposed amendments, and would vote against the draft resolution, which was counter to the objectives of the United Nations Charter and was not directly related to the issue of human rights. There was no consensus in international law on the death penalty issue and the previous votes had made it clear that there was no agreement among Member States. The draft resolution was an attempt by one group of countries to impose its wishes on all countries. Each State had the right to choose its own social, economic, political and cultural system, free from interference from any other State. The draft resolution was an erroneous attempt to incorporate abolition of the death penalty in international law and he invited other Member States to vote against it.

12. **Mr. Attiya** (Egypt) said that all attempts to improve the language of the draft resolution had gone unheeded. The draft resolution did not take into account the need to deal decisively with extrajudicial executions. It reflected the needs of specific social settings, while ignoring the great diversity of legal, social, economic and cultural conditions in the world, and the fact that not all rules were appropriate for all societies at all times. The issue should have been dealt with in the Human Rights Council, in a comprehensive manner that covered the right to life in all its diverse aspects, if there was a real political will and determination to reinforce the Council’s role. If there was an international will to amend the relevant provisions in the International Covenant on Civil and Political Rights, then a due process of negotiation should take place.

13. Some Member States had voluntarily decided to abolish the death penalty and others had chosen to apply a moratorium on executions, while many others retained the death penalty in their legislations. All were acting in compliance with their obligations under the International Covenant on Civil and Political Rights; no State should impose its freely chosen viewpoint on another.

14. The same countries that had always discouraged no-action motions, particularly in the case of country-specific resolutions, were now using one to block requests for separate votes on certain paragraphs of the draft resolution. All the principles, rules and norms usually followed in the United Nations had been broken in the case of the draft resolution. One could only wonder for what purpose and to what end.

15. Some speakers had claimed that there was a trend towards the abolition of the death penalty in the world, but the only trend visible over the past two days had been a departure from all that was sacred, including the right to life of the unborn child. His delegation therefore found itself obliged to vote against the draft resolution.

16. **Mr. Sergiwa** (Libyan Arab Jamahiriya) said that the death penalty was a controversial issue. Some Member States had abolished it, while others had retained it as a deterrent to be applied to the most serious crimes and to ensure justice for victims who had been deprived of their right to life.

17. The draft resolution was an attempt by the sponsoring States to impose their values and norms on other Member States, despite the international recognition of the fact that there was no direct link between the death penalty and human rights. The draft resolution constituted interference in the sovereign rights of Member States, which had the right to adopt legal sanctions and penalties reflecting their sociocultural and religious contexts.

18. All the amendments submitted had been rejected. If Member States really wished to uphold the right to life, they should take measures against abortion, which was a death penalty for an unborn child who had committed no crime. To guarantee the right to life, they should abolish war, and end all forms of foreign occupation.

19. In the Libyan Arab Jamahiriya, the death penalty was applied in only two specific cases: for premeditated murder and for crimes that constituted a grave threat to society. His delegation would therefore vote against the draft resolution and advised other delegations to do the same.

20. **Mr. Suárez** (Colombia) said that his country’s sponsorship of the draft resolution was in accordance with the Colombian Constitution and legislation and with international instruments that it had ratified. His delegation had opposed the set of proposed

amendments to the current draft resolution, not for substantive reasons but in order to preserve the spirit of the draft resolution, whose main objective was to seek a moratorium on the death penalty with a view to moving towards its abolition. States should take into account its limited effectiveness as a deterrent, as well as its negative and irreversible consequences in relation to rights such as the right to life, the right not to be subjected to cruel, inhuman or degrading punishment and the right to due process. The promotion of all human rights and fundamental human freedoms had to be considered a priority objective of the United Nations. Adoption of the draft resolution could lead to the launching of a regional and universal dialogue to promote the moratorium and significant progress in implementing the spirit of the resolution.

21. **Ms. Booker** (Bahamas) said that her delegation would have preferred a paragraph-by-paragraph vote on the draft resolution, as even the sponsors had not reached agreement on it and many amendments had been proposed. It was surprising that three open informal meetings had failed to produce a revised version of the text and that none of the proposed amendments, even those described as “constructive” at those meetings, had been included. She wondered whether the sponsors had given any serious consideration to the amendments.

22. Her country prided itself on adhering to the fundamental rights and freedoms of the individual, irrespective of race, place of origin, political opinion, colour, creed or sex, as guaranteed in its Constitution. It was committed to upholding the principles of international law, including respect for sovereignty and the juridical equality of States, territorial integrity, peaceful dispute resolution and non-interference in the internal affairs of States. The Bahamas had always considered and continued to consider the death penalty as a legal matter to be decided by individual States without interference, in accordance with international law. She would therefore vote against the draft resolution.

23. As the previous vote had shown, the issue was divisive. Those who had previously abstained should consider voting against the draft resolution, as even within some sponsoring Member States, political parties were exploiting the issue for political purposes.

24. If the matter were to be dealt with in another forum, she suggested that the Sixth Committee would

be the appropriate place. She was sure that most Member States were acting in compliance with international law, including those which had voted in favour of the amendments.

25. **Mr. Hadrami** (Mauritania) said that his country was against the abolition of the death penalty and would therefore vote against the draft resolution. The death penalty was not prohibited by international law and was not a human rights issue to be addressed by the international community, but was a matter of national sovereignty for each State. The current controversy was only creating a useless and futile division between States, and he supported the idea of referring the matter to the Sixth Committee.

26. **Mr. Makanga** (Gabon) said that his country, which had abolished the death penalty some time ago, was one of the sponsors of the draft resolution and would vote in favour of it. Its adoption would be an important part of the process leading to the abolition of the death penalty. The text reflected the view shared by many States that human dignity was sacred and should be protected. While Member States had the right to defend their values and principles, it was important to remember the need for unity in diversity. Their differences should be seen not as obstacles but as contributions to general progress. It was important to recognize both their differences and their unity as members of the great family of the United Nations. They should continue to have the courage to consider all issues, however controversial. Controversy served the cause of truth and Member States should continue to work together to respect their values and differences. Despite their passions, they should preserve their reason, which was the key to the future of humanity.

27. **The Chairman** invited explanations of vote before the vote.

28. **Mr. Rastam** (Malaysia) said that human rights issues should be addressed through a constructive dialogue-based approach that respected the principles of sovereignty and non-interference. Member States should understand and respect the viewpoints of other countries, even when opposed to their own. All viewpoints should be considered. The language of the draft resolution included assumptions and erroneous facts, yet the proposed amendments, many of which were reasonable and acceptable to States on both sides of the question, had not been adopted. Without the

amendments, the draft resolution was unbalanced and his delegation would therefore vote against it.

29. Whatever the outcome of the vote, the divisions in the Committee constituted a defeat for all States. If the main sponsors had hoped that the views of some States would evolve, they had taken the wrong approach. In any country, changes had to occur at a pace that was acceptable to its people and without any external pressure or interference. The non-acceptance of amendments only served to confirm that external values were being imposed on countries. He hoped that in the future all Member States would respect the viewpoints of other countries and understand the need for reason when dealing with such a controversial and sensitive issue.

30. **Mr. Menon** (Singapore) said that, despite the concerns expressed and the amendments proposed, the sponsors had shown no desire to seek a consensus and the main sponsors had even gone so far as to suppress freedom of expression. They had claimed to support the United Nations Charter but refused to acknowledge one of its key principles. They had claimed to oppose selective quotations but quoted selectively themselves. They had claimed the question was a human rights issue but did not find anything in the Universal Declaration of Human Rights to support their claim. They had claimed to have held an open dialogue but had voted against all amendments. They had claimed to support freedom of expression but were voting to deny it to others. They had claimed not to seek to impose their views but intended to force through a resolution that was unacceptable to a significant number of countries. Such behaviour was sanctimonious, hypocritical and intolerant.

31. The sponsors had merely sought to impose their beliefs on everyone else without even acknowledging that other views existed, or that there were different systems in different countries. The text therefore did not reflect the range of opinion that existed in the United Nations and directly contradicted the spirit of cooperation and consensus building that was supposed to be the foundation of the Committee's work. No self-respecting country could endorse that approach.

32. The merits or demerits of the death penalty were not the issue. Every country had the sovereign right to choose its own political, economic, social and legal system in accordance with its own best interests. Respect for human rights had to include respect for

differences and the United Nations supported diversity and tolerance for diversity, even when there was disagreement. His delegation would therefore vote against the draft resolution and called on other delegations to do the same.

33. **Mr. Owoseni** (Nigeria) said that the death penalty was applied in Nigeria to ensure the security of citizens and deter crime. His delegation could not accept the statement in the draft resolution according to which the death penalty undermined human dignity. Nor could it accept the call on States that still maintained the death penalty to restrict its use. Capital punishment was applied in Nigeria only for the most serious criminal offences and only after exhaustive legal and judicial processes had been followed, including recourse to the Supreme Court. Moreover, there had been no capital punishment in recent years. A moratorium on the death penalty fell within the domestic jurisdiction of States and should not be imposed by any group of States irrespective of their views on the subject. The matter should be a subject of negotiation and agreement more as a criminal law matter at the international level than as a human rights issue. His delegation was disappointed at the outcome of the negotiations, and the division on the issue was disturbing. It was unfortunate that the sponsors have been unable to support any of the amendments proposed. His delegation would vote against the draft resolution.

34. **Mr. Kanu** (Sierra Leone) said that his delegation would abstain in the vote on the draft resolution. The death penalty was still in force in his country, although only for the most serious crimes. Since it had not been applied for several years, there was a de facto moratorium in Sierra Leone. During the period when the most horrific crimes had been unleashed on his country, causing so much senseless suffering, the Government had recognized that asking for the assistance of the international community and requesting the establishment of the Special Court for Sierra Leone meant that the death penalty would not be imposed. Sierra Leone could not support any resolution that would be inconsistent with its Constitution.

35. **Mr. Degia** (Barbados) said that any attempt by a country or group of countries to impose its values on other Member States with a call to abolish the death penalty or establish a moratorium on its use was an infringement of the sovereignty of those Member States. Although the Government of Barbados had not carried out an execution in close to a quarter of a century, the

death penalty existed in its statute law, and his country had the right to retain it or abolish it. Barbados was a signatory to all the major regional and international human rights conventions and treaties. The death penalty was applied only after an exhaustive process of appeals. When the Caribbean Court of Justice had replaced the British Privy Council as the highest court of appeal, the Privy Council had ruled that the death penalty on the statutes of Barbados was lawful and in conformity with the Constitution. The death penalty was not prohibited in international law, in the International Covenant on Civil and Political Rights, or in the Universal Declaration of Human Rights. Barbados wished to exercise its sovereign right to use it as a deterrent to the most serious crimes. Capital punishment was a criminal justice issue; it was an internal matter, and Barbados would deal with it in keeping with the provisions of the United Nations Charter and the human rights treaties to which it was a party. His delegation would vote against the draft resolution.

36. **Mr. Ramadan** (Lebanon) said that in his country the death penalty was applied only in a very few cases to extremely serious crimes. The issue of capital punishment was within the purview of sovereign States under their Penal Codes. The issue should be dealt with in an open and inclusive manner, not by imposing the will of some at the expense of others, especially when it was clear that no consensus was emerging. His delegation had participated actively in the informal discussions on the draft resolution and had submitted several proposals that would have helped to bridge the gap between the differing views on the issue. The sponsors had not submitted a compilation text nor had they taken into account the majority of the proposals put forward. Lebanon wanted to reach the goal of abolishing the death penalty in the near future but in a manner that would respect its legislative system and its internal legal procedures. The manner in which the draft had been handled could lead to the future submission of other drafts on issues that did not enjoy wide consensus. His delegation would abstain in the vote on the draft resolution.

37. **Mr. Acharya** (Nepal) said that the Constitution of Nepal had abolished capital punishment. His delegation supported the moratorium on executions as well as the abolition of the death penalty. It was not Nepal's intention to offend or to contribute to divisions or to the imposition of any values on others. His delegation would vote in favour of the draft resolution.

38. **Mr. Punkrasin** (Thailand) said that one of the principles enshrined in the Charter of the United Nations was that of non-interference in matters pertaining to the domestic jurisdiction of States. The moratorium should remain a matter pertaining to domestic legal affairs. Thailand had amended its domestic legislation to bring it into line with the International Covenant on Civil and Political Rights, which did not prohibit the death penalty. His country's legislation provided extensive safeguards to ensure due process. While no execution had been carried out in Thailand for a period of time, it was important to note that the majority of the Thai population still regarded the death penalty as an effective deterrent to crime. The manner in which the draft resolution had been pushed forward left much to be desired. A more constructive process could have yielded a more positive outcome on such a divisive issue. Thailand would vote against the draft resolution.

39. *A recorded vote was taken on draft resolution A/C.3/62/L.29.*

In favour:

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, the former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of).

Against:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, Libyan Arab Jamahiriya, Malawi, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Sudan, Suriname, Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Uganda, United States of America, Yemen, Zimbabwe.

Abstaining:

Belarus, Bhutan, Cameroon, Central African Republic, Chad, Congo, Cuba, Djibouti, Equatorial Guinea, Eritrea, Fiji, Gambia, Ghana, Guinea, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Madagascar, Morocco, Nauru, Niger, Palau, Republic of Korea, Sierra Leone, Solomon Islands, Swaziland, Togo, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

40. *Draft resolution A/C.3/62/L.29 was adopted by 99 votes to 52, with 33 abstentions.*

41. **The Chairman** invited explanations of vote after the vote.

42. **Mr. Machotra** (India) said that States had the sovereign right to determine their own legal system. There was no consensus on the issue of capital punishment, which was not prohibited by the International Covenant on Civil and Political Rights. In India, the death penalty was an exceptional punishment imposed only in rare cases where the crime committed was so heinous as to shock the conscience of society. Since 1995, there had only been one instance of the death penalty being used in India, and the legislation provided for all the requisite procedural safeguards. Provision was also made for suspension of the death penalty for pregnant women, and juvenile offenders could not be sentenced to death under any circumstances. He had voted against the draft resolution, as it went against his country's statute law.

43. **Ms. Joseph** (Saint Lucia) said that her country retained the death penalty on its laws. The issue should

be discussed in the context of each country's own internal legal system. Her delegation had voted against the draft resolution.

44. **Ms. Mballa Eyenga** (Cameroon) said that the Penal Code of Cameroon provided for capital punishment, and her Government could not vote for something that was not consistent with its legislation. The last recorded case of a death sentence being carried out dated back several years and Cameroon was thus applying a de facto moratorium on the death penalty.

45. The question of the death penalty and the moratorium should be considered in the context of each State's circumstances. Time was needed to raise awareness and educate the population in order to persuade them to accept the idea of abolishing the death penalty. Otherwise, people would be tempted to take the law into their own hands in seeking to avenge victims of criminal acts. Consultations should be continued at all levels of society before a final decision was taken on the question. While awaiting the outcome of that national process, Cameroon had had no alternative but to abstain in the vote on the draft resolution.

46. **Ms. Al-Thani** (Qatar), speaking also on behalf of Bahrain, Kuwait, Oman and Saudi Arabia, all of which had voted against the draft resolution, said that the issue of the death penalty was covered by the sovereign right of States to choose their own legal system. The results of the vote were regrettable, as the draft resolution represented an interference in the internal affairs of Member States and infringed the sovereign rights of Member States as guaranteed in the Charter of the United Nations. The adoption of the draft resolution would further politicize the issue.

47. **Mr. Shinyo** (Japan) said that Japan had voted against the draft resolution. The question of whether to abolish the death penalty or establish a moratorium on executions should be decided only after every country had considered it carefully, taking into account public opinion and its criminal justice policy. In Japan, opinion polls had consistently shown that the majority of the public believed the most vicious criminals should receive the death sentence. Unfortunately, felonious crimes such as mass murder continued to be committed. For those reasons, it was difficult for Japan to move towards abolition of the death penalty.

48. There was no international consensus on the abolishment of the death penalty. It was regrettable that the sponsors of the draft resolution had submitted it without much discussion. Many countries that continued to regard the death penalty as justified in certain instances had voiced strong opposition to the proposal in informal meetings. The sponsoring countries had proceeded with the draft resolution without enough dialogue and discussion, choosing a course that was not constructive.

49. **Mr. Pham Hai Anh** (Viet Nam) said that his delegation had abstained in the vote. Under the circumstances prevailing in his country, the death penalty was indispensable to ensure a peaceful life for all citizens and safeguard the common interests of the community. The death penalty was applicable only to the most serious crimes and not to juveniles, pregnant women or women with children under three years of age. Viet Nam's policy was to gradually narrow the scope of application of the death penalty with a view to abolishing it in the future.

50. **Mr. Rees** (United States of America) said that his delegation recognized that the supporters of the draft resolution had principled positions on the issue of the death penalty. Nonetheless, it was important to recognize that international law did not prohibit capital punishment. The International Covenant on Civil and Political Rights specifically recognized the right of countries to impose the death penalty for the most serious crimes, provided it was carried out pursuant to a final judgement rendered by a competent court and in accordance with appropriate safeguards and observance of due process. The United States urged all States that applied the death penalty to do so in conformity with their international human rights obligations and to ensure that it was not applied in an extrajudicial, summary or arbitrary manner.

51. **Ms. Zhang Dan** (China) said that the fact that 52 countries had voted against the draft resolution was proof that there was no international consensus on the issue of the death penalty. Her delegation therefore had serious doubts about the effectiveness of the draft resolution. All countries had the right to choose their own political, economic, social and judicial systems in the light of their specific situation, in exercise of their inalienable sovereignty. The death penalty was an issue of criminal justice which fell within the sphere of the internal affairs of individual countries. Her delegation deplored the rejection of the request for a vote on

separate paragraphs of the draft resolution, an action that violated the rights of Member States to express their views. Her delegation respected the choice made by those countries that had decided to apply a voluntary moratorium on the death penalty or to abolish it. She hoped that the sponsors of the draft resolution would show the same respect for other countries and not try to impose their views on others.

52. **Ms. Kafanabo** (United Republic of Tanzania) said that her delegation had abstained in the vote on the draft resolution. The death penalty was still lawful in her country and was applied in a manner consistent with the International Covenant on Civil and Political Rights. It was applied only for the most serious crimes of murder and treason, and all trials in capital cases followed strict procedures to safeguard the prisoner's rights. Her country was engaged in a public discussion on the death penalty. While that exercise was going on, her Government had been observing a de facto moratorium on the death penalty, which had not been applied for the last 12 years.

53. **Ms. Halabi** (Syrian Arab Republic) said that, in accordance with article 6 of the International Covenant on Civil and Political Rights, the Syrian authorities imposed the death penalty only for the most serious crimes on the basis of national legislation and social and cultural values, while taking into consideration the need to protect the rights of the victim. His delegation had voted against the draft resolution, which constituted direct interference in the internal affairs of States and an attempt to limit their political independence.

54. **Mr. Dorji** (Bhutan) said that, although his country had abolished the death penalty and would like to see that step taken worldwide, his delegation had abstained in the vote, because of its view that each country was entitled to enact its own laws.

55. **Ms. Bowen** (Jamaica) said that the draft resolution was highly contentious and its adoption had been no triumph. The vote had demonstrated that a number of States strongly resisted interference in their internal affairs and sought to protect their sovereignty. His delegation had voted against the text out of respect for national laws, international obligations and the people of Jamaica. Any change in his country's position on the death penalty should not be imposed from outside but decided by the country itself.

56. **Mr. Attiya** (Egypt) said that his delegation's attempts to align the language of the draft resolution with the relevant international instruments had been in vain. It was a State's sovereign right to determine what legal penalties were appropriate for its society. In accordance with international law, the death penalty should be reserved for the most serious crimes. International efforts should focus on guaranteeing due process of law and ensuring that extrajudicial or arbitrary executions were prohibited. The draft resolution tried to impose a reinterpretation of the International Covenant on Civil and Political Rights on all Member States. If carried out without a comprehensive multilateral debate, reinterpretations of the basic human rights instruments were detrimental to the promotion of international human rights law.

57. **Mr. Islam** (Bangladesh) said that his country imposed the death penalty only for the most serious crimes and subject to provisions designed to avoid miscarriage of justice. Extreme caution was exercised throughout that transparent process. Opportunities for redress were available at all legal stages and presidential clemency was possible. Despite the growing trend against the death penalty, his delegation had voted against the draft resolution because the time was not yet ripe for total abolition of that form of punishment.

58. **Ms. Akbar** (Antigua and Barbuda) said that the draft resolution constituted an attempt by the sponsors to impose their views. Her delegation resisted any idea that States were unable to determine by themselves what governance systems suited them best but needed guidance by some Governments, which claimed moral superiority. There was no international consensus on the death penalty. A moratorium on executions and, conceivably, the abolition of the death penalty could only be the result of a broad-based domestic decision.

59. **Mr. Khani** (Islamic Republic of Iran) said that his delegation had voted against the draft resolution, which undermined article 6 of the International Covenant on Civil and Political Rights. His country dissociated itself from the resolution.

60. **Ms. Al-Zibdeh** (Jordan) said that her delegation had voted against the draft resolution, because the death penalty issue should be resolved on the basis of national legislation and domestic considerations. In line with the International Covenant on Civil and Political Rights, the death penalty was imposed in her

country only for rape, murder and terrorist acts, subject to a number of legal safeguards. Amnesty was possible.

61. **Mr. Hetanang** (Botswana), regretting the outcome of the vote, predicted that at the next session the European Union could well propose another divisive resolution providing for the abolition of the death penalty. However, the death penalty issue should be resolved by national parliaments.

62. **Mr. Babadoudou** (Benin) said that his country had observed a de facto moratorium on executions since the 1980s. His delegation had voted in favour of the resolution and had not intended to impose its views on any other country.

63. **Mr. Menon** (Singapore) stressed that the sponsors' pyrrhic victory had proved the lack of international consensus on the death penalty. The sponsors, oblivious to the diversity of domestic circumstances, had presented the draft resolution in full awareness of its divisive nature. The vote had polarized Member States and engendered extreme acrimony. He did not expect any countries to observe a moratorium on executions because of the resolution, which had made a mockery of the Committee's proceedings.

64. **Mr. Myint** (Myanmar), noting that no execution had been carried out in his country since 1988, said that his delegation had voted against the draft resolution because of the way in which the text had been negotiated and adopted. Every Member State had the right to make its own political, economic, social and cultural choices. In Myanmar's view, the resolution as drafted was an attempt to impose a particular choice on a number of countries.

65. **Mr. Nsengimana** (Rwanda) pointed out that the 1994 genocide could have led Rwanda to retain the death penalty in order to punish the perpetrators. Yet his Government, convinced that the death penalty did not improve the behaviour of the citizens, had abolished that form of punishment. Accordingly, his delegation had voted in favour of the resolution.

Agenda item 42: Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions (continued) (A/C.3/62/L.64 and L.67)

Draft resolution A/C.3/62/L.64: Enlargement of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees

66. **Mr. Hoscheit** (Luxembourg), introducing draft resolution A/C.3/62/L.64 also on behalf of Benin, Luxembourg, Montenegro and the former Yugoslav Republic of Macedonia, said that the sponsors, guided by a shared commitment to safeguard the rights and welfare of refugees and displaced people around the world, had applied for membership of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees. Their diverse experiences would enrich the work of that body. Having designed and implemented numerous relevant policies, they could contribute to identifying constructive solutions to the various challenges confronting the Office of the High Commissioner for Refugees. Bosnia and Herzegovina and Côte d'Ivoire had joined the original sponsors.

Draft resolution A/C.3/62/L.67: Office of the United Nations High Commissioner for Refugees

67. **The Chairman** said that the draft resolution had no programme budget implications.

68. **Mr. Khane** (Secretary of the Committee) announced that Australia, Belarus, Belize, Botswana, the Central African Republic, Colombia, Cyprus, Ethiopia, Ghana, Guatemala, Guinea, Iraq, Lesotho, Liberia, the Federated States of Micronesia, Moldova, Montenegro, Morocco, Panama, Paraguay, Romania, Sierra Leone, the Sudan, Thailand, the former Yugoslav Republic of Macedonia, Togo, Turkey, Turkmenistan and Uruguay had joined the sponsors.

69. **Mr. Staur** (Denmark) requested that action on draft resolution A/C.3/62/L.67 should be deferred until a later meeting.

70. *It was so decided.*

Agenda item 68: Elimination of racism and racial discrimination (continued) (A/C.3/62/L.61)

Draft resolution A/C.3/62/L.61: Inadmissibility of certain practices that contribute to fuelling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

71. **Mr. Lukiyantsev** (Russian Federation), introducing draft resolution A/C.3/62/L.61, said that the international community should be concerned about intensified activity by extremists groups, such as neo-Nazis and skinheads, against people of a different skin colour or religion and against immigrants. An increase in "negrophobia", "Islamophobia", "Arabophobia" and various forms of extremism was observable in many parts of the world. Such practices built on an ideology against which the United Nations had emerged. The draft resolution was intended not to call to account any States but to promote cooperation and dialogue with a view to combating racism, xenophobia and other forms of intolerance. A number of revisions to the draft resolution, particularly in the third preambular paragraph and paragraphs 3, 4, 8, 10 and 12, had been made with a view to better balance. Ethiopia, Tajikistan, Turkmenistan and Venezuela had joined the list of sponsors.

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (continued) (A/C.3/62/L.66)

Draft resolution A/C.3/62/L.66: Report of the Human Rights Council on the preparations for the Durban Review Conference

72. **Mr. Gaspar Martins** (Angola), introducing draft resolution A/C.3/62/L.66, said that its aim was to endorse the decisions contained in annex I of the Human Rights Council report (A/62/375).

Agenda item 69: Right of peoples to self-determination (continued) (A/C.3/62/L.62)

Draft resolution A/C.3/62/L.62: Use of mercenaries as a means of violating human rights and preventing the exercise of the right of peoples to self-determination

73. **Mr. Gala López** (Cuba), introducing the draft resolution on behalf of the original sponsors and Botswana, Comoros, Honduras, the Lao People's Democratic Republic, Myanmar and Sri Lanka, said that it took into account the analysis and recommendations contained in the most recent report on the subject (A/62/301). He drew attention to certain provisions of the draft resolution.

74. **Mr. Khane** (Secretary of the Committee) announced that Algeria, Benin, Bolivia, the Gambia, the Libyan Arab Jamahiriya and the Russian Federation had joined the sponsors.

Agenda item 70: Promotion and protection of human rights (continued)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (continued) (A/C.3/62/L.30)

Draft resolution A/C.3/62/L.30: Strengthening the role of the United Nations in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization

75. **Mr. Rees** (United States of America), introducing the draft resolution on behalf of the original sponsors and Costa Rica, Denmark, the Dominican Republic, Honduras, Israel, Japan, Mexico, the Federated States of Micronesia, Monaco, Norway, the Republic of Korea and Ukraine, said that free and impartial elections were at the foundation of democratic political systems. Full realization of human rights, and true democracy, depended on the consent of the governed, and credible elections embodied that consent. In order for the democratic process to be truly legitimate, political participation was essential, and free and fair elections provided that legitimacy. Provision of electoral assistance was an integral part of the commitment of the United Nations to supporting democratic electoral processes in its Member States, and the draft resolution requested the United Nations to continue to provide such assistance on a case-by-case basis in accordance with the evolving needs of requesting countries.

76. **Mr. Khane** (Secretary of the Committee) announced that Afghanistan, Albania, Austria, Belgium, Benin, Bosnia and Herzegovina, Bulgaria, Burundi, Canada, Cape Verde, Chile, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Estonia, France, Germany, Guatemala, Greece, Haiti, Hungary, Iceland, Indonesia, Ireland, Italy, Latvia, Lithuania, Luxembourg, Mali, Mauritania, Mauritius, Moldova, Mongolia, Montenegro, the Netherlands, New Zealand, Nigeria, Panama, Peru, the Philippines, Poland, Portugal, Romania, Rwanda, San Marino, Serbia, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Thailand, the

former Yugoslav Republic of Macedonia, Timor-Leste, Turkey and the United Kingdom had joined the sponsors.

Agenda item 63: Advancement of women (continued) (A/C.3/62/L.16/Rev.2 and L.85)

Draft resolution A/C.3/62/L.16/Rev.2: Eliminating rape and other forms of sexual violence in all their manifestations, including as instruments to achieve political objectives

77. **The Chairman** said that the draft resolution had no programme budget implications.

78. **Mr. Hagen** (United States of America) announced that agreement had been reached to further revise the draft resolution by incorporating the amendments in document A/C.3/62/L.85.

79. Following that agreement, Argentina, El Salvador, Honduras, Israel, Morocco, New Zealand, Peru, Philippines, Switzerland and the United Republic of Tanzania had joined the sponsors.

80. **Mr. Khane** (Secretary of the Committee) announced that Benin, Canada, Cape Verde, the Central African Republic, Chad, Honduras, Malawi, Mali, Mauritania, Mauritius and Rwanda had also joined the sponsors.

81. **Mr. Gaspar Martins** (Angola) said that his delegation withdrew the amendments in document A/C.3/62/L.85.

82. *Draft resolution A/C.3/62/L.16/Rev.2, as orally revised, was adopted without a vote.*

83. **Ms. Rodríguez de Ortiz** (Bolivarian Republic of Venezuela) reaffirmed her country's firm commitment to the human rights of women and praised all the efforts made to eliminate all forms of violence against them, including sexual violence in all its manifestations. Rape was a grave assault on the dignity of women and on their human rights, as had been stipulated in various instruments in international law. The Bolivarian Republic of Venezuela would remain in the vanguard in such matters and would continue to play its part in securing a genuine appreciation of the role of women, in a fair and egalitarian society that was respectful of their rights.

84. **Mr. Kumalo** (South Africa) said that, when the United States delegation had originally introduced a draft resolution calling for the elimination of rape by

Governments and armed groups, South Africa had been one of the delegations that had felt that a more comprehensive resolution was needed. It was pleased that its views had been shared by many delegations, including those in the African Group. The original draft had appeared to concentrate on condemning rape when perpetrated for political and military purposes only. South Africa had felt strongly that that would have created two categories of rape, depending on whether it was committed by military and militia groups or by civilians. It was for that reason that Angola, acting on behalf of the African Group, had introduced amendments that sought to balance the text by making certain that there was no politicization of rape. It was important for the General Assembly to send a strong and non-politicized message that rape was a brutal, despicable and violent act whether perpetrated by civilians, the military or armed groups.

85. **Mr. Hagen** (United States of America) said that, as the draft resolution made clear, rape under any circumstances was an atrocious act, and everyone, including but not limited to States and the United Nations, must intensify efforts to eliminate it. Unfortunately, there were not just two types of rape, but many kinds of rape and sexual violence.

86. The draft resolution also made clear that rape and other forms of sexual violence in conflict and related situations, whether as a random act by soldiers or an attack by government forces, rebel groups, or other State or non-State actors, were reprehensible acts that cried out for scrutiny and accountability. The text originally proposed had focused on the particularly outrageous situation in which a State condoned the use of systematic mass rape by its own forces or surrogate militias in order to advance their military or political objectives. While the United States and the other sponsors had accepted numerous additions and changes, his delegation would have much preferred the final wording to place stronger emphasis on the use of rape to attain political and military objectives.

87. The United States was gratified that the draft resolution contained a strong paragraph on impunity and suggested concrete ways that States and other actors could assist victims. It was also pleased that the draft resolution still drew special attention to the situation of rape in conflict situations and to rape and other sexual violence committed in order to achieve political or military objectives, and contained a number of provisions of particular relevance to cases in which rape was used or condoned by those in authority. The

draft resolution's reporting requirement would identify situations in which rape was being used to advance political and military objectives, in order to spur the international community to act to stop that practice.

88. **Ms. Halabi** (Syrian Arab Republic) said that her delegation had joined the consensus on the draft resolution, being convinced that the issue must be dealt with in all of its manifestations, because it was intrinsically bound up with the development of women. The Syrian delegation's understanding of the fifth preambular paragraph and of paragraph 1 (b) was that the issue should be dealt with in accordance with the principles and norms of international humanitarian law and the Geneva Conventions of 1949, in cases of armed conflict and foreign occupation.

89. **Mr. Gaspar Martins** (Angola), speaking on behalf of the African Group, expressed the Group's satisfaction at the adoption of the draft resolution concerning a question of a great concern for the African continent. The negotiations on the draft resolution had sometimes been difficult, but had also been very open and fruitful. He wished therefore to express the Group's appreciation to the United States and all the sponsors for their flexibility.

90. In engaging in constructive consultations, the African Group had always kept in mind the concerns of all the other regional groups and was pleased to report that most of them had been duly taken into account. All participants had been guided by a common objective: the condemnation of rape and other forms of sexual violence in all their manifestations, and that common understanding had played an important role during the consultations, despite differences.

91. Africa had taken the lead in the condemnation of rape by adopting, in Maputo, in July 2003, a Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, in which African States had undertaken to protect asylum-seeking women, refugees, returnees and internally displaced persons against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts were considered war crimes, genocide and/or crimes against humanity and that their perpetrators were brought to justice before a competent criminal jurisdiction.

92. Thus the adoption of the draft resolution was a matter of great satisfaction.

The meeting rose at 6.15 p.m.