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Third Committee votes to adopt historic resolution on the moratorium of the use of the death penalty

The Third Committee adopted yesterday a historic resolution on the moratorium of the use of the death penalty (A/C.3/62/L.29).¹ It will be submitted for the General Assembly's approval before the end of the year, where it will likely be endorsed.

The resolution asks for “a moratorium on executions with a view to abolishing the death penalty” and urges States to “progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed.” The text also requests the Secretary-General to report to the General Assembly in 2008 on the implementation of the resolution, and States will continue consideration of the matter at the General Assembly's 63rd session. The resolution “expresses its deep concern about the continued application of the death penalty.”

Although numerous informals on the draft resolution preceded the debate in the Third Committee, member States spent the vast majority of 14 November and 15 November discussing the draft resolution, and 18 related amendments (L.68 - L.81, including four tabled orally on the floor). All the amendments, which sought to introduce issues unrelated to the death penalty or to undermine the text's fundamental purpose, were defeated. The resolution, as tabled, was adopted with 99 in favor, 52 against, and 33 abstaining. The delegations who abstained and took the floor to explain their vote mostly stated that even if there has been a de facto moratorium in their countries, they were unable to vote in favour of something contrary to their domestic law or, in their view, not prohibited under international law.

Opposition to the text came mostly from members of the Organization of the Islamic Conference (OIC), the League of Arab States, China, and a few of the Caribbean and Asian countries. African countries were split on the issue. Opposing States made comments that:

- The death penalty is a question for national criminal justice systems and should not be considered under international human rights law.
- There is a need to consider the right to life comprehensively (i.e. prohibit abortion).
- The hidden objective of the resolution was abolition rather than a moratorium, and this will be the objective of next year's resolution on this theme.
- The co-sponsors were imposing their values on other member States.

¹ <http://daccessdds.un.org/doc/UNDOC/LTD/N07/577/06/PDF/N0757706.pdf?OpenElement>

Many delegations also referred to the text as an EU initiative, which non-EU co-sponsors repeatedly corrected, pointing out its “cross-regional” roots (it involved ten co-authors from five regions: Albania, Angola, Brazil, Croatia, Gabon, Mexico, New Zealand, the Philippines, Portugal (for the EU), and Timor Leste).

The amendments were brought and defended primarily by Egypt, Barbados, the Bahamas, Singapore, Botswana, and Antigua and Barbuda. The rough average of votes on the amendments broke down as 67 in favour, 83 against, and 17 abstaining.² Those States proposing the amendments argued they were designed to address weaknesses and imbalances in L.29 by inserting references to:

- The principle of non-intervention (Article 2(7) of the UN Charter) to maintain national sovereignty and territorial integrity;
- The perceived imposition of Western values and the need for respect for (cultural) diversity;
- The provision for the death penalty in the *International Covenant on Civil and Political Rights* (Art. 6(2) with proper legal safeguards (i.e. the death penalty is not illegal under international law and there is no international consensus); and
- The inconclusiveness of the deterrent value of the death penalty.

The amendments tabled orally also bought the discussion into a heated right to life debate. Prior to the vote to adopt the resolution, Lebanon warned that if the vote was successful it would trigger future resolutions on the right to life, which would pose even greater challenges to the Committee than this resolution.

Following the defeat of all the amendments and before the vote on the resolution as a whole, Singapore (who had been one of the ringleaders of the group challenging the resolution) called for a paragraph-by-paragraph vote of the text. This created quite a stir in the Committee, with allegations from those opposed to the resolution that the defeat of Singapore's motion would be tantamount to a denial of freedom of expression. However the motion was also ultimately defeated, allowing the resolution to proceed to a vote.

Background

The General Assembly adopted two resolutions on capital punishment in the seventies. In those texts, the Assembly indicated that it was "desirable" that all States abolish the death penalty. In 1999, a resolution on the death penalty was withdrawn before it was put to a vote, mainly because of wrecking amendments. 130 out of 192 countries have already abolished the death penalty in law or practice, and in 2006 only 25 countries actually carried out the death penalty.

The General Assembly is the main deliberative organ of the United Nations (UN). It is composed of representatives of all member States and has a general mandate to discuss and make recommendations on any matters within the scope of the *United Nations Charter*. Under Article 13 of the Charter, the General Assembly is specifically mandated to ‘initiate studies and make recommendations for the purpose of ... assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion’. The 62nd session of the General Assembly³ is taking place between September and December 2007.⁴ Each year the Assembly addresses over 150 agenda items, which are considered either in the plenary or in one of its six committees.⁵ This year, the Third Committee (Social, Cultural, and Humanitarian) will address a number of issues relevant to human rights defenders under various agenda items, including the advancement of women, children’s rights, the rights of indigenous peoples, the elimination of racism, the protection of refugees, and human rights questions. Numerous special procedures will also report to the Committee and engage in an interactive dialogue with States.⁶ The following persons were elected to the Bureau of the Third Committee: Chairperson: Mr. Raymond Wolfe (Jamaica); Vice-

² For voting breakdown on each amendment please see <http://www.un.org/ga/third/62/votingsheets.shtml>

³ Information on the General Assembly is available at <http://www.un.org/ga/about/background.shtml>

⁴ The previous reports of the International Service for Human Rights on the General Assembly are available at <http://www.ishr.ch/hrm/archive/GA/GA%20-%20Contents.htm>

⁵ Information on the main committees of the General Assembly is available at <http://www.un.org/ga/maincommittees.shtml>

⁶ A schedule of the special procedures is available at <http://www.un.org/ga/third/62/specialprocedureschedule.pdf>

Chairpersons: Mr. Takashi Ashiki (Japan), Ms. Kristine Malinovska (Latvia), Mr. Alan Gibbons (Ireland);
Rapporteur: Ms. Tebatso Baleseng (Botswana).

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