



SUMMARY RECORD OF THE 67th MEETING

Chairman: Mr. CALERO RODRIGUES (Brazil)

CONTENTS

- AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued)
- AGENDA ITEM 84: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued)
- AGENDA ITEM 85: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS:  
REPORT OF THE SECRETARY-GENERAL (continued)
- AGENDA ITEM 86: QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (continued)
- AGENDA ITEM 87: INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued)
- (a) REPORT OF THE HUMAN RIGHTS COMMITTEE (continued)
  - (b) 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: REPORT OF THE SECRETARY-GENERAL (continued)
  - (c) PUBLICITY FOR THE WORK OF THE HUMAN RIGHTS COMMITTEE: REPORT OF THE SECRETARY-GENERAL (continued)
  - (d) ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY: REPORT OF THE SECRETARY-GENERAL (continued)
- AGENDA ITEM 88: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)
- (b) DRAFT CODE OF MEDICAL ETHICS: REPORT OF THE SECRETARY-GENERAL (continued)

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The meeting was called to order at 3.15 p.m.

AGENDA ITEM 12: REPORT OF THE ECONOMIC AND SOCIAL COUNCIL (continued) (A/36/855; A/37/3 (Parts I, II and III), A/37/178, 188 and Corr.1 and Add.1, 201, 259, 310, 333, 412, 419, 420, 422, 452, 495, 500, 519, 521, 540, 556, 564, 611, 618; A/C.3/37/1, 5, 7 and Corr.1 and 2 (English only), 8, 9, 10; A/C.3/37/L.47, L.50, L.53, L.54/Rev.1, L.55, L.57/Rev.2, L.58, L.62, L.64, L.67, L.68, L.69, L.70, L.72, L.74, L.75, L.76, L.77, L.81)

AGENDA ITEM 84: ELIMINATION OF ALL FORMS OF RELIGIOUS INTOLERANCE (continued) (A/C.3/37/L.59/Rev.1)

AGENDA ITEM 85: HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS: REPORT OF THE SECRETARY-GENERAL (continued) (A/C.3/37/L.56, L.71, L.73)

AGENDA ITEM 86: QUESTION OF A CONVENTION ON THE RIGHTS OF THE CHILD (continued) (A/C.3/37/L.46)

AGENDA ITEM 87: INTERNATIONAL COVENANTS ON HUMAN RIGHTS (continued) (A/C.3/37/L.51)

- (a) REPORT OF THE HUMAN RIGHTS COMMITTEE (continued)
- (b) 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: REPORT OF THE SECRETARY-GENERAL (continued)
- (c) PUBLICITY FOR THE WORK OF THE HUMAN RIGHTS COMMITTEE: REPORT OF THE SECRETARY-GENERAL (continued)
- (d) ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, AIMING AT THE ABOLITION OF THE DEATH PENALTY: REPORT OF THE SECRETARY-GENERAL (A/C.3/37/L.60/Rev.1) (continued)

AGENDA ITEM 88: TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (continued)

- (b) DRAFT CODE OF MEDICAL ETHICS: REPORT OF THE SECRETARY-GENERAL (A/C.3/37/L.79) (continued)

Draft resolution A/C.3/37/L.59/Rev.1

1. Mr. O'DONOVAN (Ireland), speaking on behalf of the sponsors of the draft resolution, said that, taking account of a proposal made by the representative of Bulgaria, it had been decided to insert the word "whatever" before the word "belief" in the second preambular paragraph of the draft; he had not had the time to consult all the sponsors and hoped that they would bear with him. He announced that Uganda had become a sponsor of the draft.

2. The CHAIRMAN said that if there was no objection, he would take it that the members of the Committee wished to adopt draft resolution A/C.3/37/L.59/Rev.1, as orally revised, without a vote.

3. It was so decided.

Draft resolutions A/C.3/37/L.71 and L.73

4. Mr. GERSHMAN (United States of America), speaking with reference to draft resolution A/C.3/37/L.71 said that he had serious doubts about placing the right to life before all other rights and even before freedom. Obviously, it was impossible to enjoy freedom without being alive, but it did not follow that people should accept everything rather than die or risk death. The first principle of democracy was freedom, not life, and life could be sacrificed in the name of freedom; that attitude discouraged aggression, so that such extreme situations rarely occurred.

5. He then listed the objections he had to certain parts of the text: the Universal Declaration of Human Rights associated the right of every individual to life with the right to liberty and security of person; while it was true that article 6 of the International Covenant on Civil and Political Rights dealt separately with the right to life, and article 9 of the same Covenant dealt with freedom and security of person, they did so only in the context of criminal justice and domestic law. He felt that the Universal Declaration of Human Rights should be followed and that the sixth preambular paragraph should therefore be amended to read as follows: "Reaffirming the inherent right of all individuals to life, liberty and security of person,". Similarly, the twelfth preambular paragraph should be amended to read as follows: "Convinced that for all people in the world today the most important questions are maintenance of international peace and security, ensuring the right of every individual human being to life, liberty and security of person and guaranteeing the full enjoyment of human rights and fundamental freedoms for all individuals,". In addition,, the words "liberty and security of person" should be added after the words "right to life" in paragraphs 1, 2 and 6.

6. The fourth preambular paragraph should be deleted, since none of the three Declarations, nor the General Assembly resolution mentioned, had been adopted by consensus; a sizeable number of delegations had abstained in the vote on resolution 1982/7 of the Commission on Human Rights; it would therefore be sufficient simply to take note of that resolution in the fifth preambular paragraph. With regard to the tenth preambular paragraph and to paragraph 4, he would prefer to keep the wording of article 12 of the International Covenant on Civil and Political Rights, since it was clearly only in those States where there was no freedom of expression that any propaganda for war could be prohibited. Accordingly, paragraph 4 should be amended to read as follows:

"Calls upon all States to take appropriate measures in accordance with their national constitutional systems and with the provisions of the Universal Declaration and the International Covenants on Human Rights."

7. The CHAIRMAN said it was his understanding that the representative of the United States of America had confined himself to making observations on the draft resolution without formally proposing amendments to the text.

8. Mr. BYKOV (Union of Soviet Socialist Republics) said that at the request of a number of delegations, the sponsors of draft resolution A/C.3/37/L.71 had agreed to revise the seventh preambular paragraph by adding the following clause at the end of the paragraph: "as well as by violations of the principles of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and the self-determination of peoples,". That was to ensure that the wording followed more closely that of resolution 1982/7 of the Commission on Human Rights, on which the draft resolution was based.

9. He regretted that the representative of the United States of America had waited until the last moment to make his remarks to the Committee on the draft resolution under consideration. However, he observed that those remarks, interesting as they were, hardly dealt with the subject at hand. The draft was fully consistent with the resolutions and documents mentioned in it. The sponsors hoped that the draft, which was the product of extended consultations, would be adopted without any amendment other than those he had just made.

10. Mr. STEVENS (Belgium) said that Belgium would abstain in the vote on draft resolution A/C.3/37/L.71 unless the sponsors agreed to incorporate some other amendments. The fourth preambular paragraph mentioned a Declaration to which Belgium could not accede, while the tenth preambular paragraph and paragraph 4 proposed an objective with respect to which his Government had serious reservations. On the whole, the text of the draft was not balanced: it emphasized the possible disadvantages of scientific and technological developments without recognizing the numerous advantages which they could offer the international community; it spoke of the arms race and the threat of war without mentioning conventional weapons. He believed that the Commission on Human Rights should not be entrusted with studying questions relating to disarmament, which were more appropriate for other forums.

11. Belgium would also abstain in the vote on draft resolution A/C.3/37/L.73 because it believed that the Declaration on the Use of Scientific and Technological Progress in the Interest of Peace and for the Benefit of Mankind did not adequately protect the fundamental rights of the human person.

12. Mr. MAKKI (Oman) said that he fully supported the amendment made by the sponsors to the seventh preambular paragraph of draft resolution A/C.3/37/L.71. He proposed that paragraph 2 should be amended accordingly by adding after the words "effective international control" the following words: "and prevent violations of the principles of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and the self-determination of peoples,".

13. Mr. GERSHMAN (United States of America) said that his remarks about the right to life, liberty and security of the person in connection with draft resolution A/C.3/37/L.71 were fully consistent with the spirit of the Universal Declaration of Human Rights and the Charter of the United Nations. Those words had

(Mr. Gershman, United States)

been carefully weighed at the time of the elaboration of the Declaration, and to amend them could lead the General Assembly to alter dangerously the very meaning of the concept of human rights.

14. Mr. BYKOV (Union of Soviet Socialist Republics) announced that Viet Nam had become a sponsor of draft resolution A/C.3/37/L.71. Not having had the time to consult the many sponsors of the draft, he would accept on his own the proposal made by Oman.

15. He did not understand why the representative of the United States of America placed so much emphasis on the Universal Declaration of Human Rights and insisted that the wording of article 3 of the Declaration should be used. Drawing on article 6 of the International Covenant on Civil and Political Rights but also on many resolutions, instruments and documents which dealt separately with the right to life, the sponsors of the draft resolution had wished to draw the attention of the international community most particularly to the risk of a nuclear catastrophe that would destroy all life on the planet and to the need to prevent such a catastrophe in the spirit of the Charter of the United Nations. He therefore appealed to the representative of the United States not to press his amendments, which would result only in undermining the foundations of the draft resolution and might divert the attention of the international community from a crucial problem which it must face.

16. Mr. GERSHMAN (United States of America) insisted, for the reasons he had already stated, that the words "liberty and security of person" should be added after "right to life" in the sixth and twelfth preambular paragraphs and in paragraphs 1, 2 and 6.

17. Mr. TARASYUK (Ukrainian Soviet Socialist Republic), speaking as a sponsor of draft resolution A/C.3/37/L.71, accepted the Omani proposal. He considered the amendment proposed by the representative of the United States unacceptable. The right of every individual to life, liberty and security of person had already been sufficiently stipulated in a number of international documents and instruments. The sponsors of the draft resolution had chosen to emphasize one of the aspects of that right - the primordial right to life - and had used as a basis the instruments cited in the body of the draft.

Draft resolution A/C.3/37/L.56

18. Mrs. DOWNING (Secretary of the Committee) said that the draft had no financial implications and that Italy had become a sponsor.

19. The CHAIRMAN said that if there was no objection, he would take it that the Committee wished to adopt draft resolution A/C.3/37/L.56 without a vote.

20. It was so decided.

Draft resolution A/C.3/37/L.71

21. Mrs. DOWNING (Secretary of the Committee) said that the draft had no financial implications and that Cape Verde and Viet Nam had become sponsors. She then read out the seventh preambular paragraph and paragraph 2 of the draft as amended by the sponsors.
22. Mr. BYKOV (Union of Soviet Socialist Republics) said that following consultations with the sponsors of the draft and with the representative of the United States, he was in a position, for the sake of a compromise, to propose two amendments in the hope that the delegation of the United States would thus be able to withdraw its amendment. He would insert, in the second preambular paragraph, after the words "Universal Declaration of Human Rights", the phrase "according to which everyone has the right to life, liberty and security of person". He also proposed adding at the end of paragraph 6, after the words "everyone to life", the words "liberty and security of person, and to live in peace;".
23. Mr. GERSHMAN (United States of America) withdrew his amendment but indicated that other aspects of the draft posed some problems for his delegation.
24. Mr. O'DONOVAN (Ireland), speaking in explanation of vote before the vote, stated that his delegation would abstain since, although it was aware of the links existing between human rights and peace and between human rights and disarmament, it considered that it was not sufficient to state those rights; rather, ways must be found to implement them. It had, in that spirit, proposed amendments which the sponsors had unfortunately not accepted. It had wished, in the sixth preambular paragraph and paragraph 1, to replace the expression "all peoples and all individuals" by the terms "all persons and all peoples". It had also proposed the insertion, at the end of the eleventh preambular paragraph after the words "enjoys his inherent right to life", of the phrase "and to encourage citizens to express their own views freely and publicly on the right to life and on the questions of peace and disarmament and to organize and meet publicly for these purposes,". Moreover, it would have liked to amend paragraph 4 by replacing the words "to take" by the expression "to consider taking". Finally, in paragraph 6, it would have liked to add after the words "the cardinal right of everyone to life, liberty and security of person" the phrase "and also requests the Commission on Human Rights to improve the capacity of the United Nations to take action in cases of violations of those rights". Since the sponsors were not able to accept those amendments, his delegation would abstain in the vote.
25. Mr. CHEN SHIQIU (China) said that, although draft resolution A/C.3/37/L.71 referred to the arms race and the threat it represented for international peace and security as well as to the need to remove that threat, it did not specify either those who were engaged in the arms race or what methods could be used to achieve total disarmament, although those questions were basic. For that reason, China, which, like many other States, was concerned with achieving genuine disarmament, would abstain on the draft resolution, which failed to point out that it was for the super-Powers to take the initiative with regard to disarmament, since they possessed the largest nuclear arsenal.

26. Mr. BOUFFANDEAU (France) announced that his delegation would abstain in the vote. He recalled that while the right to life and the implementation of human rights were within the competence of the Committee, disarmament was already the subject of discussion in other United Nations bodies which had exclusive competence in that regard. Moreover, he deplored the fact that draft resolution A/C.3/37/L.71 by means of over-simplifications, disguised the complexity of contemporary realities and brought confusion into one of the most important debates for the future of mankind. To put forward the idea that the right to life could be guaranteed only through peace and that peace was therefore the cardinal virtue as a prior condition for the implementation of human rights constituted a typical example of an apparently logical train of thought which was in fact specious and could be dangerous for the respect of human rights. Referring to the Final Act of Helsinki, he recalled that respect for human rights and fundamental freedoms was one of the essential factors of the peace, justice and well-being that were necessary to ensure the establishment of friendly relations and co-operation between people and States. Any violation of human rights, regardless of where it took place and who its victims were, was an infringement of human dignity, undermined confidence and jeopardized the security of all.

27. Mr. GERSHMAN (United States of America) said that he still had serious reservations on the draft, in particular on the fourth, fifth, tenth and eleventh preambular paragraphs and on paragraph 4, and that he would abstain in the vote.

28. The CHAIRMAN invited the Committee to vote on draft resolution A/C.3/37/L.71.

29. Draft resolution A/C.3/37/L.71 was adopted by 102 votes to none, with 28 abstentions.

Draft resolution A/C.3/37/L.73

30. Mr. DYRLUND (Denmark), speaking on behalf of the States members of the European Economic Community, said that they had reservations with regard to paragraph 5 of the draft resolution. They questioned the relevance of the request, addressed to the Commission on Human Rights, to give special attention to the implementation of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, since that Declaration did not guarantee individual rights.

31. Mrs. DOWNING (Secretary of the Committee) specified that the draft resolution did not have any financial implications and announced that Afghanistan and Mali had been added to the list of sponsors.

32. The CHAIRMAN invited the Committee to vote on the draft resolution.

33. Draft resolution A/C.3/37/L.73 was adopted by 109 to none, with 23 abstentions.

Draft resolution A/C.3/37/L.46

34. Mrs. DOWNING (Secretary of the Committee) said that the draft resolution did not have financial implications and that Guinea, Colombia, Mozambique and Senegal, and later Bolivia, Bhutan and Ethiopia, had become sponsors of the draft resolution.

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35. Mr. YAMBAKA (Central African Republic) and Mr. KABIA (Sierra Leone) announced that their delegations also wished to become sponsors.

36. Mr. GERSHMAN (United States of America) stated that his delegation would join in the consensus on draft resolution A/C.3/37/L.46 since it attached, as did all delegations, great importance to the rights of the child. The draft convention proposed by Poland was, however, especially noteworthy for its omissions and selective approach. His delegation had nevertheless actively participated in the Working Group of the Commission on Human Rights set up to prepare the convention in the hope of improving the text. Actually the draft articles which had been provisionally adopted thus far constituted a significant improvement on the original. He read out article 3, paragraph 2, which had been provisionally adopted by all regional groups represented in the Working Group, and invited the delegation that was taking advantage of the discussion of agenda item 86 to attack the United States Government in connection with a case in the United States courts to listen very carefully. That case, which concerned a young man who did not wish to be forced to return to the Soviet Union and the proceedings of which proved the independence of the United States judicial system, was thus very different from the cases concerning family reunification occurring in another country since the young man in question did not wish to leave the United States. His delegation supported the draft resolution, with the clear understanding that the Secretary-General would undertake, in his consolidated statement of total conference-servicing costs, to finance all expenditures entailed by the implementation of the resolution from within existing resources.

37. The CHAIRMAN said that, if there was no objection, he would take it that the Committee wished to adopt draft resolution A/C.3/37/L.46 without a vote.

38. It was so decided.

Draft resolution A/C.3/37/L.51

39. Mr. HERNDL (Director of the Centre for Human Rights) read out operative paragraph 13 of draft resolution A/C.3/37/L.51 and said that it had no financial implications. The Secretary-General intended to study carefully the possibility of publishing annually in bound volumes the official records of the Human Rights Committee from within available resources for the current biennium. If funds were available, the publication of the volumes would begin in 1982. Failing that, appropriations would be requested for the 1984-1985 biennium. If the request was approved, the publication of the volumes would then begin in 1984. To the extent that the draft resolution requested the Secretary-General to make the arrangements he deemed most economical for publishing those volumes, he intended, subject to the availability of resources and taking into consideration the various points made in his report (A/37/490), to publish those volumes initially in English and French only.

40. Mr. DYRLUND (Denmark) proposed that paragraph 11 should be amended to take into account article 3 of the International Covenant on Civil and Political Rights, by inserting the words "and the Committee on the Elimination of Discrimination against Women" after "Committee on Elimination of Racial Discrimination". He hoped that the draft would be adopted without a vote.



41. Mr. BELL (Canada) said that, following that revision, his delegation wished to become a sponsor.

Draft resolution A/C.3/37/L.60/Rev.1

42. Mr. SCHOBER (Federal Republic of Germany) said that Luxembourg and Honduras had become sponsors of the draft resolution. The revised draft resolution, taking into account the need to consider further the idea of elaborating a draft of a second optional protocol, was designed to give the Commission on Human Rights (para. 2) more time for that purpose and to have the General Assembly resume the consideration of the item at its thirty-ninth session in 1984 (para. 3). In addition, the first three preambular paragraphs had been deleted. Recalling that 35 States had already submitted their views to the Secretary-General (A/37/441 and Add.1 and 2 and A/37/407 and Add.1) and that others had stated their positions in the Committee, he noted that States that wished to do so could submit their views to the Commission on Human Rights, in person or in writing, and that those views would be taken into consideration, as stipulated in paragraph 2 of the draft resolution. The sponsors, motivated by the desire to give due consideration to their concerns and suggestions, had held extended consultations with delegations and hoped that the revised draft resolution, which was purely procedural, would be adopted without a vote.

43. The CHAIRMAN said that Iceland and Canada had become sponsors of draft resolution A/C.3/37/L.51.

44. Draft resolution A/C.3/37/L.51 was adopted without a vote.

45. Mr. MAKKI (Oman), referring to draft resolution A/C.3/37/L.60/Rev.1, said that his delegation was firmly convinced that the abolition of the death penalty was a substantive and controversial question which was inconsistent with the legal system of the Islamic countries for which the death penalty was of fundamental importance. Oman strictly applied Islamic law which prescribed the death penalty for clear-cut cases of homicide. For Islam, the right to life was a sacred right since human beings were the creation of Almighty God and, as such, must therefore be protected. However, if an individual wilfully took the life of another, Islamic law provided that the State must in turn take the life of that criminal, once his guilt was established by the courts. The death penalty, to the extent that it was an integral part of Islamic law, must be upheld at all costs. He wondered, moreover, whether certain States were determined to impose their convictions on others, when they knew that the subject was very controversial and at variance not only with the legal code but also with the religious convictions of more than a third of the States Members of the United Nations. Because of the strong reservations which it had on the subject, his delegation would vote against draft resolution A/C.3/37/L.60/Rev.1 if it were put to the vote.

46. Mr. KHALIFA (Sudan) said that, if draft resolution A/C.3/37/L.60/Rev.1 were put to the vote, Sudan would vote against it. The substance of the draft resolution was incompatible with the criminal code and legislation of Sudan based on the divine and sacred laws of Islam which were immutable.

47. Mr. RAZZOQI (Kuwait) thanked the delegation of the Federal Republic of Germany for the spirit of co-operation it had demonstrated in trying to take into account certain ideas. However, since less than 40 Member States had transmitted their views to the Secretary-General on the second optional protocol aiming at the abolition of the death penalty, Kuwait would have preferred a draft that would have again requested the Secretary-General to invite Member States to transmit further views on the protocol instead of submitting the text to the Commission on Human Rights. Draft resolution A/C.3/37/L.60/Rev.1 was not, contrary to what its sponsors affirmed, a procedural text and by no means served the interests of the majority of States. There could be no question of accepting the idea of abolishing the death penalty, which was the ultimate aim of the draft, because that would involve changing a cardinal principle of the Kuwaiti religion and national jurisdiction.
48. Miss SHALHOUB (Jordan) said that, if the draft resolution was put to the vote, her delegation would vote against it. The Jordanian Constitution and civil code gave the highest priority to the life of the individual and stressed the value of the human being. It remained that the civil code, based on the code of conduct defined by the Islamic religion and on the socio-cultural traditions of the country, did not exclude the death penalty. However, that penalty was imposed only after all appeal procedures were exhausted and only by the Supreme Court whose decision must be ratified by the King. Only cases of high treason and particularly violent crimes were punishable by the death penalty. During the past ten years, only two death sentences had been handed down and both had been for extremely violent crimes. Since the death penalty was rarely used, Jordan wished it to be retained as a deterrent and believed that draft resolution A/C.3/37/L.60/Rev.1 was contrary to its beliefs and practices. Her delegation nevertheless respected the prerogatives of Governments and the efforts made and the spirit shown by the delegation of the Federal Republic of Germany during the consultations.
49. Mr. ZARIF (Islamic Republic of Iran) pointed out that Islamic law prescribed the death penalty in certain cases and that his country had to apply the commandments of Islam. His delegation therefore dissociated itself from draft resolution A/C.3/37/L.60/Rev.1 and would vote against it if it were put to the vote. Iran would continue to apply Islamic legal doctrine, whether or not the draft resolution was adopted, because the draft was an attempt to violate the fundamental and inherent right of countries to practice their religious beliefs.
50. Mr. KHALAF (Somalia) said that his delegation respected the position of Governments that had promulgated laws aimed at abolishing the death penalty. However, Somalia, as a Muslim country, was guided by the shari'ah which stipulated that the death penalty must be imposed for certain serious crimes such as premeditated murder. His delegation would therefore vote against the draft resolution if it was put to the vote.
51. Mr. KABIA (Sierra Leone) asked for a recorded vote.

52. Mr. ZUBAIRU (Nigeria) said that, if the draft resolution was put to the vote, his delegation would vote against it because the death penalty was provided for in Nigeria's legislation. If someone was guilty of homicide, he must be punished accordingly.
53. Mr. AL-QAYSI (Iraq) said that his delegation shared the view of previous speakers. It was opposed to draft resolution A/C.3/37/L.60/Rev.1 because it regarded it as conflicting with its country's religion, historical heritage and cultural values.
54. The right to life was unquestionably a natural right and any infringement of it was severely punished under Iraqi law. Chapter XXII of the Penal Code stipulated that only persons guilty of particularly heinous crimes were to be deprived of that right. Moreover, under the terms of the 1977 Act relating to the reform of the legal system, life imprisonment and the death penalty were only imposed in the case of an extremely serious crime.
55. The administration of capital punishment, furthermore, was accompanied by a large number of safeguards. In the first place, any death sentence had to be confirmed by the President of the Republic, who could commute the penalty or grant a pardon. Furthermore, that penalty was routinely commuted when the convicted person was an adolescent and either deferred or commuted in the case of a pregnant woman.
56. For all those reasons, his delegation would vote against the draft resolution.
57. Mr. OUSMANE (Niger) said that his delegation would abstain in a vote on draft resolution A/C.3/37/L.60/Rev.1, which it regarded as entirely procedural in nature. However, that was without prejudice to its position on the substantive issue of the death penalty.
58. Mrs. CASTRO DE BARISH (Costa Rica), speaking as a sponsor of the draft resolution, pointed out that the protocol would be purely optional and that States would be entirely free to choose whether to accede to it or not. Only two States had acceded to the first Optional Protocol to the International Covenant on Civil and Political Rights, whereas 74 States were parties to the Covenant itself.
59. Mr. ABAWI (Afghanistan) said that his delegation would vote against draft resolution A/C.3/37/L.60/Rev.1 because Afghanistan was an Islamic country and the abolition of the death penalty was a very controversial issue.
60. Mr. HUSAIN (Pakistan) said that his country, as an Islamic country, had the sacred right to apply the political and legal system of Islam within its territory and that Muslim law prescribed the death penalty for certain particularly heinous crimes. His delegation could accordingly not support the idea of abolishing the death penalty. It would have voted against any draft resolution relating to the substance of the issue but, since the present resolution was purely procedural, it would abstain in any vote on the text.

61. Mrs. TIRONA (Philippines) said that her country's penal code provided for capital punishment only for the most serious crimes and that any death sentence was automatically reviewed by the Supreme Court. If the draft resolution was put to a vote, her delegation would vote against it.
62. Mr. AL-KALBASH (Libyan Arab Jamahiriya) said that, in accordance with his country's Islamic traditions, his delegation would vote against draft resolution A/C.3/37/L.60/Rev.1, which was fundamentally incompatible with the requirements of Islam.
63. Mr. DERESSA (Ethiopia) recalled that the Committee had adopted a similar draft resolution at its previous session without a vote. It would appear from the way in which delegations had expressed their explanations of vote that they did not expect the Committee to proceed to a vote on the present draft resolution. His delegation would therefore like to ask the representative of Sierra Leone to withdraw his request for a recorded vote on the draft resolution.
64. Mr. KABIA (Sierra Leone) said he would not press his request but that he would support any delegation which called for a recorded vote.
65. Mr. LUNGU (Zambia) said that his delegation had been intending to endorse Sierra Leone's request. However, since that request was being withdrawn, his delegation wished to state that if the draft resolution had been put to a vote, it would have abstained.
66. Mr. RIACHE (Algeria) and Mr. TANDIA (Mali) said that their delegations would also have abstained.
67. Mrs. MASMOUDI (Tunisia) said that her country would have abstained if the draft resolution had been put to a vote. Her country supported the efforts being made in the United Nations to guarantee enjoyment of human rights and the right to life. However, that did not mean that her country, whose legislation was based on Islamic law, would accede to the second optional protocol; it meant only that it did not wish to stand in the way of efforts to safeguard human rights.
68. Mr. YAMBAKA (Central African Republic) said that if a vote had been taken on the draft resolution his delegation would have abstained, since the problem was a very complex one and opinions were deeply divided. It was precisely for that reason that he believed it would have been wise to put the draft resolution to a vote.
69. Mr. SHIRAMBERE (Burundi) said that his delegation would have voted against the draft resolution if it had been put to a vote.
70. Mr. AL-QAYSI (Iraq) said that it would be useful to have a recorded vote on the draft resolution.
71. Mrs. WARZAZI (Morocco) said that she had hoped that the Committee would have been able, as it had done the previous year, to adopt by consensus a draft resolution which her delegation, like those of Niger and Pakistan, regarded as

(Mrs. Warzazi, Morocco)

purely procedural. It was obvious that the draft resolution involved no commitment of any kind. Moreover, her delegation had stated at the outset that if the issue had been the abolition of the draft penalty it would have been the first to vote against. However, at the present stage, all that was involved was a request to the Commission on Human Rights to consider the idea of elaborating a draft of a second optional protocol aiming at the abolition of the death penalty, taking into account the views of Governments. Her country had been the first to indicate its position on the issue in writing. She regretted that a recorded vote had been requested and said that her delegation would abstain.

72. A recorded vote was taken on draft resolution A/C.3/37/L.60/Rev.1.

In favour: Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Burma, Canada, Cape Verde, Chile, Colombia, Costa Rica, Cyprus, Denmark, Dominican Republic, Ecuador, Fiji, Finland, France, Gabon, Germany, Federal Republic of, Greece, Grenada, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Ivory Coast, Japan, Kenya, Luxembourg, Mauritania\*, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Papua New Guinea, Peru, Portugal, Spain, Suriname, Sweden, Togo, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Against: Afghanistan, Bahrain, Burundi, Guinea, Iran (Islamic Republic of), Iraq, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Malaysia, Nigeria, Oman, Philippines, Qatar, Saudi Arabia, Sierra Leone, Singapore, Somalia, Sudan, Syrian Arab Republic, United Arab Emirates, Yemen.

Abstaining: Algeria, Angola, Bahamas, Bangladesh, Barbados, Benin, Bhutan, Botswana, Bulgaria, Byelorussian Soviet Socialist Republic, Central African Republic, Chad, Congo, Cuba, Czechoslovakia, Egypt, El Salvador, Ethiopia, German Democratic Republic, Guinea-Bissau, Guyana, Hungary, India, Jamaica, Lesotho, Liberia, Madagascar, Malawi, Mali, Mongolia, Morocco, Nepal, Niger, Pakistan, Paraguay, Poland, Romania, Rwanda, Senegal, Sri Lanka, Thailand, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Cameroon, United Republic of Tanzania, Upper Volta, Viet Nam, Yugoslavia, Zaire, Zambia.

73. Draft resolution A/C.3/37/L.60/Rev.1 was adopted by 52 votes to 23, with 53 abstentions.

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\* See paragraph 85 below.

Draft resolution A/C.3/37/L.79

74. Mr. WALKATE (Netherlands) announced that Fiji and Ireland had joined the sponsors of the draft resolution. That document was currently the subject of fresh consultations, and the sponsors would issue a revised version of the text as soon as possible. He therefore asked that the decision on the draft resolution should be postponed until the following day.

75. The CHAIRMAN felt that the request of the representative of the Netherlands should be granted.

Draft resolution A/C.3/37/L.49

76. Mrs. DOWNING (Secretary of the Committee) announced that Ghana had become a sponsor of that draft resolution, which involved no financial implications.

77. The CHAIRMAN suggested that the members of the Third Committee should adopt draft resolution A/C.3/37/L.49 without a vote.

78. It was so decided.

79. Ms. RASI (Finland), speaking on behalf of the Nordic countries, explained why those countries had abstained on draft resolution A/C.3/37/L.71. The Nordic countries had on several occasions expressed their support in the United Nations for measures to end the arms race. Nevertheless, they felt that that crucially important question should be considered by the appropriate bodies. Furthermore, they had reservations on some points in the draft resolution, particularly on the fourth preambular paragraph, which referred to some resolutions which the Nordic countries had not supported. They did share the concern of the international community with respect to the right to life, which was the very basis of human rights; that was why they had strongly supported draft resolution A/C.3/37/L.76 concerning summary or arbitrary executions.

80. Ms. RITTERHOFF (United States of America) said that her delegation was gratified to note that there had been a consensus on draft resolution A/C.3/37/L.49 and strongly supported the request in paragraph 2 of the draft. The human rights violations to which that draft convention was intended to put an end were among the most abominable; the United States delegation therefore urged all Governments to participate constructively in negotiations so that the elaboration of the draft convention could be completed as soon as possible. Some Governments had systematically prevented progress in the work on the draft convention, and it was to be hoped that, in the future, they would no longer behave in that unwarranted manner. The United States delegation had approved that draft resolution on the understanding that the means of financing the cost of the conference services required would be submitted by the Secretary-General in his consolidated statement of total conference servicing costs.

81. The United States delegation had voted in favour of draft resolution A/C.3/37/L.60/Rev.1 because it was a procedural resolution, which simply requested

(Ms. Ritterhoff, United States)

the Commission on Human Rights and the General Assembly to consider the question of elaborating a second optional protocol without going into the substance of the question.

82. With regard to draft resolution A/C.3/37/L.73, the United States had abstained once again since it felt that the text was no more acceptable in 1982 than it had been at previous sessions of the General Assembly and that it served no specific purpose. Although the Declaration on the Use of Scientific and Technological Progress in the Interest of Peace and for the Benefit of Mankind (General Assembly resolution 3384 (XXX)), with which the draft was concerned, contained some positive elements, it did not on the whole help to promote human rights or fundamental freedoms. The United States delegation therefore considered that there was no reason for supporting the principle behind it in draft resolution A/C.3/37/L.73 or elsewhere.

83. Mrs. ROSER (Federal Republic of Germany) explained that her delegation had abstained in the vote on draft resolution A/C.3/37/L.71 because, in its opinion, the contents of the draft were only very distantly related to its title. The Federal Republic of Germany supported all efforts to consolidate peace and international security and was in favour of disarmament under strict and effective international control, because it felt that that would make it possible to reduce military expenditure throughout the world. The Federal Republic of Germany was also in favour of the idea of a suitable contribution to economic and social development from all parties concerned. However, those objectives went well beyond the scope of agenda item 85. Apart from those reservations, the Federal Republic of Germany was convinced that agenda items should not be used to make undifferentiated statements on complex situations which needed to be studied very closely by specialists and which were considered by appropriate bodies. It therefore did not believe that the Third Committee should continue to consider the question as formulated in draft resolution A/C.3/37/L.71.

84. Mrs. YAMAZAKI (Japan) said that, while her delegation had voted in favour of draft resolution A/C.3/37/L.60/Rev.1, it felt that it was inappropriate to draft an international instrument applying to the whole world and aiming at the abolition of capital punishment. Japan considered that each Government should decide individually on the question.

85. Mr. SY (Mauritania) said that his delegation had made a mistake when voting on draft resolution A/C.3/37/L.60/Rev.1. It was well known that the Islamic Republic of Mauritania was in favour of capital punishment and therefore against the draft resolution.

86. Mr. URIARTE (Chile) explained that his delegation had voted in favour of draft resolution A/C.3/37/L.60/Rev.1 because it was a procedural resolution which did not go into the substance of the question. As far as Chile was concerned, the approval of that draft resolution did not affect the sovereignty of any State or the ability of any country to legislate on that question according to its own laws. However, Chile perfectly understood the concern shown on the item by the representatives of some Islamic countries.

87. Mrs. OLENDE (Kenya) said that her country had voted in favour of draft resolution A/C.3/37/L.60/Rev.1 because that text was a purely procedural one and did not in any way prejudice the possible content of a second optional protocol.
88. Mr. DERESSA (Ethiopia) felt that draft resolution A/C.3/37/L.60/Rev.1, although a procedural one, dealt with a question of substance since it proposed the elaboration of a second optional protocol. While recognizing that countries which had abolished the death penalty or were about to do so had the right to support that proposal, Ethiopia was not in a position to vote for the text, which called for a measure, the spirit of which ran counter to Ethiopian laws. The Ethiopian delegation had therefore abstained.
89. Mr. ODOCH-ATTO (Uganda) said that his delegation had hoped that draft resolution A/C.3/37/L.60/Rev.1 would be adopted without a vote, as it had been the previous year, since it was a procedural text. States had ample opportunity to express their views on that highly controversial question in the Commission on Human Rights or during future sessions of the General Assembly. For its part, Uganda had clearly stated its position on the death penalty at the thirty-sixth session of the General Assembly. It felt that that question had to do with the domestic legislation of each State. However, if States were in a position to take action to abolish the death penalty, they should not be prevented from doing so.
90. Mr. FURSLAND (United Kingdom) said that his country attached the greatest importance to the right to life and to disarmament questions and recognized that there was a connection between the problem of peace and human rights, as it had clearly stated on several occasions in the Third Committee. However, the United Kingdom did not consider it useful to introduce disarmament questions into the work of the Third Committee, since they were already under consideration in other forums. It also had reservations on some specific points in draft resolution A/C.3/37/L.71, particularly on the idea of the right of everyone to live in peace, introduced in the draft resolution following an amendment, on the resolutions and declarations in the fourth preambular paragraph and on the reference to a single arms race, whereas there were several; similarly, the sixth preambular paragraph, which spoke of the "inherent right of all peoples and all individuals to life", created some difficulties.
91. With regard to draft resolution A/C.3/37/L.60/Rev.1, the death penalty for ordinary crimes had been abolished for some time in the United Kingdom, but it was up to Members of Parliament to decide on the question according to their conscience. Since the question of the death penalty no longer came under Government policy in the United Kingdom, the United Kingdom delegation was not in a position to support an international measure designed to abolish or suspend the death penalty. However, it did not see why the question could not be discussed and examined further. The United Kingdom had therefore voted in favour of the draft resolution, which was basically a procedural text.
92. The CHAIRMAN recalled that a question had been left in abeyance at the meeting the previous day when draft resolution A/C.3/37/L.58 on missing persons in Cyprus had been submitted: at that time Turkey had submitted a request, the main points of which were contained in the letter reproduced in document A/C.3/37/10. Consequently, the Committee should now take a decision on that question.



93. Ms. RADIC (Yugoslavia) said that she wished to propose some amendments to draft resolution A/C.3/37/L.58 before the Committee took a decision on the request of Turkey to permit a representative of the Turkish Cypriot community to address the Committee. In the third preambular paragraph the words "Regretting that" should be replaced by the words "Expressing concern"; paragraph 1 should be replaced by the following text: "Invites the Working Group on enforced or involuntary disappearances of the Commission on Human Rights to follow developments and to recommend ways and means to the parties concerned with a view to overcoming the pending procedural difficulties of the Committee on Missing Persons in Cyprus and in co-operation with it to facilitate the effective implementation of its investigative work on the basis of the existing relevant agreements"; in paragraph 2 the end of the sentence after the words "and good will" should be deleted; and paragraph 3 should be replaced by the following text: "Requests the Secretary-General to continue to provide his good offices with a view to facilitating the work of the Committee on Missing Persons in Cyprus".

94. The CHAIRMAN inquired whether the sponsors of draft resolution A/C.3/37/L.58 were prepared to accept the amendments proposed by the representative of Yugoslavia and, if so, whether Turkey would be willing not to insist on its request for a hearing.

95. Mr. SHERIFIS (Cyprus) expressed gratitude to the delegation of Yugoslavia for its efforts to submit a compromise text which was more widely acceptable. He stressed that it was a question of advancing the cause of the missing persons while at the same time avoiding expressions of acrimony within the Committee. It should also be pointed out that, when the sponsors had drawn up the initial draft resolution, they had not been aware of the Secretary-General's views on the question, which had been submitted in a report one week later. The amendments proposed by the delegation of Yugoslavia were evidently based on the contents of paragraphs 51 and 60 of that report. In reply to the question raised by the Chairman he said that, in a spirit of compromise based on the desire to promote the cause of the missing persons and facilitate the Committee's work, his delegation, on behalf of the sponsors, accepted all the amendments proposed by Yugoslavia.

96. Mr. LOGOGLU (Turkey) paid tribute to the almost heroic efforts of the delegation of Yugoslavia to settle a problem which, unfortunately, could not be solved by amendments. The objections raised by Turkey involved not particular points, but the entire text of draft resolution A/C.3/37/L.58 and the very fact that it could be considered by the Committee. Neither Turkey nor the Turkish Cypriot community had participated in negotiations on that text, and the prior agreement of the Turkish Cypriot community had not been sought before the draft resolution had been submitted. The amendments proposed by Yugoslavia, therefore, did not in any way change the position of Turkey. Only the withdrawal, pure and simple of the draft resolution would resolve the problem and thus obviate the need to hear the representative of the Turkish Cypriot community. If draft resolution A/C.3/37/L.58 was not withdrawn, his delegation would insist on its request.

97. The CHAIRMAN said he would put to a vote the request made by the representative of Turkey for the withdrawal of draft resolution A/C.3/37/L.58 and for a hearing of the representative of the Turkish Cypriot community.

98. Mr. SHERIFIS (Cyprus) said that he deplored the lack of co-operation on the part of the Turkish delegation and wished to explain his vote before the vote. Draft resolution A/C.3/37/L.58 was not designed to establish who was responsible for the fact the Committee on Missing Persons in Cyprus, set up 19 months earlier, had not achieved any positive result. It was certainly not necessary for a member of that Committee to address the Third Committee, as if the latter was a court of justice. If the representative of one community was to address the Committee, the representative of the other community should also be permitted to speak. The draft resolution dealt primarily with a humanitarian question which should not be seen as a dispute between the communities. Persons appearing before Third Committee had always been representatives of States, not representatives of communities or ethnic groups, or individuals, and a precedent should not be set in that regard. If Turkey had something to say, it should say it directly without speaking through an intermediary.

99. For all those reasons, his delegation would vote against the Turkish proposal.

100. Mr. DOUNTAS (Greece) expressed regret that the moderate proposal made by Yugoslavia had been rejected and said that his delegation would vote against the Turkish proposal. First, no individual representing a group had ever been given the floor in the Committee; therefore, there was no precedent; moreover, from the legal point of view, the Turkish proposal was not well founded, because the sole representative of the Republic of Cyprus was its Government and the persons who had been duly appointed to represent it. Second, the problem under consideration was not caused by the existence of the two communities; it was basically the result of the invasion of Cyprus by the Turkish army in 1974. However, the representative of Turkey was present and could make his views known. Even if the Government of Cyprus had agreed that that question could be considered by the Committee on Missing Persons in Cyprus, that in no way changed the fact that the Turkish army was the best-informed authority with regard to the fate of the persons who had disappeared following the invasion of Cyprus by Turkey. Furthermore, in a report dated July 1976 the European Commission of Human Rights of the Council of Europe had stated that it considered that there was presumptive evidence of responsibility on the part of Turkey with regard to the fate of the persons detained by the Turks. If Turkey requested to be heard through an intermediary, that meant it was pursuing objectives which did not fall within the purview of the Committee.

101. Mr. RIACHE (Algeria) said that he was speaking on behalf of Cuba, Guyana, India, Mali, Sri Lanka and Yugoslaviaka which were members of the Contact Group of Non-Aligned Countries on the Question of Cyprus, which was presided over by Algeria, in order to explain their vote before the vote. The question of Cyprus, particularly its political aspects, was regularly considered in the United Nations by bodies other than the Third Committee and by the Movement of Non-Aligned Countries, of which Cyprus was a founding member. In the past the United Nations had adopted on that question a position which was still based on the consent of

(Mr. Riache, Algeria)

the entire international community and which would allow it to continue to play a positive role at different levels. It was on that basis that the Secretary-General of the United Nations supervised the intercommunal talks on the Cyprus problem. The non-aligned countries, for their part had clearly defined their position on that question: vigorously reaffirming the need to respect the sovereignty and territorial integrity of Cyprus, they had set up a Contact Group which had the task of closely monitoring the situation and which considered it necessary to avoid anticipating any turns which the situation on Cyprus might take and not to break with the practice of the Third Committee with regard to the hearing of petitioners. The member countries of the Contact Group were of the opinion that the Committee at that stage would not be the appropriate forum for hearing petitioners on the question of Cyprus in its different aspects. Therefore, they would vote against the Turkish proposal.

102. At the request of the representative of Greece, a recorded vote was taken on the Turkish proposal.

In favour: Australia, Austria, Bahrain, Bangladesh, Belgium, Canada, Denmark, Finland, Germany, Federal Republic of, Indonesia, Iran (Islamic Republic of), Japan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malaysia, Morocco, New Zealand, Norway, Oman, Pakistan, Papua New Guinea, Qatar, Somalia, Sudan, Sweden, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: Afghanistan, Algeria, Angola, Argentina, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cape Verde, Chile, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Dominican Republic, El Salvador, Ethiopia, German Democratic Republic, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, India, Jamaica, Kenya, Lao People's Democratic Republic, Lesotho, Malawi, Mali, Mexico, Mongolia, Mozambique, Nicaragua, Nigeria, Panama, Paraguay, Poland, Rwanda, Senegal, Sierra Leone, Sri Lanka, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Republic of Cameroon, Uruguay, Vanuatu, Venezuela, Viet Nam, Yugoslavia, Zambia.

Abstaining: Bahamas, Barbados, Central African Republic, Chad, Ecuador, Fiji, France, Gabon, Ireland, Israel, Italy, Ivory Coast, Jordan, Liberia, Nepal, Netherlands, Niger, Peru, Philippines, Portugal, Spain, Suriname, Thailand, Togo, Uganda, United Republic of Tanzania, Upper Volta, Zaire.

103. The Turkish proposal was rejected by 59 votes to 34, with 28 abstentions.

104. Mr. LOGOĞLU (Turkey) expressed gratitude to the delegations which had voted in favour of his proposal and those which had informed him that they were prepared to support his proposal although they were unable to show that support through their vote. The Greek and Greek Cypriot delegations had used a humanitarian question for political purposes. His delegation reserved the right to return to that question at a later date.

The meeting rose at 6.30 p.m.