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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.

## **XVI. Report of the Sub-Commission on the Promotion and Protection of Human Rights:**

### **(a) Report and draft decisions;**

### **(b) Election of members**

1. The Commission considered agenda item 16 at its 44th meeting, on 13 April 2005, at its 51st meeting, on 15 April and at its 58th meeting on 20 April.<sup>1</sup>

2. For the documents issued under agenda item 16, 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. In the general debate on agenda item 16, statements were made by members of the Commission and non-governmental organizations. For a detailed list of speakers, see annex III to the present report.

4. At the 44th meeting, on 12 April 2005, Mr. Soli Jehangir Sorabjee, Chairperson of the fifty-sixth session of the Sub-Commission on the Promotion and Protection of Human Rights, introduced his report (E/CN.4/2005/90).

### **(a) Report and draft decisions**

#### **The work of the Sub-Commission on the Promotion and Protection of Human Rights**

5. At the 58th meeting, on 20 April 2005, the representative of Cuba introduced draft resolution E/CN.4/2005/L.7, sponsored by Cuba, which he subsequently withdrew. The draft resolution read as follows:

*"The Commission on Human Rights,*

*"Recalling its previous relevant resolutions, in particular 2004/60 of 20 April 2004 and the resolutions identified therein, as well as the terms of reference*

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<sup>1</sup> See footnote 1 above (chap. III, para. 1).

of the Sub-Commission on the Promotion and Protection of Human Rights (formerly the Sub-Commission on the Prevention of Discrimination and Protection of Minorities) as set out in the relevant resolutions of the Commission on Human Rights, the Economic and Social Council and the General Assembly,

*“Recalling also* the report of the intersessional open-ended working group on enhancing the effectiveness of the mechanisms of the Commission on Human Rights (E/CN.4/2000/112), and reaffirming Commission decision 2000/109 of 26 April 2000,

*“Recalling further* the rules of procedure of the functional commissions of the Economic and Social Council and other decisions and practices relating thereto, and Sub-Commission decision 1999/114 of 26 August 1999 by which the Sub-Commission adopted guidelines for the application of the rules,

*“Bearing in mind* the final working paper on the methods of work of the Sub-Commission (E/CN.4/Sub.2/1999/2),

*“Taking note of:*

*“(a) The report of the Sub-Commission on its fifty-sixth session (E/CN.4/2005/2-E/CN.4/Sub.2/2004/48);*

*“(b) The report of the Chairperson of the fifty-sixth session of the Sub-Commission (E/CN.4/2005/90);*

*“1. Reaffirms* its recognition of the valuable contribution made by the Sub-Commission, as a subsidiary body of the Commission, to the human rights work of the United Nations over the past 58 years;

*“2. Recognizes* in particular the important contribution of the Sub-Commission and its thematic mechanisms to the development of a better understanding of human rights through the study of important issues, the elaboration of international human rights standards and the promotion and protection of human rights

throughout the world, as well as the valuable contribution that Governments, intergovernmental organizations and non-governmental organizations have made to the success of the Sub-Commission;

“3. *Decides* that the Sub-Commission can best assist the Commission by providing it with:

“(a) Independent expert studies and working papers solely carried out by its members or alternates during their mandate, notwithstanding the completion of currently existing mandates;

“(b) Recommendations based on, and after full consideration of, these studies;

“(c) Studies, research and expert advice at the request of the Commission, including proposals confirmed by the Commission which have been suggested by treaty bodies or other United Nations human rights bodies;

“4. *Welcomes* the actions taken by the Sub-Commission at its fifty-sixth session to respond to recommendations by the Commission for the initiation of working papers and new studies;

“5. *Also welcomes* the attention given by the Sub-Commission to economic, social and cultural rights, as well as its continued attention to civil and political rights;

“6. *Further welcomes* the improved working methods of the Sub-Commission at its last four sessions at which it:

“(a) Reformed, improved and streamlined its agenda to seven items;

“(b) Held a closed joint meeting with the Expanded Bureau of the previous session of the Commission;

“(c) Drafted many of its resolutions in closed session rather than attempting to do so in public sessions;

“7. *Recalls* the report submitted by the Office of the High Commissioner pursuant to the request of the Commission in its resolution 2002/66 of 25 April 2002 on possible ways and means of addressing the issues raised by the Sub-Commission and of improving the Commission’s action on proposals of the Sub-Commission (E/CN.4/2003/95) and of discussions in which the Bureau of the Commission studied further those proposals, and decides to continue consideration of possible ways and means of improving, as soon as possible, the Commission’s prompt action on proposals of the Sub-Commission;

“8. *Reiterates and reaffirms*:

“(a) Its decision that the Sub-Commission should not adopt country specific resolutions, decisions or Chairperson’s statements and, in negotiating and adopting thematic resolutions or decisions, should refrain from including references to specific countries;

“(b) That the Sub-Commission should continue to be able to debate country situations not being dealt with in the Commission, as well as urgent matters involving serious violations of human rights in any country, and that its discussions would be reflected in the summary records of its debates, which should continue to be forwarded to the Commission;

“(c) That the Sub-Commission should seek the Commission’s approval prior to embarking on any new activity, with the exception of the preparation of studies and research;

“(d) That the role of the Sub-Commission is that of a ‘think tank’, as confirmed by the Commission in decision 2000/109, and therefore should not attribute to itself monitoring functions, while reaffirming the content of paragraph 52 of the annex to its decision 2000/109;

“9. *Recommends* that the Sub-Commission continue at its future sessions the successful innovations of the fifty-third session, which were confirmed at the fifty-fourth, fifty-fifth and fifty-sixth sessions, in particular by:

“(a) Having annual closed meetings with the Expanded Bureau of the sixtieth and subsequent sessions of the Commission, so as to exchange views aimed at improving cooperation between the two organs;

“(b) Maintaining a streamlined agenda;

“(c) Holding its discussions of its working rules, procedures and timetable in closed meeting;

“(d) Drafting as many of its resolutions as possible in closed session, in view of the limited time available;

“(e) Using the ‘question and answer’ format and some expert panel discussions;

“10. *Also recommends* that the Sub-Commission further improve its methods of work by:

“(a) Focusing on its primary role as an advisory body to the Commission, specifically when its advice is requested by the Commission;

“(b) Giving particular attention to the selection of studies specifically recommended by the Commission or proposals confirmed by the Commission which have been suggested by treaty bodies or other United Nations human rights bodies, at the same time focusing on how and when the implementation of existing standards can be improved;

“(c) Respecting strictly the highest standards of impartiality and expertise and avoiding acts which would affect confidence in the independence of its members, in particular in situations where they could have a conflict of interest;

“(d) Facilitating efficient and effective participation of non-governmental organizations;

“(e) Giving full consideration to studies and working papers by special rapporteurs and its members before sending them to the Commission;

“(f) Taking further steps to accomplish its work within a three-week session, while making efforts to avoid the scheduling of working groups and plenary sessions concurrently with each other;

“(g) Making proposals to the Commission on how it might assist the Sub-Commission in improving its work, and vice versa;

“(h) Focusing strictly on questions relating to human rights in accordance with its mandate;

“(i) Avoiding duplication of its work with that being carried out by other competent bodies and mechanisms;

“(j) Taking fully into account legal opinions addressed to the Sub-Commission by the Legal Counsel of the United Nations;

“11. *Requests* States when nominating and electing members and alternates to the Sub-Commission:

“(a) To be conscious of the strong concern to ensure that the body is independent and is seen to be so;

“(b) To keep in mind the need to ensure universality, a balanced representation, as well as the benefits of continuity and the importance of renewal;

“(c) To select members with acknowledged expertise in human rights;

“(d) To submit nominations, if possible, at least two months prior to the beginning of the session at which they will be elected, so as to enable the members of the Commission thoroughly to assess the qualifications and the independence of the nominees;

“(e) To keep in mind that they should be impartial and independent and without a conflict of interest;

“12. *Invites* the Secretary-General to give support to the Sub-Commission, inter alia by making available documentation in good time before each session in the official languages of the United Nations and assisting the Sub-Commission in requests for information from Governments and intergovernmental and non-governmental organizations, and reiterates that such requests, like all requests for concrete measures, must first have been approved by the Commission;

“13. *Recommends* that the Chairperson of the Sub-Commission or his/her representative attend the meeting of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission and the meeting of chairpersons of treaty bodies, so as to facilitate coordination between the Sub-Commission and other relevant bodies and procedures of the United Nations, in accordance with their respective mandates;

“14. *Invites* the Chairperson of the sixty-first session of the Commission to address the Sub-Commission at the opening meeting of its fifty-seventh session and to inform it about the present resolution and the debate that took place on this subject at the sixty-first session of the Commission under agenda item 16;

“15. *Invites* the Chairperson of the fifty-seventh session of the Sub-Commission to report to the Commission at its sixty-second session, including an assessment of how recent enhancements of the effectiveness of the Sub-Commission and of its mechanisms have worked in practice;

“16. *Decides* to consider the issue of the work of the Sub-Commission at its sixty-second session under the relevant agenda item.”

### **The work of the Sub-Commission on the Promotion and Protection of Human Rights**

6. At the same meeting, the observer for Latvia introduced draft resolution E/CN.4/2005/L.57, sponsored by Armenia, Australia, Belgium, Bulgaria, Croatia, Finland, Germany, Ireland, Latvia, San Marino, Slovakia, Sweden, Switzerland and Ukraine. Albania, Andorra, Austria, Canada, Chile, Cyprus, the Czech Republic, Denmark, Estonia, France, Greece, Guatemala, the former Yugoslav Republic of Macedonia, Hungary, Iceland, India, Italy,



Japan, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Poland, Portugal, Romania, the Russian Federation, Serbia and Montenegro, Slovenia, Spain and the United Kingdom of Great Britain and Northern Ireland subsequently joined the sponsors.

7. Statements in connection with the draft resolution were made by the representatives of Argentina, Cuba and the United States of America.

8. 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 implications<sup>2</sup> of the draft resolution.

9. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2005/53.

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<sup>2</sup> See footnote 2 above (chap. III, para. ...).