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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON
THE SIXTY-FIRST SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Ms. Deirdre KENT (Canada)

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* Documents E/CN.4/2005/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/2005/L.11 and addenda.

XI. Civil and political rights, including the questions of:

- (a) Torture and detention;**
- (b) Disappearances and summary executions;**
- (c) Freedom of expression;**
- (d) Independence of the judiciary, administration of justice, impunity;**
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1. The Commission considered agenda item 11 at its 27th and 28th meetings, on 31 March 2005, at its 30th meeting, on 1 April, at its 31st and 32nd meetings, on 4 April, at its 33rd and 34th meetings, on 5 April, and at its 56th and 57th meetings on 19 April.¹

2. For the documents issued under agenda item 11, see annex VI to the present report. For a list of all resolutions and decisions adopted by the Commission and Chairperson's statements, by agenda item, see annex V.

3. At the 28th meeting, Mr. Ambeyi Ligabo, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, introduced his report (E/CN.4/2005/64 and Corr.1 and Add.1-5). During the ensuing interactive dialogue, the representative of Italy and the observers for Colombia, Côte d'Ivoire and Serbia and Montenegro made statements, as concerned countries, on the report. The representatives of Argentina, Canada, Cuba and Indonesia, and the observers for the Islamic Republic of Iran, Luxembourg (on behalf of the European Union) and Norway addressed questions to the Special Rapporteur, to which he responded.

¹ See footnote 1 above (chap. III, para. 1).

4. At the same meeting, Mr. Bernard Kessedjian, Chairperson-Rapporteur of the intersessional open-ended working group to elaborate a draft legally binding normative instrument for the protection of all persons from enforced disappearance, introduced the report of the Working Group (E/CN.4/2005/66).
5. At the 30th meeting, Mr. Alejandro Salinas, Chairperson-Rapporteur of the third consultative meeting on the basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law, introduced the report of the consultative meeting (E/CN.4/2005/59).
6. At the 31st meeting, Mr. Leandro Despouy, Special Rapporteur on the independence of judges and lawyers, introduced his report (E/CN.4/2005/60 and Add.1-3). During the ensuing interactive dialogue, the representatives of Brazil and Ecuador and the observer for Kazakhstan made statements, as concerned countries, on the report. The representatives of Argentina, Costa Rica, Cuba, Guatemala and Hungary and the observers for Belarus and Luxembourg (on behalf of the European Union) also addressed questions to the Special Rapporteur, to which he responded.
7. Also at the same meeting, Mr. Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, introduced his report (E/CN.4/2005/62 and Add.1-2). During the ensuing interactive dialogue, the observer for Georgia made a statement, as a concerned country, on the report. The representatives of Argentina, Canada, Cuba, Mexico, Peru and Sri Lanka and the observers for Belarus, Luxembourg, New Zealand, Norway and Switzerland also addressed questions to the Special Rapporteur, to which he responded.
8. At the same meeting, Mr. Philip Alston, Special Rapporteur on extrajudicial, summary or arbitrary executions, introduced his report (E/CN.4/2005/7 and Add.1-2). During the ensuing interactive dialogue, the representative of the Sudan made a statement, as a concerned country, on the report. The representatives of Argentina, Canada, Cuba and Peru and the observers for Belarus, Luxembourg, New Zealand, Norway and Switzerland also addressed questions to the Special Rapporteur. At the 32nd meeting, Mr. Alston responded to the questions and made his final remarks.

9. At the 32nd meeting, Mr. Stephen Toope, Chairperson-Rapporteur of the Working Group on Enforced or Involuntary Disappearances, introduced the report of the Working Group (E/CN.4/2005/65 and Add.1). During the ensuing interactive dialogue, the representative of Nepal made a statement, as a concerned country, on the report. The representatives of Argentina, Canada, Costa Rica and Cuba and the observer for Luxembourg (on behalf of the European Union) also addressed questions to the Chairperson-Rapporteur, to which he responded.

10. At the same meeting, Ms. Leila Zerrougui, Chairperson-Rapporteur of the Working Group on Arbitrary Detention, introduced the report of the Working Group (E/CN.4/2005/6 and Add.1-4). During the ensuing interactive dialogue, the representative of China and the observers for Belarus and Latvia made statements, as concerned countries, on the report. The representatives of Cuba and the United States of America and the observer for Luxembourg (on behalf of the European Union) also addressed questions to the Chairperson-Rapporteur, to which she responded.

11. At the same meeting, Ms. Asma Jahangir, Special Rapporteur on the freedom of religion or belief, introduced her report (E/CN.4/2005/61 and Add.1). During the ensuing interactive dialogue, the representative of Nigeria made a statement, as a concerned country, on the report. The representatives of Argentina, Australia, Brazil, Canada, Indonesia, Pakistan and Peru and the observers for the Islamic Republic of Iran, Luxembourg (on behalf of the European Union), Norway and Switzerland also addressed questions to the Special Rapporteur, to which she responded.

12. In the general debate on agenda item 11, statements were made by members of the Commission, observers and representatives of non-governmental organizations. For a detailed list of speakers, see annex III to the present report.

Human rights and forensic science

13. At the 56th meeting, the representative of Finland introduced draft resolution E/CN.4/2005/L.39, sponsored by Albania, Argentina, Armenia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland,

Ireland, Italy, Japan, Lithuania, Luxembourg, Mexico, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland. Andorra, Australia, Canada, Malta and Panama subsequently joined the sponsors.

14. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

15. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/26.

Enforced or involuntary disappearances

16. At the same meeting, the representative of France introduced draft resolution E/CN.4/2005/L.40, sponsored by Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bolivia, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, the Dominican Republic, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Portugal, the Republic of Korea, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland and Uruguay. Brazil, Cameroon, Congo, Costa Rica, Denmark, Gabon, Guatemala, Iceland, Monaco, Morocco, the Netherlands, Nicaragua, Nigeria, Norway, Paraguay, Peru, Poland, Serbia and Montenegro, South Africa, The former Yugoslav Republic of Macedonia, Ukraine and Venezuela subsequently joined the sponsors.

17. A statement in connection with the draft resolution was made by the representative of the Russian Federation.

18. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

² See footnote 2 above (chap. III, para. ...).

19. At the 57th meeting, an explanation of vote before the vote was made by the representative of the United States of America.

20. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/27.

Arbitrary detention

21. At the same meeting, the representative of France introduced draft resolution E/CN.4/2005/L.41, sponsored by Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bulgaria, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, Norway, Paraguay, Portugal, the Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and Uruguay. The Dominican Republic, Ecuador, Guatemala, Iceland, Monaco, Morocco, Nicaragua, Nigeria, Peru, Poland, Serbia and Montenegro, South Africa, The former Yugoslav Republic of Macedonia, Ukraine and the United States of America subsequently joined the sponsors.

22. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

23. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/28.

Strengthening of popular participation, equity, social justice and non-discrimination as essential foundations of democracy

24. At the same meeting, the representative of Cuba introduced draft resolution E/CN.4/2005/L.42, sponsored by Algeria, Botswana, Burundi, China, the Congo, Cuba, the Democratic People's Republic of Korea, the Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Kenya, Madagascar, Mauritania, Nigeria, South Africa, Swaziland, the Syrian Arab Republic, Togo, Uganda, Viet Nam and Zimbabwe. Angola, Cameroon, the Sudan and Venezuela subsequently joined the sponsors.

25. A statement in explanation of vote before the vote was made by the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well as Romania, which aligned itself with the statement).

26. At the request of the representative of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well as Romania, which aligned itself with the statement), a recorded vote was taken on the draft resolution, which was adopted by 28 votes to 14, with 11 abstentions. The voting was as follows:

In favour: Bhutan, Brazil, Burkina Faso, China, Congo, Cuba, Ecuador, Egypt, Eritrea, Ethiopia, Gabon, Guinea, India, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Qatar, Russian Federation, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Zimbabwe.

Against: Australia, Canada, Finland, France, Germany, Hungary, Ireland, Italy, Netherlands, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Argentina, Armenia, Costa Rica, Dominican Republic, Guatemala, Honduras, Japan, Mexico, Paraguay, Peru, Saudi Arabia.

27. For the text, see chapter II, section A, resolution 2005/29.

Integrity of the judicial system

28. At the same meeting, the representative of the Russian Federation introduced draft resolution E/CN.4/2005/L.43, sponsored by Belarus and the Russian Federation. Bolivia, Cuba, the Dominican Republic and Nicaragua subsequently joined the sponsors.

29. The representative of the Russian Federation orally revised operative paragraph 7 of the draft resolution.

30. The representative of the United States of America orally amended the draft resolution by proposing the deletion in operative paragraph 3 of the word “ordinary”, by replacing in operative paragraph 7 “a tribunal of competent, independent and impartial jurisdiction according to law” with “a higher tribunal according to law” and by inserting in operative paragraph 8 “where required by applicable law” following “to ensure that such courts”.

31. Statements in connection with the proposed amendment were made by the representatives of Cuba and the Russian Federation.

32. At the request of the representative of the United States of America, a separate and recorded vote was taken on the proposed amendment to modify operative paragraph 3 of the draft resolution, which was rejected by 4 votes to 40, with 9 abstentions. The voting was as follows:

In favour: Australia, Canada, Eritrea, United States of America.

Against: Argentina, Armenia, Bhutan, Brazil, China, Costa Rica, Cuba, Dominican Republic, Ecuador, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Burkina Faso, Congo, Egypt, Ethiopia, Gabon, Mauritania, Pakistan, Qatar, Saudi Arabia.

33. At the request of the representative of the United States of America, a separate and recorded vote was taken on the proposed amendment to modify operative paragraph 7 of the draft resolution, which was rejected by 6 votes to 39, with 8 abstentions. The voting was as follows:

In favour: Australia, Canada, Eritrea, India, Pakistan, United States of America.

Against: Argentina, Armenia, Bhutan, Brazil, China, Costa Rica, Cuba, Dominican Republic, Ecuador, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Burkina Faso, Congo, Egypt, Ethiopia, Gabon, Mauritania, Qatar, Saudi Arabia.

34. At the request of the representative of the United States of America, a separate and recorded vote was taken on the proposed amendment to modify operative paragraph 8 of the draft resolution, which was rejected by 1 vote to 41, with 11 abstentions. The voting was as follows:

In favour: United States of America.

Against: Argentina, Armenia, Bhutan, Brazil, China, Costa Rica, Cuba, Dominican Republic, Ecuador, Eritrea, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Australia, Burkina Faso, Canada, Congo, Egypt, Ethiopia, Gabon, Mauritania, Pakistan, Qatar, Saudi Arabia.

35. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution as a whole, as orally revised, which was adopted by 52 votes to none, with 1 abstention. The voting was as follows:

In favour: Argentina, Armenia, Australia, Bhutan, Brazil, Burkina Faso, Canada, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: None.

Abstaining: United States of America.

36. For the text, see chapter II, section A, resolution 2005/30.

Hostage-taking

37. At the same meeting, the representative of the Russian Federation introduced draft resolution E/CN.4/2005/L.44, sponsored by Armenia, Belarus, China, Cuba, Ecuador, the Russian Federation, Sri Lanka and Turkey. Azerbaijan, Colombia, the Democratic Republic of Korea, India, Kazakhstan, Nicaragua, Ukraine and Uruguay subsequently joined the sponsors.

38. A statement in connection with the draft resolution was made by the representative of the United States of America.

39. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/31.

Democracy and the rule of law

40. At the same meeting, the representative of Romania (also on behalf of Peru, Timor-Leste and the United States of America) introduced draft resolution E/CN.4/2005/L.45, sponsored by Albania, Argentina, Armenia, Austria, Belgium, Benin, Botswana, Brazil, Bulgaria, Burundi, Cameroon, Canada, Chile, the Congo, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Latvia, Honduras, Lithuania, Liechtenstein, Luxembourg, Mali, Malta, Mexico, the Netherlands, Norway, Paraguay, Peru, Poland, Portugal, the Republic of Korea, the Republic of Moldova, Romania, San Marino, Senegal, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Thailand, The former Yugoslav Republic of Macedonia, Timor-Leste, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay. Afghanistan, Australia, Azerbaijan, Bolivia, Colombia, Iceland, Iraq, Kenya, Mongolia, Morocco, New Zealand, Nicaragua, Niger, Rwanda, Switzerland, Ukraine and the United Republic of Tanzania subsequently joined the sponsors.

41. A statement in connection with the draft resolution was made by the representative of Cuba.

42. The representative of Cuba orally amended the draft resolution by proposing the deletion of “by the second Ministerial Conference of the Community of Democracies (Seoul, 10-12 November 2002)” in operative paragraph 13.

43. A statement in connection with the proposed amendment was made by the representative of Romania.

44. An explanation of vote before the vote on the proposed amendment was made by the representative of China.

45. At the request of the representative of Romania a recorded vote was taken on the proposed amendment to the draft resolution. The amendment was rejected by 5 votes to 36, with 11 abstentions. The voting was as follows:

In favour: China, Cuba, Eritrea, Togo, Zimbabwe.

Against: Argentina, Armenia, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Qatar, Republic of Korea, Romania, South Africa, Sri Lanka, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Bhutan, Burkina Faso, Congo, Egypt, Ethiopia, Gabon, Pakistan, Russian Federation, Saudi Arabia, Sudan, Swaziland.

46. Statements in explanation of vote before the vote were made by the representatives of Cuba and Eritrea.

47. At the request of the representative of Cuba, a recorded vote was taken on the draft resolution as a whole, which was adopted by 46 votes to none, with 7 abstentions. The voting was as follows:

In favour: Argentina, Armenia, Australia, Brazil, Burkina Faso, Canada, Congo, Costa Rica, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Qatar, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Zimbabwe.

Against: None.

Abstaining: Bhutan, China, Cuba, Eritrea, Gabon, Saudi Arabia, Sudan.

48. For the text, see chapter II, section A, resolution 2005/32.

Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

49. At the same meeting, the representative of Hungary introduced draft resolution E/CN.4/2005/L.46, sponsored by Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, India, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, Nigeria, Norway, Paraguay, Poland, Portugal, Romania, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, the United Kingdom of Great Britain and Northern Ireland and Uruguay. Australia, Bolivia, Brazil, Ethiopia, Iceland, Nicaragua and Peru subsequently joined the sponsors.

50. The representative of Hungary orally revised operative paragraphs 12 and 13.

51. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

52. The draft resolution, as orally revised, was adopted without a vote. For the text, see chapter II, section A, resolution 2005/33.

Extrajudicial, summary or arbitrary executions

53. At the same meeting, the observer for Sweden introduced draft resolution E/CN.4/2005/L.47/Rev.1, sponsored by Albania, Andorra, Armenia, Austria, Belgium, Brazil, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Mexico, Norway, Poland, Portugal, Romania, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Ukraine and the United Kingdom of Great Britain and Northern Ireland. Argentina, Chile, Costa Rica, the Democratic Republic of the Congo, Guatemala, New Zealand, Nicaragua, Norway, Paraguay, Peru, Swaziland, Uruguay and Venezuela subsequently joined the sponsors.

54. The observer for Sweden orally revised the draft resolution by modifying operative paragraph 19.

55. Statements in connection with the draft resolution, as orally revised, were made by the representatives of the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well as Romania, which aligned itself with the statement), Pakistan and the United States of America.

56. The representative of Pakistan orally amended the draft resolution by proposing the deletion in operative paragraph 5 of “including those committed in the name of passion or in the name of honour, ... as well as other cases”.

57. The representative of the United States of America further amended the draft resolution by modifying operative paragraph 9, which read as follows:

“Acknowledges that extrajudicial, summary or arbitrary executions can amount to genocide, crimes against humanity or war crimes, as defined in the Rome Statute of the International Criminal Court,”.

58. A statement in connection with the proposed amendments was made by the representative of Finland.

59. At the request of the representative of Pakistan, a recorded vote was taken on the proposed amendment to modify operative paragraph 5 of the draft resolution, which was rejected by 20 votes to 25, with 7 abstentions. The voting was as follows:

In favour: China, Congo, Egypt, Eritrea, Ethiopia, Gabon, Guinea, India, Indonesia, Kenya, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Qatar, Saudi Arabia, Sudan, Togo, United States of America.

Against: Argentina, Armenia, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Ecuador, Finland, France, Germany, Guatemala, Hungary, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Romania, Swaziland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Bhutan, Burkina Faso, Honduras, Russian Federation, South Africa, Sri Lanka, Zimbabwe.

60. At the request of the representative of Pakistan, a recorded vote was taken on the proposed amendment to modify operative paragraph 9, which was rejected by 9 votes to 35, with 8 abstentions. The voting was as follows:

In favour: China, Dominican Republic, Eritrea, Ethiopia, India, Indonesia, Mauritania, Pakistan, United States of America.

Against: Argentina, Armenia, Australia, Brazil, Canada, Congo, Costa Rica, Ecuador, Egypt, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, Ireland, Italy, Kenya, Malaysia, Mexico, Nepal, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Swaziland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Abstaining: Bhutan, Burkina Faso, Japan, Qatar, Saudi Arabia, Sri Lanka, Sudan, Togo.

61. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

62. A statement in explanation of vote before the vote was made by the representative of the United States of America.

63. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution as a whole, as orally revised, which was adopted by 36 votes to none, with 17 abstentions. The voting was as follows:

In favour: Argentina, Armenia, Australia, Bhutan, Brazil, Canada, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Eritrea, Finland, France, Germany, Guatemala, Honduras, Hungary, Ireland, Italy, Japan, Kenya, Mexico, Netherlands, Nigeria, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Swaziland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: None.

Abstaining: Burkina Faso, China, Egypt, Ethiopia, Gabon, Guinea, India, Indonesia, Malaysia, Mauritania, Nepal, Pakistan, Qatar, Saudi Arabia, Sudan, Togo, United States of America.

64. For the text, see chapter II, section A, resolution 2005/34.

Basic principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law

65. At the same meeting, the observer for Chile introduced draft resolution E/CN.4/2005/L.48, sponsored by Austria, Argentina, Armenia, Belgium, Bolivia, Brazil, Burkina Faso, Chile, the Congo, Costa Rica, Cyprus, the Czech Republic, the Dominican Republic, Ecuador, Estonia, Finland, France, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Latvia, Mexico, the Netherlands, Nigeria, Norway, Paraguay, Peru, Poland, Portugal, Romania, Slovenia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela. Azerbaijan, Denmark, Haiti, Honduras, Iceland, Luxembourg, Nicaragua and South Africa subsequently joined the sponsors.

66. Statements in connection with the draft resolution were made by the representatives of Argentina, Mexico (on behalf of the Group of Latin American and Caribbean States), the United Kingdom of Great Britain and Northern Ireland and the United States of America.

67. Statements in explanation of vote before the vote were made by the representatives of Canada and India.

68. At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution, which was adopted by 40 votes to none, with 13 abstentions. The voting was as follows:

In favour: Argentina, Armenia, Bhutan, Brazil, Burkina Faso, Canada, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Finland, France, Gabon, Guatemala, Guinea, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mexico, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Republic of Korea, Romania, Russian Federation, South Africa, Sri Lanka, Swaziland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Zimbabwe.

Against: None.

Abstaining: Australia, Egypt, Eritrea, Ethiopia, Germany, India, Mauritania, Nepal, Qatar, Saudi Arabia, Sudan, Togo, United States of America.

69. At the 57th meeting, an explanation of vote after the vote was made by the representative of Germany.

70. For the text, see chapter II, section A, resolution 2005/35.

The incompatibility between democracy and racism

71. At the same meeting, the representative of Brazil introduced draft resolution E/CN.4/2005/L.49, sponsored by Albania, Andorra, Argentina, Armenia, Bolivia, Bosnia and Herzegovina, Brazil, Chile, Costa Rica, Croatia, Cuba, the Dominican Republic, Ecuador,

El Salvador, France, Germany, Guatemala, Honduras, Ireland, Israel, Italy, Mexico, Paraguay, Peru, Poland, Portugal, the Republic of Korea, Romania, Slovenia, Spain, Sri Lanka, Thailand, Turkey, the United States of America and Venezuela. Austria, Cameroon, Canada, Colombia, China, Haiti, Hungary, Iceland, Monaco, Morocco, Nicaragua, Panama, Serbia and Montenegro, South Africa, Switzerland and Uruguay subsequently joined the sponsors.

72. A statement in connection with the draft resolution was made by the representative of Eritrea.

73. The draft resolution was adopted without a vote. For the text as adopted, see chapter II, section A, resolution 2005/36.

Promoting the rights to peaceful assembly and association

74. At the 57th meeting, the representative of the United States of America introduced draft resolution E/CN.4/2005/L.50 sponsored by Afghanistan, Australia, Austria, Belgium, Canada, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Indonesia, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Nigeria, Poland, Portugal, the Republic of Korea, Romania, Slovakia, Slovenia, Spain, Sweden, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Albania, Argentina, Bolivia, Bulgaria, Costa Rica, Croatia, Guatemala, Honduras, Iceland, Japan, Liechtenstein, Nicaragua and Serbia and Montenegro subsequently joined the sponsors.

75. The representative of the United States of America orally revised the fifth preambular paragraph.

76. A statement in connection with the draft resolution was made by the representative of Cuba.

77. The representative of the Russian Federation introduced amendments (E/CN.4/2005/L.97) to draft resolution E/CN.4/2005/L.50. The amendments read as follows:

“1. Fifth preambular paragraph

“After the words ‘International Covenant on Civil and Political Rights’ *insert* the following: ‘as well as other international instruments in the field of human rights, including the International Convention on the Elimination of All Forms of Racial Discrimination.’

“*Replace* the words ‘certain restrictions’ with the following: ‘lawful restrictions that are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.’

“2. *Insert* a new operative paragraph after operative paragraph 1, reading as follows:

‘*Stresses* that in democratic societies the exercise of the rights to freedom of peaceful assembly and of association presupposes certain responsibilities for individuals and groups, and underlines, in particular, that according to the International Convention on the Elimination of All Forms of Racial Discrimination, the exercise of these rights cannot be used to disseminate ideas based on racial superiority or hatred, to incite to racial discrimination, as well as to all acts of violence, or incite to such acts against any race or group of persons of another colour or ethnic origin, and also to provide any assistance to racist activities, and that States parties to the Convention are under the obligation to declare such offences punishable by law and to declare illegal and prohibit organizations and organized and all other propaganda activities that promote and incite racial discrimination, and to recognize participation in such organizations or activities as an offence punishable by law,’.”

78. A statement in connection with the proposed amendments was made by the representative of the United States of America.

79. Statements in explanation of vote before the vote on the proposed amendments to the draft resolution were made by the representatives of China and the Netherlands (on behalf of the States members of the European Union that are members of the Commission - Finland, France, Germany, Hungary, Ireland, Italy and the United Kingdom of Great Britain and Northern Ireland - as well as Romania, which aligned itself with the statement).

80. At the request of the representative of the Russian Federation, a separate and recorded vote was taken on the proposal to modify the fifth preambular paragraph to the draft resolution. The proposed amendment was rejected by 21 votes to 25, with 7 abstentions. The voting was as follows:

In favour: Armenia, Bhutan, China, Cuba, Ecuador, Egypt, Eritrea, Ethiopia, India, Malaysia, Mauritania, Nepal, Nigeria, Pakistan, Qatar, Russian Federation, Saudi Arabia, Sri Lanka, Sudan, Togo, Zimbabwe.

Against: Argentina, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Finland, France, Germany, Guatemala, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Burkina Faso, Congo, Gabon, Guinea, Kenya, South Africa, Swaziland.

81. An explanation of vote before the vote on the second proposed amendment was made by the representative of India.

82. At the request of the representative of the Russian Federation, a separate and recorded vote was taken on the proposal to insert a new operative paragraph after operative paragraph 1 of the draft resolution. The proposed amendment was rejected by 13 votes to 26, with 14 abstentions. The voting was as follows:

In favour: Bhutan, China, Cuba, Ecuador, Eritrea, Ethiopia, Malaysia, Mauritania, Nepal, Russian Federation, Saudi Arabia, Sudan, Zimbabwe.

Against: Argentina, Armenia, Australia, Brazil, Canada, Costa Rica, Dominican Republic, Finland, France, Germany, Guatemala, Honduras, Hungary, Indonesia, Ireland, Italy, Japan, Mexico, Netherlands, Paraguay, Peru, Republic of Korea, Romania, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Burkina Faso, Congo, Egypt, Gabon, Guinea, India, Kenya, Nigeria, Pakistan, Qatar, South Africa, Sri Lanka, Swaziland, Togo.

83. A statement in explanation of vote before the vote was made by the representative of Cuba.

84. At the request of the representative of Cuba, a recorded vote was taken on the draft resolution as a whole, which was adopted by 45 votes to none, with 8 abstentions. The voting was as follows:

In favour: Argentina, Armenia, Australia, Brazil, Burkina Faso, Canada, Congo, Costa Rica, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Gabon, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Ireland, Italy, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Netherlands, Nigeria, Pakistan, Paraguay, Peru, Republic of Korea, Romania, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against: None.

Abstaining: Bhutan, China, Cuba, Eritrea, Qatar, Russian Federation, Saudi Arabia, Zimbabwe.

85. For the text, see chapter II, section A, resolution 2005/37.

The right to freedom of opinion and expression

86. At the same meeting, the representative of Canada introduced draft resolution E/CN.4/2005/L.52, sponsored by Albania, Andorra, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, the Czech Republic, El Salvador, Estonia, Finland, Germany, Hungary, India, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Mexico, New Zealand, Norway, Poland, the Republic of Korea, Romania, San Marino, Serbia and Montenegro, Slovenia, Spain, Switzerland, Turkey, Ukraine and the United States of America. Argentina, Azerbaijan, Bolivia, Brazil, Colombia, Costa Rica, Cyprus, Denmark, the Dominican Republic, France, Greece, Guatemala, Haiti, Honduras, Iceland, Japan, Malta, Morocco, Mozambique, the Netherlands, Peru, Portugal, South Africa, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela subsequently joined the sponsors.

87. The representative of Canada orally revised operative paragraph 14.

88. A statement in connection with the draft resolution was made by the representative of Cuba.

89. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

90. The draft resolution, as orally revised, was adopted without a vote. For the text, see chapter II, section A, resolution 2005/38.

Torture and other cruel, inhuman or degrading treatment or punishment

91. Also at the same meeting, the observer for Denmark introduced draft resolution E/CN.4/2005/L.54, sponsored by Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Panama,

Paraguay, Poland, Portugal, the Republic of Korea, Romania, San Marino, Senegal, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America. Cameroon, Costa Rica, Egypt, Eritrea, Japan, Liechtenstein, Mauritius, Monaco, Morocco, Nicaragua, Peru, the Republic of Moldova, South Africa, The former Yugoslav Republic of Macedonia, Uruguay and Venezuela subsequently joined the sponsors.

92. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

93. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/39.

Elimination of all forms of intolerance and of discrimination based on religion or belief

94. At the same meeting, the observer for Luxembourg (on behalf of the European Union) introduced draft resolution E/CN.4/2005/L.55, sponsored by Albania, Andorra, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, New Zealand, Paraguay, Poland, Portugal, the Republic of Korea, Romania, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Ukraine and the United Kingdom of Great Britain and Northern Ireland. Argentina, Brazil, Burkina Faso, Cameroon, Colombia, Congo, Costa Rica, Ecuador, Eritrea, Ethiopia, Honduras, Iceland, Japan, Kazakhstan, Mauritius, Monaco, Mozambique, Nicaragua, Norway, Peru, Rwanda, South Africa, Timor-Leste, Uganda, the United Republic of Tanzania, the United States of America, Uruguay and Zimbabwe subsequently joined the sponsors.

95. Statements in connection with the draft resolution were made by the representatives of India and Pakistan (on behalf of the Organization of the Islamic Conference).

96. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft resolution.

97. The draft resolution was adopted without a vote. For the text of the resolution as adopted, see chapter II, section A, resolution 2005/40.

Terrorism and human rights

98. Also at the same meeting, the Commission had before it draft decision 9 recommended by the Sub-Commission on the Promotion and Protection of Human Rights for adoption by the Commission (see E/CN.4/2005/2-E/CN.4/Sub.2/2004/48, chap. I, sect. B).

99. A statement in connection with the draft decision was made by the representative of the United States of America.

100. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to the estimated administrative and programme budget implications² of the draft decision.

101. Statements in explanation of vote before the vote on the draft decision were made by the representatives of Cuba, Mauritania, Pakistan and the Russian Federation.

102. At the request of the representative of the United States of America, a recorded vote was taken on the draft decision as a whole, which was adopted by 40 votes to 2, with 11 abstentions. The voting was as follows:

In favour: Argentina, Armenia, Bhutan, Brazil, Burkina Faso, China, Congo, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, Eritrea, Ethiopia, Gabon, Guatemala, Guinea, Honduras, India, Indonesia, Japan, Kenya, Malaysia, Mauritania, Mexico, Nepal, Nigeria, Pakistan, Paraguay, Peru, Qatar, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Sudan, Swaziland, Togo, Ukraine, Zimbabwe.

Against: Australia, United States of America.

Abstaining: Canada, Finland, France, Germany, Hungary, Ireland, Italy, Netherlands,
Republic of Korea, Romania, United Kingdom of Great Britain and
Northern Ireland.

103. For the text, see chapter II, section B, decision 2005/...
