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President: Ms. Khan(Fiji)

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The meeting was called to order at 9 a.m.

Agenda item 3: Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development (*continued*)
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Draft resolution [A/HRC/48/L.7/Rev.1](#): Child, early and forced marriage in times of crisis, including the COVID-19 pandemic

1. **Mr. Bekkers** (Netherlands), introducing the draft resolution, as orally revised, on behalf of the main sponsors, namely Argentina, Canada, Honduras, Italy, Montenegro, Poland, Sierra Leone, Switzerland, Thailand, the United Kingdom, Uruguay and his own delegation, said that the incidence of child, early and forced marriage tended to increase in times of crisis. The coronavirus disease (COVID-19) pandemic was expected to give rise to an additional 10 to 13 million cases of child, early and forced marriage over the coming decade. It was important for States to address the underlying causes of child, early and forced marriage and to hold one another to the commitments already made in that regard. Some of the proposed amendments to the draft resolution would undermine rights set out in the Convention on the Rights of the Child and would constitute a failure to acknowledge that intimate partner violence was the most common form of violence faced by women and girls in the context of child, early and forced marriage.

2. **Mr. Gamaleldin** (Observer for Egypt), speaking via video link and introducing the proposed amendment contained in document [A/HRC/48/L.31](#), said that although the right to sexual and reproductive health was widely accepted as a component part of the right to physical and mental health, the right to sexual and reproductive health was not enshrined as a separate right in the International Covenant on Economic, Social and Cultural Rights or any other human rights treaty. The references to such a right in the draft resolution therefore could not be accepted. Moreover, the existing wording went against the relevant paragraphs of the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action. Lastly, the term “intimate partner” was not language that had been agreed upon. The use of that term reflected insensitivity to the legal and cultural context of some countries and represented an attempt to mainstream ambiguous language that could include same-sex relations.

3. **Ms. Sukacheva** (Russian Federation), introducing the proposed amendment contained in document [A/HRC/48/L.61](#), as orally revised, and the proposed amendment contained in document [A/HRC/48/L.62](#), said that the draft resolution did not reflect the guiding role played by parents in ensuring the safety of their children and determining the course of their children’s lives. Instead, it implied that parents were entirely to blame for cases of child, early and forced marriage. Furthermore, it conflated girls with women, thus depriving them of the protection afforded by the Convention on the Rights of the Child and placing them in a very vulnerable position. In addition, the reference to “review conferences” in the third preambular paragraph was too broad and included conferences that had been poorly attended. As a result, the paragraph effectively legitimized outcome documents containing ambiguous concepts that were not internationally accepted.

4. **Mr. Bekkers** (Netherlands) announced that the main sponsors of the draft resolution did not accept the proposed amendments.

5. **The President** announced that 12 States had joined the sponsors of the draft resolution, which had programme budget implications amounting to \$259,000. She invited members of the Council to make general statements on the draft resolution and the proposed amendments.

6. **Ms. Tichy-Fisslberger** (Austria), speaking on behalf of the States members of the European Union that were members of the Council, said that child, early and forced marriage was a human rights violation and a harmful practice that disproportionately affected women and girls. Even before the pandemic, the progress made towards ending child, early and forced marriage had been insufficient. Now, as a result of the disruption and global economic

downturn caused by the pandemic, the situation had worsened further still. The draft resolution drew attention to some important points, such as the impact of crisis situations on the incidence of child, early and forced marriage and the importance of access to education. The States members of the European Union supported the draft resolution and hoped that it would be adopted by consensus, without any amendment.

7. **Ms. Imene-Chanduru** (Namibia) said that, since the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action were mentioned in the third preambular paragraph, there was no need to refer to those documents elsewhere in the draft resolution. All the references to “reproductive rights” should be understood to mean the reproductive rights established in those instruments. Her delegation’s sponsorship of the draft resolution was based on that interpretation.

8. **Mr. Czech** (Poland) said that although significant progress had been made in recent years towards ending child, early and forced marriage, the global community must step up its efforts in the face of the pandemic. His delegation strongly supported the draft resolution, especially as it emphasized the need for targeted policies and the vulnerability of women and girls with disabilities.

9. **Mr. Lee Taeho** (Republic of Korea) said that the draft resolution highlighted a number of important measures for the prevention and elimination of child, early and forced marriage, such as quality education and the economic empowerment of women and girls. His delegation fully supported the draft resolution, opposed any amendment and encouraged the Council to keep the issue of child, early and forced marriage high on its agenda.

10. **Mr. Villegas** (Argentina), noting that his country was one of the main sponsors of the draft resolution, said that women and girls subjected to child, early and forced marriage were at greater risk of discrimination, violence and abuse. The root causes of child, early and forced marriage, which included structural and institutional discrimination against women and girls, must be eradicated. It was crucial to protect and uphold the rights of all women and girls, including the right to freely choose a spouse and the right to decide freely and responsibly on matters relating to sexuality. Comprehensive, multisectoral, human rights-based measures must be taken to prevent child, early and forced marriage, including in times of crisis. The Council should adopt the draft resolution in order to accelerate progress towards target 5.3 of the Sustainable Development Goals.

11. **Mr. Leweniqila** (Fiji) said that his delegation supported the draft resolution, which placed the issue of child, early and forced marriage within the context of the challenges currently facing the world and called on States to promote consultations with children and young people, including girls who were already married, on all issues that affected them, including through safe spaces and support networks. It was important to raise awareness of the rights of children and young people and the negative impact of child, early and forced marriage.

12. **Mr. Almiladi** (Libya) said that his country was committed to the protection of all persons, including women, and that Libyan legislation did not allow for child marriage. However, his delegation believed that some paragraphs of the draft resolution showed a lack of respect for the social, cultural and religious values of certain countries and contained language on controversial concepts, such as intimate partner violence, that had not been agreed upon. His delegation believed that a resolution of such importance required a unified approach that reflected the collective will of all members of the Council. It was willing to join a consensus on the draft resolution but wished to dissociate itself from the seventeenth and eighteenth preambular paragraphs and from paragraphs 1, 3 (c) and (d) and 6.

13. **Mr. Mahmoud** (Sudan) said that his Government had taken specific measures to promote the rights of women and to put an end to violations of their rights. The proposed amendments introduced by the representatives of Egypt and the Russian Federation did not run counter to the spirit of the draft resolution. They simply reaffirmed the diversity of human societies and the importance of the family as the starting point for the protection of human rights.

14. **Mr. Bal** (Mauritania) said that his Government was committed to protecting the rights of all persons, including children, and placed the fight against child, early and forced

marriage at the heart of its policies. The draft resolution should be aligned with the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action. Its provisions could then be implemented by States in accordance with their national legislation, development priorities and religious and cultural values. Unfortunately, some paragraphs of the draft resolution contained references to controversial concepts that undermined consensus. His delegation wished to distance itself from those references and would therefore vote in favour of the proposed amendments.

15. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.31](#).

Statements made in explanation of vote before the voting

16. **Ms. Martínez Liévano** (Mexico) said that her delegation intended to vote against the proposed amendment on the grounds that it would weaken the draft resolution by removing wording aimed at preventing child, early and forced marriage. The proposed changes to paragraphs 1, 3 (c) and 6 of the draft resolution sought to limit the scope of women's right to sexual and reproductive health, which was an integral part of the right to health and had already been recognized in the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action. Her delegation also rejected the proposed changes relating to the concept of intimate partner violence, since that concept must be recognized, regardless of how it was addressed in different legal systems. According to the World Health Organization, domestic violence, which included physical, sexual and emotional abuse by an intimate partner, was one of the most common forms of violence against women.

17. **Mr. Cornado** (Italy) said that his delegation, which was one of the main sponsors of the draft resolution, rejected the proposed amendment because it was intended to modify agreed language and to shift the focus away from certain fundamental aspects of the issue of child, early and forced marriage. The right to sexual and reproductive health was an integral part of the right to health, as recognized by the Committee on Economic, Social and Cultural Rights. The proposal to qualify the reference to "reproductive rights" by referring specifically to the Programme of Action of the International Conference on Population and Development and the Beijing Declaration and Platform for Action would exclude other important international and regional instruments that had a significant impact on the ground. In addition, there was no doubt that intimate partner violence was one of the most common forms of violence against women and girls, especially victims of child, early and forced marriage.

18. **Mr. Madsen** (Denmark) said that his delegation would vote against the proposed amendment on the grounds that it would undermine the main purpose of the draft resolution and weaken its message. His delegation strongly rejected the attempt to go against agreed language and to ignore the progress made in advancing the rights of women and girls since the adoption of the Programme of Action of the International Conference on Population and Development in 1994. Furthermore, his delegation could not accept the attempt to weaken the language relating to intimate partner violence, especially as victims of child, early and forced marriage were at particular risk of being subjected to such violence. His delegation found it regrettable that the proposed amendment dealt with two separate, unrelated issues that should not be conflated.

19. *At the request of the representative of the Netherlands, a recorded vote was taken.*

In favour:

Bahrain, Bangladesh, China, Eritrea, India, Indonesia, Libya, Malawi, Mauritania, Pakistan, Russian Federation, Senegal, Somalia, Sudan, Uzbekistan.

Against:

Argentina, Armenia, Austria, Bahamas, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Japan, Marshall Islands, Mexico, Namibia, Nepal, Netherlands, Poland, Republic of Korea, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Brazil, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Philippines.

20. *The proposed amendment contained in document A/HRC/48/L.31 was rejected by 23 votes to 15, with 6 abstentions.*

21. **The President** invited the Council to take action on the proposed amendment contained in document A/HRC/48/L.61, as orally revised.

Statements made in explanation of vote before the voting

22. **Ms. Tichy-Fisslberger** (Austria) said that her delegation would vote against the proposed amendment, as orally revised, which sought to modify key paragraphs of the draft resolution, including by removing agreed language. Girls' rights, including their right to sexual and reproductive health, could not be limited by direction and guidance from parents and legal guardians. Unfortunately, almost all cases of child, early and forced marriage were initiated or facilitated by parents or legal guardians. The aim of providing girls with comprehensive education on topics such as sexual and reproductive health was to build their self-esteem and help them to make informed decisions about their lives and bodies. Thus, the proposal to qualify the paragraph on education by inserting a reference to parental guidance ran counter to the thrust of the paragraph.

23. **Ms. Stasch** (Germany) said that her delegation could not accept the proposed amendment, as orally revised, since it sought to undermine the primary purpose of the draft resolution by removing references to, for example, the right to freely choose a spouse. In order to prevent child marriage, it was vital to ensure girls' access to education and essential health-care services without the need for parental consent. Weakening language that had already been agreed upon would set a dangerous precedent and would demonstrate a failure to uphold the commitments made by all States Members of the United Nations more than 25 years previously.

24. **Ms. French** (United Kingdom) said that access to education and information on human rights, sexual and reproductive health, respect for others, consent and dignity could contribute towards ending child, early and forced marriage. The draft resolution called on States to promote and protect the right of all women and girls to equal access to education, including in times of crisis, and made it clear that parents and legal guardians should be fully involved in that endeavour. Just three months previously, the Council had adopted, by consensus, resolution 47/5 on the realization of the equal enjoyment of the right to education by every girl. The proposed amendment sought to dilute the language used in that resolution in a way that was unnecessary and unhelpful, and its adoption would set a dangerous precedent. For that reason, her delegation would vote against it.

25. **Ms. Costa Prieto** (Uruguay) said that, as a sponsor of the draft resolution, Uruguay could not accept the proposed amendment, which would remove or modify fundamental elements of the text by delegitimizing the rights of girls, thus undermining its overall purpose. In particular, Uruguay could not accept the deletion of the eighteenth preambular paragraph, which reaffirmed that human rights included the rights to freely choose a spouse, to enter into marriage only with free and full consent and to have control over and to decide freely and responsibly on matters relating to sexuality. For the same reason, Uruguay did not accept the proposed change to paragraph 3 (c), which would remove the reference to girls' right to have control over and to decide freely and responsibly on matters relating to their sexuality. Uruguay encouraged all States committed to the eradication of child, early and forced marriage, including in the framework of their obligations under the 2030 Agenda for Sustainable Development, to reaffirm their commitment to the rights of girls by voting against the proposed amendment.

26. **Mr. Czech** (Poland) said that the proposed addition to paragraph 2, which would qualify the participation of girls in State-led approaches to prevent child, early and forced marriage, would roll back the right of participation enshrined in the Convention on the Rights of the Child. Furthermore, the proposed deletion, from paragraph 5 (a), of the references to direct financial services and freedom of movement was unacceptable because access to direct financial services was extremely important for the economic empowerment of girls who had been subjected to child, early or forced marriage and who were regarded as wives rather than

children. The right to freedom of movement was equally crucial for preventing the marginalization of women and girls in such marriages. Poland therefore called on the other members of the Council to join it in voting against the proposed amendment.

27. *At the request of the representative of the Netherlands, a recorded vote was taken.*

In favour:

Bangladesh, China, Eritrea, India, Libya, Mauritania, Pakistan, Russian Federation, Senegal, Somalia, Sudan, Uzbekistan.

Against:

Argentina, Armenia, Austria, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Japan, Malawi, Marshall Islands, Mexico, Namibia, Nepal, Netherlands, Philippines, Poland, Republic of Korea, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Bahamas, Bahrain, Brazil, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Indonesia, Togo.

28. *The proposed amendment contained in document [A/HRC/48/L.61](#), as orally revised, was rejected by 23 votes to 12, with 9 abstentions.*

29. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.62](#).

Statements made in explanation of vote before the voting

30. **Mr. Villegas** (Argentina) said that his delegation could not support the proposed amendment, which would add a clause to the third preambular paragraph that would limit the scope of the reference to the Programme of Action of the International Conference on Population and Development, the Beijing Declaration and Platform for Action and the outcome documents of their review conferences, excluding relevant regional agreements and frameworks for action. The proposed amendment also contradicted the language of recent General Assembly and Human Rights Council resolutions on violence against women and girls and the equal enjoyment of the right to education by every girl. As the proposal would weaken the human rights obligations of States, Argentina called on the Council members to vote against it.

31. **Mr. Bálek** (Czechia) said that the proposed amendment was inconsistent with the language adopted by the Council in previous resolutions and represented a regression in the human rights obligations of States. The insertion of the clause "as adopted by the General Assembly" would exclude regional and other fundamental agreements and frameworks and would contradict the agreed language adopted by Heads of State and Government in the 2030 Agenda for Sustainable Development. For those reasons, Czechia would vote against the proposal and called on all members to do the same.

32. *At the request of the representative of the Netherlands, a recorded vote was taken.*

In favour:

Bangladesh, Brazil, China, Eritrea, India, Indonesia, Libya, Mauritania, Pakistan, Russian Federation, Senegal, Somalia, Sudan, Uzbekistan.

Against:

Argentina, Austria, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Japan, Malawi, Marshall Islands, Mexico, Namibia, Netherlands, Philippines, Poland, Republic of Korea, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Armenia, Bahamas, Bahrain, Burkina Faso, Cameroon, Côte d'Ivoire, Gabon, Nepal, Togo.

33. *The proposed amendment contained in document [A/HRC/48/L.62](#) was rejected by 21 votes to 14, with 9 abstentions.*

34. **The President** invited the Council to take action on draft resolution [A/HRC/48/L.7/Rev.1](#), as orally revised.

Statements made in explanation of position before the decision

35. **Ms. Sukacheva** (Russian Federation) said that promoting and protecting the rights of young women and girls and creating favourable conditions for their development, growth and life choices were priorities. However, the rights of women and the rights of girls differed on account of the international legal regime for the protection of children. The draft resolution placed girls and women on an equal footing, giving girls full freedom of action without taking into account the role of parents and guardians, an approach that might be injurious to their health and well-being. Her delegation could not agree to the inclusion of references to intimate partner violence or the right to sexual and reproductive health and was deeply concerned to note that the text did not refer to the General Assembly in connection with the outcome documents of the review conferences for the Beijing Declaration and Platform for Action. Indeed, the language used seemed to be an attempt to legitimize human rights concepts that did not enjoy widespread consensus and were not necessarily helpful for the protection of the rights of the child. In the light of those concerns, the Russian Federation could not support the draft resolution and reserved the right to interpret it on the basis of its international obligations and domestic legislation.

36. **Mr. Bucheeri** (Bahrain) said that his Government attached great importance to children's rights, which it had successfully advanced in several areas while taking all necessary steps to tackle early and forced marriage. His delegation regretted that the sponsors had not accepted certain proposals, particularly the amendment contained in document [A/HRC/48/L.31](#), to take account of countries' cultural specificities and sensitivities. Bahrain therefore wished to enter reservations in respect of the seventeenth and thirty-fourth preambular paragraphs and paragraphs 1, 3 and 16.

37. **Mr. Seck** (Senegal) said that Senegal, having ratified the Convention on the Rights of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, continued to strive to improve the protection of women and children, including by minimizing the number of child, early and forced marriages. As that practice, like the COVID-19 pandemic, had multiple impacts on the economic, legal, social and health status of girls, the Government had launched a raft of measures to break the cycle of poverty and powerlessness.

38. In that context, his delegation had decided to join the consensus in support of the draft resolution, although it noted that the text contained contentious terms such as "right to sexual and reproductive health", "bodily autonomy" and "intimate partner". Senegal therefore dissociated itself from the third, fifteenth, sixteenth and seventeenth preambular paragraphs and from paragraphs 1, 3, 6 and 7. Nothing in the draft resolution should be interpreted as a denial of parental rights.

39. **Mr. Suleman** (Pakistan) said that the promotion and protection of the rights of women and girls and the elimination of discrimination, violence and harmful practices remained a shared priority. Child, early and forced marriage was a human rights violation that had disproportionate consequences for women and girls and impeded progress towards women's empowerment and gender equality goals. Pakistan remained committed to ensuring the enjoyment of women's fundamental rights and had taken many steps to promote children's welfare and development, including the prohibition of child marriage and the introduction of penalties for non-compliance. It was also necessary to tackle the underlying causes and drivers of that phenomenon, including socioeconomic inequality, poverty and lack of access to education and health services. Unfortunately, the magnitude of those challenges had increased as a result of the COVID-19 pandemic.

40. During the informal consultations on the text, Pakistan had emphasized the importance of keeping the focus on the prevention of child, early and forced marriage, while building on international human rights law and agreed language from negotiated documents. It strongly advocated women's and girls' access to the highest attainable standards of physical and mental health, including access to reproductive health as agreed in the Beijing Declaration and Platform for Action. However, certain elements of the draft resolution

diverted attention from its core purpose and ignored the need to respect diversity and social, cultural and religious values. It included language that did not reflect consensus and failed to differentiate between the rights of women and those of girls. Given the overall importance of the resolution, Pakistan was willing to join the consensus on the draft text, while dissociating itself from the seventeenth and eighteenth preambular paragraphs and from paragraphs 1, 3 (c) and (d) and 6.

41. **Ms. Haque** (Bangladesh) said that child, early and forced marriage was undeniably a harmful practice that disproportionately affected women and girls globally. Bangladesh supported all efforts to address the issue. However, it was concerned that the draft failed to take into account the fact that girls and boys could not assume responsibilities or exercise rights on an equal footing with women and men. In particular, the recognition of girls' bodily autonomy, in respect of access to sexual and reproductive health, would create a new set of obligations that went beyond the scope of international human rights instruments, including the Convention on the Rights of the Child. Furthermore, the draft did not make reference to appropriate direction and guidance from parents and legal guardians in the context of children's access to education on sexual and reproductive health, whereas the Convention clearly stipulated that parents and legal guardians had a central guiding role to play in the upbringing of children. Bangladesh also rejected the ambiguous reference to the "right to sexual and reproductive health", since international law did not recognize such a right, and the concept of "intimate partner violence", which lacked an internationally agreed definition. For those reasons, Bangladesh dissociated itself from the seventeenth and eighteenth preambular paragraphs and from paragraphs 1, 3 (c) and (d) and 6. That position would have no impact on its existing international commitments.

42. **Mr. Taihitu** (Indonesia) said that Indonesia always upheld the principle of the best interests of the child in discussions in the Council. The Government continued to raise awareness among the population, particularly girls, in line with their evolving capacities, of the negative effects of child, early and forced marriage. Indonesian law clearly stipulated that marriage should be based on consent and prescribed a minimum age for marriage, thus protecting the well-being of women and girls. The Government took the view that the family was fundamental for promoting the rights of children and protecting them from all forms of exploitation. It also considered that children should grow up in a family environment, in an atmosphere of happiness, love and understanding. Accordingly, it had continued to develop family-friendly policies, including those that promoted the economic empowerment of families as a means of preventing child, early and forced marriage.

43. Indonesia supported the main intentions of the draft resolution and its delegation had been actively involved in the informal consultations. Regrettably, not all of its comments and suggestions had been taken up. The draft resolution did not accurately reflect the divergent views of many States on the concepts of bodily autonomy, the right to sexual and reproductive health, sexuality and the role of parents and the family in the education of children. Nevertheless, Indonesia would continue to support multilateral efforts to eradicate child, early and forced marriage, including through the adoption of the draft resolution by consensus.

44. **Mr. Idris** (Eritrea) said that his delegation would support the draft resolution in view of the importance of the topic. Eritrea had supported the proposed amendments intended to recognize the role of the family and remove undesirable references to concepts that were contrary to the spirit of the draft resolution. Eritrea remained opposed to such language.

45. **Mr. Mahmoud** (Sudan) said that his Government recognized the danger of child, early and forced marriage, which was a blatant violation of the rights of the child. Although Sudan would join the consensus on the draft resolution, it dissociated itself from the paragraphs that included contentious terminology.

46. **The President** announced that France had withdrawn its sponsorship of the draft resolution.

47. **Mr. Jaber** (France) said that the draft resolution addressed a sickening and atrocious human rights violation of which women and girls were the main victims. Women and girls subjected to early and forced marriage were vulnerable to sexual abuse and physical and psychological violence at the hands of men to whom they had been married without their

consent. Child marriages mired girls, adolescents and young women in conditions of servitude, misery and powerlessness that were a barely disguised form of slavery. Often they were prevented from continuing their education, enjoying their rights or living in dignity, and the socioeconomic impact of the pandemic threatened to exacerbate the problem. It was thus crucial to allow women to fully and effectively participate in economic, political and social life and in the post-pandemic recovery. In taking up the issue of early and forced marriage, the Council was duty-bound to take strong measures, commensurate with the seriousness of the problem, to prevent and put an end to the practice. France called upon the members to unite in demonstrating their commitment to gender equality, and to send a message of solidarity and hope to future generations of girls and boys by rejecting all amendments and adopting the draft resolution by consensus.

48. *Draft resolution [A/HRC/48/L.7/Rev.1](#), as orally revised, was adopted.*

Draft resolution [A/HRC/48/L.8](#): Negative impact of the legacies of colonialism on the enjoyment of human rights

49. **Mr. Chen Xu** (China), speaking via video link and introducing the draft resolution, as orally revised, said that in 2021, which marked the beginning of the Fourth International Decade for the Eradication of Colonialism, the legacies of colonialism continued to hold back world peace and development. For that reason, China and the other main sponsors had submitted the draft resolution, whereby the Council would recognize that the legacies of colonialism, in all their manifestations, such as economic exploitation, inequality within and among States, systemic racism, violations of indigenous peoples' rights, contemporary forms of slavery and damage to cultural heritage, had a negative impact on the effective enjoyment of all human rights. The Council would also decide to convene a panel discussion at its fifty-first session to identify challenges in addressing that negative impact.

50. Following open and constructive informal consultations, an oral revision consisting of the addition of two preambular paragraphs had been circulated. Unfortunately, the United Kingdom, without prior communication with the sponsors, had suddenly proposed amendments that were irrelevant to the substance of the draft resolution. As the United Kingdom had a history of colonizing other countries, its attempt to water down the draft resolution and shift the focus of the discussion in order to evade its responsibilities was not surprising. China called on the Council to support accountability, truth and justice for the victims of colonialism by voting against the amendments and in favour of the draft resolution, as orally revised.

51. **The President** invited the representative of the United Kingdom to introduce the proposed amendments contained in documents [A/HRC/48/L.59](#) and [A/HRC/48/L.60](#). She announced that the United Kingdom had withdrawn the amendment contained in document [A/HRC/48/L.58](#).

52. **Mr. Manley** (United Kingdom), introducing the proposed amendments, said that because none of the points that the United Kingdom had made or supported during the informal consultations had been incorporated into the draft resolution, it was now required to seek their introduction through amendments. The draft resolution was not purely procedural, as the Chinese delegation had portrayed it to be, since it clearly introduced new wording and concepts. Given its substantive nature, the draft resolution should address certain pressing issues in a balanced manner. It was for that reason that the United Kingdom had proposed two new operative paragraphs.

53. The proposed amendment contained in document [A/HRC/48/L.59](#) introduced language taken from the report of the eighteenth session of the Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, which had been adopted by consensus. The key message of the paragraph was that persecution against members of any identifiable group or community constituted a serious violation of human rights and might qualify as a crime against humanity. Given that the oral revision excluded some important elements of the Durban Declaration, the amendment was necessary, relevant and constructive.

54. The proposed amendment contained in document [A/HRC/48/L.60](#) was based on language from paragraph 6 of Council resolution 43/8 on the rights of persons belonging to

minorities, which had also been adopted by consensus. It highlighted the real danger of forced assimilation and the need to avoid stereotypes in educational curricula and other materials. As people belonging to minorities continued to face such threats, including on a massive scale, the United Kingdom urged all delegations to vote in favour of both amendments.

55. **Mr. Jiang Duan** (China) said that China could not accept the amendments proposed by the United Kingdom.

56. **The President** announced that eight delegations had joined the sponsors of the draft resolution, which had programme budget implications amounting to \$74,400. She invited the Council members to make general statements on the draft resolution and on the two amendments proposed by the United Kingdom.

57. **Ms. Khusanova** (Russian Federation) said that the Russian Federation welcomed the introduction of the draft resolution. Paragraph 1 of the Declaration on the Granting of Independence to Colonial Countries and Peoples stated: “The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and cooperation.” Regrettably, some countries continued to be subjected to foreign interference and the exploitation of their resources. If the populations of such countries were thus deprived of their rights, including the right to property, then inequality between States would widen. Considering that the convening of a panel discussion would allow for an exchange of views and might provide the outline of a solution to minimize the negative impact of the legacies of colonialism on the enjoyment of human rights, the Russian Federation called on all delegations to support the draft resolution.

58. **Ms. Macdonal Alvarez** (Plurinational State of Bolivia) said that eradicating colonialism and its negative impact should be a goal of all States. Since 2006, Bolivia had engaged in a decolonization process aimed at overcoming interventionism, subjugation, racism and division. For indigenous peoples, colonialism continued to have negative impacts in terms of their identities, ownership and self-determination of territories, languages, forms of organization, traditions and ancestral values. Her delegation therefore recognized the importance of the draft resolution and hoped that it would attract the support of the other delegations.

59. **Mr. Idris** (Eritrea) said that decades of efforts to eradicate colonialism had not been entirely successful, as its legacies continued to have a severe negative impact on the enjoyment of human rights. It was thus appropriate that the Council should discuss the issue. Since the proposed amendments might substantially weaken the theme of the draft resolution and divert the focus of the discussion to the rights of indigenous people, States that favoured discussions on the legacies of colonialism should support the draft resolution and vote against the amendments.

60. **Mr. Suleman** (Pakistan) said that the introduction of the draft resolution was timely and resonated with all countries that had had to contend with colonialism. Colonialism in any form or manifestation contravened the Charter of the United Nations and the Universal Declaration of Human Rights, yet millions of people continued to face daily hardships and indignities that lingered on from the effects of colonial domination and foreign occupation. That situation called for concrete action by the global community, including the Council. Pakistan welcomed the proposal to convene a panel discussion, which it hoped would allow the Council to shape an action-oriented response to contemporary human rights concerns. It fully supported the draft resolution and encouraged others to do likewise.

61. **Mr. Badhe** (India) said that India had been at the forefront of the struggle against colonialism; its freedom movement had inspired similar movements in other countries under colonial rule. The delegation of India believed that the Fourth Committee of the General Assembly and, in particular, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples were the most appropriate forums in which to discuss issues related to decolonization and that the Council should resist the temptation to take up issues that were being dealt with elsewhere in the United Nations system. However, his delegation would support the draft resolution.

62. **Ms. Pua-Diezmos** (Philippines) said that the adverse and enduring legacies of colonialism had been largely overlooked in human rights discourse. During the informal consultations on the draft resolution, her delegation had paid close attention to views from all sides, including the argument that the initiative might duplicate the efforts of the Group of African States on systemic racism. However, colonialism had ravaged more than one continent and its complex legacies went beyond systemic racism. It was clear that there was a need for an honest, open and considered conversation on the subject. Despite the acknowledgement of atrocities and other negative impacts, there was still, regrettably, a sense of nonchalance, if not denial, about the pervasive legacies that continued to underpin inequalities. Undoing such ills was a complex and difficult process that was at the heart of States' efforts to achieve more equal, inclusive and just societies.

63. In the Philippines, which had been under Spanish colonial rule for over three centuries, the regalian doctrine of land ownership – whereby all lands in the public domain, and all their natural resources, belonged to the State – had posed a major obstacle to the self-determination of indigenous peoples. Thus, the passage of the Indigenous Peoples' Rights Act in the 1990s had signalled victory for the effort to advance indigenous rights and correct a grave historical injustice visited upon indigenous peoples, who for centuries had been dispossessed of their ancestral lands. The Act recognized ancestral domains as private community property that was to be owned, controlled and managed by indigenous peoples.

64. In many countries, the pursuit of human rights entailed uprooting and unravelling vestiges of colonialism. The United Nations High Commissioner for Human Rights and several special procedure mandate holders had called attention to human rights challenges in relation to legacies of colonialism. For her delegation, a panel discussion was a modest step that could help promote constructive dialogue and historical understanding. The Philippines fully supported the draft resolution and did not support the proposed amendments.

65. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.59](#).

Statements made in explanation of vote before the voting

66. **Ms. Khusanova** (Russian Federation) said that the Russian Federation had not previously been apprised of the content of either of the proposed amendments, the purpose of which was clearly to exacerbate the politicization of the Council and to hamper its ability to engage in mutually respectful dialogue. The main sponsors of the draft resolution, on the other hand, had taken a constructive approach. Her delegation would vote against both proposed amendments and called on other delegations to do likewise.

67. **Mr. Constant Rosales** (Bolivarian Republic of Venezuela) said that his delegation, which was one of the main sponsors of draft resolution [A/HRC/48/L.8](#), as orally revised, was opposed to the proposed amendment contained in document [A/HRC/48/L.59](#). That the United Kingdom – a country that was illegally taking unilateral coercive measures that violated the rights of the very people it was purporting to protect with its proposals – meant well in sponsoring that amendment was inconceivable. Furthermore, the United Kingdom was unlawfully blocking the release, from the Bank of England, of 31 tons of gold belonging to the Venezuelan people. Its courts had rejected his Government's proposal to sell the gold to raise funds for pandemic relief in his country, in particular for members of vulnerable groups, including indigenous people. His delegation would vote against the proposed amendment and hoped that other delegations would do so as well.

68. **Mr. Quintanilla Román** (Cuba) said that although his delegation agreed with the content of the proposed amendments, their aims were incompatible with the primary aims of the draft resolution. In addition, not every Council member had been given an opportunity to consider the amendments during the informal consultations. The sponsors of the draft resolution, on the other hand, had addressed many of the concerns raised about the draft. Cuba would thus vote against the proposed amendments.

69. **Mr. Lanwi** (Marshall Islands) said that the Marshall Islands had experienced the harmful effects of colonial-era structures. It nonetheless intended to vote in favour of the amendments proposed by the United Kingdom, as they included references to general human

rights principles that were missing from the draft resolution, a divisive text that ignored current human rights violations for which colonialism was not to blame.

70. *At the request of the representative of the Bolivarian Republic of Venezuela, a recorded vote was taken.*

In favour:

Argentina, Austria, Bahamas, Bulgaria, Czechia, Denmark, France, Germany, Italy, Japan, Marshall Islands, Netherlands, Poland, Republic of Korea, Togo, United Kingdom of Great Britain and Northern Ireland.

Against:

Cameroon, China, Cuba, Eritrea, Fiji, India, Nepal, Pakistan, Philippines, Russian Federation, Somalia, Sudan, Venezuela (Bolivarian Republic of).

Abstaining:

Armenia, Bahrain, Bangladesh, Brazil, Burkina Faso, Côte d'Ivoire, Gabon, Indonesia, Libya, Malawi, Mauritania, Mexico, Namibia, Senegal, Uruguay, Uzbekistan.

71. *The proposed amendment contained in document [A/HRC/48/L.59](#) was adopted by 16 votes to 13, with 16 abstentions.*

72. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.60](#).

73. *At the request of the representative of the Bolivarian Republic of Venezuela, a recorded vote was taken.*

In favour:

Austria, Bahamas, Bulgaria, Czechia, Denmark, France, Germany, Italy, Japan, Marshall Islands, Netherlands, Poland, Republic of Korea, Togo, United Kingdom of Great Britain and Northern Ireland.

Against:

Cameroon, China, Cuba, Eritrea, Fiji, India, Nepal, Pakistan, Philippines, Russian Federation, Somalia, Sudan, Venezuela (Bolivarian Republic of).

Abstaining:

Argentina, Armenia, Bahrain, Bangladesh, Brazil, Burkina Faso, Côte d'Ivoire, Gabon, Indonesia, Libya, Malawi, Mauritania, Mexico, Namibia, Senegal, Uruguay, Uzbekistan.

74. *The proposed amendment contained in document [A/HRC/48/L.60](#) was adopted by 15 votes to 13, with 17 abstentions.*

75. **The President** invited the Council to take action on draft resolution [A/HRC/48/L.8](#), as orally revised and amended.

Statements made in explanation of vote before the voting

76. **Mr. Manley** (United Kingdom) said that although the draft resolution had been portrayed as one that was procedural in nature, his Government disagreed. The draft introduced substantive issues that required further consideration. His delegation would have preferred a fuller discussion of the eighth preambular paragraph, for instance, which listed a number of human rights issues that purportedly stemmed from the legacies of colonialism.

77. His delegation had sought to make the draft worthier of the Council's attention. The issues that the amendments proposed by the United Kingdom had addressed were issues on which there had long been consensus in the Council. The support that the amendments had received was appreciated by his delegation.

78. **Ms. Tichy-Fisslberger** (Austria), speaking on behalf of the States members of the European Union that were members of the Council, said that the European Union was steadfast in its commitment to addressing the negative impact of the legacies of colonialism but could not support the draft resolution, which it did not view as a genuine attempt to address that impact. Not many of the constructive proposals made by European Union

member States were reflected in the draft. Even as amended, the draft had a narrow focus, not recognizing that colonialism was not only a thing of the past. The European Union would have preferred a closer focus on relevant contemporary forms of colonialism. The States on whose behalf she was speaking would abstain from voting on the draft resolution.

79. **Ms. Stasch** (Germany) said that Germany, as a country with a short albeit troubling colonial past, was strongly committed to examining that past. The colonial past had shaped how people thought about each other, both consciously and subconsciously. Reconciliation would require an apology for crimes committed during German colonial rule and action to combat the colonial influences still present in German society. Germany reiterated its firm commitment to continuing to discuss the negative impact of the legacies of colonialism in the Council. It had supported the Council's decision, in resolution 47/21, to establish an international independent expert mechanism to further transformative change for racial justice and equality in the context of law enforcement globally, especially where relating to the legacies of colonialism.

80. The draft resolution before the Council, regrettably, did not take a constructive approach. It would lead to duplication of effort, which was inadvisable at a time of funding constraints, and to polarization. Germany would therefore abstain from voting on the draft resolution.

81. **Mr. Villegas** (Argentina) said that Argentina welcomed the introduction of the draft resolution, which it supported, and the willingness of the sponsors to accept suggestions during the informal consultations. The issue of the negative impacts of the legacies of colonialism on the enjoyment of human rights in countries that had once been colonized fell within the purview of the Council. Questions relating to Non-Self-Governing Territories, on the other hand, were dealt with by the General Assembly and its Special Committee on decolonization.

82. *At the request of the representative of the United Kingdom, a recorded vote was taken.*

In favour:

Argentina, Armenia, Bahamas, Bangladesh, Bolivia (Plurinational State of), Brazil, Burkina Faso, Cameroon, China, Côte d'Ivoire, Cuba, Eritrea, Fiji, Gabon, India, Indonesia, Malawi, Mexico, Namibia, Nepal, Pakistan, Philippines, Russian Federation, Somalia, Sudan, Uruguay, Venezuela (Bolivarian Republic of).

Against:

None.

Abstaining:

Austria, Bahrain, Bulgaria, Czechia, Denmark, France, Germany, Italy, Japan, Libya, Marshall Islands, Mauritania, Netherlands, Poland, Republic of Korea, Senegal, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uzbekistan.

83. *Draft resolution [A/HRC/48/L.8](#), as orally revised and amended, was adopted by 27 votes to none, with 20 abstentions.*

Draft resolution [A/HRC/48/L.13](#): Promotion of a democratic and equitable international order

84. **Mr. Quintanilla Román** (Cuba), introducing the draft resolution, said that the crises currently facing the world, including the pandemic, had proved the need for a democratic and equitable international order. Such an order would help countries with their efforts to promote and protect human rights. The draft resolution was not intended to be punitive; on the contrary, it highlighted the importance of cooperation, democracy and equity at the international level. As the President of Cuba had recently stated before the General Assembly, the profoundly unequal and anti-democratic international order, in which preference was given to the miserable interests of the few rather than to the legitimate aspirations of the majority, had to be transformed. Cuba hoped that the Council would adopt the draft resolution, thereby demonstrating once again the great importance that the

international community attached to multilateralism and to the promotion of a democratic and equitable international order.

85. **The President** said that 12 additional States had joined the sponsors of the draft resolution, which had no programme budget implications.

Statements made in explanation of vote before the voting

86. **Ms. Filipenko** (Ukraine) said that her Government was committed to supporting meaningful and practical efforts to promote a democratic and equitable international order; however, it could not agree with the approach taken in the draft resolution, which dealt with issues not within the Council's purview and made no mention of the need for a rules-based international order that was consistent with the principles of international law, including those pertaining to State sovereignty and territorial integrity. For that reason, Ukraine called for a vote on the draft resolution and would vote against it.

87. **Ms. Tichy-Fisslberger** (Austria), speaking on behalf of the States members of the European Union that were members of the Council, said that the European Union was committed to continuing to work towards a democratic and equitable international order but was of the view that some elements of the mandate of the Independent Expert on the promotion of a democratic and equitable international order had been selected arbitrarily, had been taken out of context or went beyond the purview of the Council. For those reasons, the European Union could not support the draft resolution, and the States members of the European Union that were members of the Council would vote against it.

88. *At the request of the representative of Ukraine, a recorded vote was taken.*

In favour:

Argentina, Bahamas, Bahrain, Bangladesh, Bolivia (Plurinational State of), Burkina Faso, Cameroon, China, Côte d'Ivoire, Cuba, Eritrea, Fiji, Gabon, India, Indonesia, Libya, Malawi, Mauritania, Namibia, Nepal, Pakistan, Philippines, Russian Federation, Senegal, Somalia, Sudan, Togo, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of).

Against:

Austria, Bulgaria, Czechia, Denmark, France, Germany, Italy, Japan, Marshall Islands, Netherlands, Poland, Republic of Korea, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining:

Armenia, Brazil, Mexico.

89. *Draft resolution [A/HRC/48/L.13](#) was adopted by 30 votes to 14, with 3 abstentions.*

Draft resolution [A/HRC/48/L.17/Rev.1](#): Question of the death penalty

90. **Mr. Achode** (Observer for Benin), introducing the draft resolution on behalf of the main sponsors, namely Belgium, Costa Rica, France, Mexico, Mongolia, Republic of Moldova, Switzerland and his own delegation, said that the aim of the text, a version of which was introduced every two years, was to promote substantive discussion of the death penalty from a human rights perspective. The current year's draft focused on the consequences arising from the lack of transparency in the imposition and application of the death penalty, which was the subject of the Secretary-General's most recent report on the question of the death penalty ([A/HRC/48/29](#)). The draft resolution accurately reflected the conclusions drawn by the Secretary-General in his report. The draft also drew on the wording of previous years' resolutions on the question of the death penalty.

91. **Mr. Erdenebaatar** (Observer for Mongolia) said that although the angle from which the question of the death penalty was viewed varied from one iteration of the resolution to the next, consideration was always given to the human rights implications of the imposition and the application of the death penalty. The resolutions concerned the protection of human rights; they did not concern whether the death penalty should be abolished or retained or whether there should be a moratorium on the death penalty. Although differing views had been expressed on draft resolution [A/HRC/48/L.17/Rev.1](#), the discussions had been

constructive, and the draft was a positive addition to the debate on the question of the death penalty. It also set the stage for future discussions, including the high-level panel discussion on the question of the death penalty to be held in March 2023. Under the draft resolution, the Council would request the Secretary-General to dedicate the 2023 supplement to his quinquennial report on capital punishment to the relationship between articles 6 and 14 of the International Covenant on Civil and Political Rights. The main sponsors trusted that all delegations would support the draft resolution.

92. **Mr. Bhatia** (Observer for Singapore), introducing two proposed amendments to the draft resolution ([A/HRC/48/L.63](#) and [A/HRC/48/L.64](#)), said that current year's draft resolution on the question of the death penalty focused on transparency. Singapore agreed that due process and the rule of law were paramount, including in the criminal justice system. The draft resolution before the Council, however, was a missed opportunity to build bridges. The main sponsors were continuing to use the resolution to push their abolitionist agenda and were unwilling to accept substantive amendments to the draft. During the informal consultations, a cross-regional group of delegations, including his own, had expressed concerns about the draft, including with respect to several mischaracterizations of international law. The aim of the proposed amendment in document [A/HRC/48/L.63](#) was to state clearly that the general comments adopted by the human rights treaty bodies had not attained the status of customary international law, while the aim of the proposed amendment in document [A/HRC/48/L.64](#) was to note that there was no international consensus on what was meant by the words "the most serious crimes". In putting forward the proposed amendments, which were statements of fact, his delegation also sought to add much-needed balance to the draft resolution. States members of the Council that valued State sovereignty should vote in favour of them.

93. **Mr. Gamaleldin** (Observer for Egypt), speaking via video link and introducing the proposed amendment contained in document [A/HRC/48/L.65](#), said that it had been put forward by a group of 18 delegations. Egypt respected the choices of the States that had stopped imposing or applying the death penalty and expected respect for the choices of the States that had not taken such a step. Renunciation of the death penalty was a sovereign decision. All delegations were asked to vote in favour of the amendment he was presenting, as it emphasized the importance of respecting the will of the people.

94. **Ms. Allassaf** (Observer for Saudi Arabia), speaking via video link and introducing the amendment contained in document [A/HRC/48/L.66](#), which her delegation and a group of other delegations had proposed, said that it was intended to make up for the failure of the main sponsors of the draft resolution to take into account the proposals that her delegation and others had made during the informal consultations. The proposed amendment reaffirmed the right of all States to determine appropriate legal penalties in accordance with their obligations under international law. She hoped that it would find favour with Council members.

95. **Ms. Martínez Liévano** (Mexico), speaking on behalf of the sponsors of the draft resolution, said that none of the proposed amendments was acceptable and requested that a vote should be taken on all of them. The sponsors of the draft would vote against the amendments.

96. **The President** said that nine additional States had joined the sponsors of the draft resolution, which had programme budget implications amounting to \$28,600. She invited the Council members to make general statements on the draft resolution and the proposed amendments.

97. **Ms. Tichy-Fisslberger** (Austria), speaking on behalf of the States members of the European Union that were members of the Council, said that the European Union strongly opposed capital punishment, a cruel, inhuman and irreversible punishment with no deterrent effect. The abolition of the death penalty was not a matter of culture or tradition; States the world over had abolished the death penalty. The determining factor was political will.

98. The main sponsors had done what they could to accommodate differing views, and the draft was balanced. The proposal of hostile amendments, in which the usual arguments about State sovereignty were made, was deeply regrettable. On the pretext of sovereignty, after all, people were being sentenced to death on discriminatory grounds or for behaviour

that should not be criminalized in the first place. Death sentences could be imposed only for the most serious crimes – in other words, crimes involving intentional killing. Expressing an opinion, for example, or converting from one religion to another could not be considered serious crimes. The States members of the European Union that were members of the Council would vote in favour of the draft resolution and against the proposed amendments.

99. **Mr. Villegas** (Argentina) said that his country was firmly opposed to the death penalty. It was also firmly committed to the worldwide abolition of the death penalty and was pleased to note that the number of abolitionist States was growing by the year. All States should introduce moratoriums on the execution of sentences of death and abolish the death penalty altogether.

100. Argentina appreciated the focus on transparency and other aspects of the draft resolution. Although it would have preferred a resolution condemning the death penalty, it would vote in favour of the draft resolution and urged its fellow Council members to do likewise.

101. **Mr. Idris** (Eritrea) said that the rights of offenders must be weighed against the rights of victims and their families and the broader rights of the community. For many countries, the death penalty was an important part of the criminal justice system and a deterrent to what their societies considered to be the most serious crimes. There was no international consensus on the definition of the most serious crimes or on the use of the death penalty when it was imposed in accordance with due process and the application of safeguards. Under international human rights law, States clearly had a sovereign right to hold various views on those questions. Eritrea had observed a de facto moratorium on the use of the death penalty for over 20 years and had hoped that the Council could adopt a consensual resolution recognizing the sovereign right of States to determine such penalties and to develop their legal and criminal justice systems in accordance with their international obligations. Regrettably, that proposal had not garnered the necessary momentum since the adoption of the most recent General Assembly resolution on the same subject. Eritrea would abstain from voting on the draft resolution as it stood and would support the adoption of the various proposed amendments so as to accommodate a wider range of views.

102. **Mr. Almiladi** (Libya) said that the votes on past resolutions on the death penalty had shown that there was no international consensus for or against the death penalty when it was imposed in accordance with due process. The International Covenant on Civil and Political Rights clearly stated that the death penalty could be imposed for the most serious crimes. Libya did not support any attempt to unilaterally define such crimes or to use general comments to support a particular narrative. Every State had an inalienable, sovereign right to choose its criminal justice system, in line with international law. In Libya, the death penalty was applied only after the full observance of due process, pursuant to a final judgment rendered by a competent court and after review by the Supreme Court. The refusal of the main sponsors to accept the proposed amendments was regrettable. Libya would vote against the draft resolution and would dissociate itself from it if it was adopted.

103. **Mr. Leweniqila** (Fiji) said that his delegation supported the draft resolution as it stood and opposed all the proposed amendments, as they were contrary to the spirit of the text. Fiji had abolished the death penalty in law and in practice, in accordance with a commitment that its Government had made during the second cycle of the universal periodic review; previously, the death penalty had not been used since 1964. Over the years, an increasing number of States had joined the abolition movement, and there was thus heightened responsibility for those that still retained the death penalty. The draft resolution did not undermine the sovereignty of States, but reaffirmed some of the basic elements of the International Covenant on Civil and Political Rights and the safeguards guaranteeing protection of the rights of those facing the death penalty, as set out in Economic and Social Council resolution 1984/50. The draft resolution focused on issues such as transparency and the protection of human rights in the context of the death penalty. Fiji was thus among the sponsors of the draft resolution.

104. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.63](#).

Statements made in explanation of vote before the voting

105. **Ms. Martínez Liévano** (Mexico) said that the proposed amendment sought to define the legal value of the general comments adopted by the treaty bodies. While general comments were not legally binding, the Human Rights Council was not the appropriate forum in which to discuss the legal value of the treaty bodies' work, let alone to determine the sources of international law. The proposed amendment did not respect the independence of the treaty bodies. The interpretation of the legal value of general comments and the work of the treaty bodies was the sole responsibility of the States parties to the instruments in question, and thus should be taken up only at the respective conferences of States parties. General comments were a useful tool for the interpretation of treaties and of the nature and scope of States' obligations thereunder. The proposed amendment could undermine the treaty bodies' contributions to international law and to the interpretation of treaties. Its adoption would set a negative precedent in terms of both substance and procedure. She called on all members of the Council to vote against it.

106. **Ms. Stasch** (Germany) said that the aim of the proposed amendment was to define the legality of general comments in a Council resolution that did not even mention general comments or touch upon the mandates of the treaty bodies. The draft resolution referred only once to a treaty body, the Human Rights Committee, and its Views. The proposal was an attempt to weaken the treaty bodies, and particularly their contribution to the development of international law and the interpretation of treaties, while at the same time depriving the resolution of some of its important substance. The amendment's adoption would set a very bad precedent both substantively and institutionally, as it would imply that such amendments could be made to other thematic resolutions whenever the amendments' sponsors did not agree with substantive issues that were reflected in general comments. She called on all members of the Council to vote against the proposed amendment.

107. *At the request of the representative of Mexico, a recorded vote was taken.*

In favour:

Bahamas, Bahrain, Bangladesh, Cameroon, China, Cuba, Eritrea, India, Indonesia, Japan, Libya, Malawi, Pakistan, Philippines, Russian Federation, Somalia, Sudan.

Against:

Argentina, Armenia, Austria, Brazil, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Marshall Islands, Mauritania, Mexico, Namibia, Nepal, Netherlands, Poland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Burkina Faso, Côte d'Ivoire, Gabon, Republic of Korea, Senegal, Uzbekistan.

108. *The proposed amendment contained in document [A/HRC/48/L.63](#) was rejected by 22 votes to 17, with 6 abstentions.*

109. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.64](#).

Statements made in explanation of vote before the voting

110. **Mr. Moerzinger Pagani** (Uruguay) said that, as a sponsor of the draft resolution, his delegation was convinced that the right to life was an essential human right and that the death penalty was the most direct and blatant violation of that right. Uruguay could not accept the amendment, which sought to limit the interpretation of the term "the most serious crimes" by including a specific mention of the Human Rights Committee and the Secretary-General. In his delegation's view, the goal of the proposed amendment was to weaken the broad understanding of that term by the international community and within the case law of international and regional human rights bodies. For example, the Inter-American Court of Human Rights had recognized that the fact that article 4 (2) of the American Convention on Human Rights limited the imposition of the death penalty to the most serious crimes indicated that the death penalty was to be applied in truly exceptional circumstances only. The proposed amendment disregarded existing agreements on the need for a restrictive

interpretation of the term “most serious crimes”. He encouraged all members of the Council to reaffirm their commitment to the progressive development of international law and the protection of the right to life by voting against the proposed amendment.

111. **Mr. Froment** (France) said that the proposed amendment was clearly aimed at qualifying the restrictive interpretation of the term “most serious crimes”. The preambular paragraph in question was very different from the text adopted in Council resolution 42/24, and was thus not a basis for negotiation. Paragraph 1 of the safeguards set out in Economic and Social Council resolution 1984/50 specified that in countries that had not abolished the death penalty, capital punishment could be imposed only for the most serious crimes, it being understood that such crimes must be intentional and have lethal or other extremely grave consequences. The Human Rights Council itself had referred to “the most serious crimes” in numerous past resolutions. France would vote against the proposed amendment and called upon all members of the Council to do likewise.

112. **Mr. Bekkers** (Netherlands) said that his delegation strongly supported the draft resolution as it stood and regretted that amendments had been proposed, including the one proposed in document [A/HRC/48/L.64](#), which clearly sought to water down the established notion that the death penalty, if applied at all, could only be applied in cases involving crimes of extreme gravity. The proposed amendment was misleading, as it suggested that the interpretation of the term “the most serious crimes” was limited to the Human Rights Committee and the Secretary-General, whereas that interpretation was well established and widely shared by the international community, as reflected in the International Covenant on Civil and Political Rights, Economic and Social Council resolution 1984/50 and resolutions of the Human Rights Council itself. If adopted, the language in the proposed amendment might be used to justify lower thresholds for the imposition of the death penalty, which ran counter to the aim and spirit of the draft resolution. His delegation would vote against the proposed amendment and called upon all members of the Council to do the same.

113. *At the request of the representatives of Mexico and France, a recorded vote was taken.*

In favour:

Bahamas, Bahrain, Bangladesh, Cameroon, China, Eritrea, India, Indonesia, Libya, Malawi, Mauritania, Pakistan, Philippines, Russian Federation, Somalia, Sudan.

Against:

Armenia, Austria, Brazil, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Marshall Islands, Mexico, Namibia, Nepal, Netherlands, Poland, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Argentina, Burkina Faso, Côte d’Ivoire, Gabon, Japan, Republic of Korea, Senegal, Uzbekistan.

114. *The proposed amendment contained in document [A/HRC/48/L.64](#) was rejected by 20 votes to 16, with 8 abstentions.*

115. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.65](#).

Statements made in explanation of vote before the voting

116. **Mr. Froment** (France) said that his delegation could not accept the proposed amendment, which would insert a reference to domestic debates at the national level. The proposed amendment defended the view that decisions regarding the death penalty should be guided only by public opinion, which clearly was not in itself sufficient to determine a matter of such importance. Debates must be held in the light of national and international case law, international human rights obligations and worldwide trends. By referring only to domestic debates and not to international obligations, the proposed new language failed to reflect the diversity of factors to be taken into consideration and did not recognize that abolition could be a policy decision taken at the initiative of a Government. The process leading to abolition was much more complex than the proposed new wording suggested. The question of domestic debates about the death penalty was addressed appropriately in the draft resolution

as it stood. His delegation would vote against the proposed amendment and called upon all members of the Council to do the same.

117. **Mr. Leweniqila** (Fiji) said that his delegation recognized that the use of the death penalty was a challenging issue and that Governments grappled with the balance between perceived public opinion and the global trend towards abolition of the death penalty. However, the proposed amendment, which referred to the role of domestic debates, was not necessary. The draft resolution as it stood already contained adequate references to domestic debates. The proposed amendment omitted any reference to international obligations, and thus did not reflect the range of factors that States must consider when deciding whether to apply a moratorium or abolish the death penalty. The proposed amendment gave undue weight to public opinion in favour of the death penalty, whereas evidence from across the world showed that public support for the death penalty waned once abolition was implemented. His delegation would vote against the proposed amendment and called on all members of the Council to do likewise.

118. *At the request of the representative of Mexico, a recorded vote was taken.*

In favour:

Bahamas, Bahrain, Bangladesh, Cameroon, China, Cuba, Eritrea, India, Indonesia, Japan, Libya, Malawi, Mauritania, Pakistan, Russian Federation, Somalia, Sudan, Uzbekistan.

Against:

Argentina, Armenia, Austria, Brazil, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Marshall Islands, Mexico, Namibia, Nepal, Netherlands, Poland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Burkina Faso, Côte d'Ivoire, Gabon, Philippines, Republic of Korea, Senegal, Togo.

119. *The proposed amendment contained in document [A/HRC/48/L.65](#) was rejected by 20 votes to 18, with 7 abstentions.*

120. **The President** invited the Council to take action on the proposed amendment contained in document [A/HRC/48/L.66](#).

Statements made in explanation of vote before the voting

121. **Ms. Martínez Liévano** (Mexico) said that the main sponsors of the draft resolution rejected the proposed amendment because it was not appropriate in the context of the text. They recognized the sovereign equality of States, as established in Article 2, paragraph 1, of the Charter of the United Nations, and the right of each State to determine its own legal and political system, but they rejected the argument that national sovereignty could be invoked to justify human rights violations and undermine the universality of human rights. The first preambular paragraph of the draft resolution stated that the Human Rights Council was guided by the purposes and principles of the Charter, and the text in no way questioned the sovereign equality of States or the development of legal systems at the national level. The objective of the draft resolution was to ensure that criminal justice systems were compatible with international human rights obligations. The proposed amendment ran counter to article 27 of the Vienna Convention on the Law of Treaties, which provided that States could not invoke the provisions of their internal law as justification for their failure to perform a treaty. The Human Rights Council addressed topics other than the death penalty that were related to legal systems, such as the independence of judges and lawyers and the administration of juvenile justice. In doing so, its aim was not to undermine State sovereignty, but to combat practices that were detrimental to human rights. The Council was mandated to protect and promote human rights as an overriding concern. However, her delegation had observed that attempts had been made to incorporate references to sovereignty into a number of draft resolutions, with the intention of subordinating international human rights obligations to domestic, cultural or religious considerations, which ran counter to the spirit of the

international human rights system. Her delegation would vote against the proposed amendment and called upon all members of the Council to do the same.

122. **Ms. French** (United Kingdom) said that the United Kingdom opposed the death penalty in all circumstances as a matter of principle. It was firmly of the view that the use of the death penalty undermined human dignity and that there was no conclusive evidence of its deterrent value. No criminal justice system was infallible, but the use of the death penalty was often arbitrary, unfair and in breach of international standards. Any miscarriage of justice leading to its imposition was irreversible and irreparable. Under the draft resolution, the Council would urge all States to protect the human rights of persons facing the death penalty and other affected persons and to comply with their international obligations. In States where the death penalty was still applied, the text called for greater transparency in its imposition and application, in line with the international standards enshrined in the International Covenant on Civil and Political Rights. Her delegation deplored any failure to observe those standards and therefore strongly opposed the proposed amendment, which would undermine the overall intent of the draft resolution. As the draft resolution did not include any request that States should change their criminal law, it would not affect their sovereign right to develop their own legal systems and exercise their sovereign powers. The proposed amendment was therefore not relevant. Her delegation would vote against it, and called on all other members of the Council to do likewise.

123. *At the request of the representative of Mexico, a recorded vote was taken.*

In favour:

Bahamas, Bahrain, Bangladesh, Cameroon, China, Cuba, Eritrea, India, Indonesia, Libya, Malawi, Mauritania, Pakistan, Philippines, Russian Federation, Somalia, Sudan, Uzbekistan.

Against:

Argentina, Armenia, Austria, Brazil, Bulgaria, Czechia, Denmark, Fiji, France, Germany, Italy, Marshall Islands, Mexico, Nepal, Netherlands, Poland, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining:

Burkina Faso, Côte d'Ivoire, Gabon, Japan, Namibia, Republic of Korea, Senegal, Togo.

124. *The proposed amendment contained in document [A/HRC/48/L.66](#) was rejected by 19 votes to 18, with 8 abstentions.*

125. **The President** invited the Council to take action on draft resolution [A/HRC/48/L.17/Rev.1](#).

Statements made in explanation of vote before the voting

126. **Ms. Pujani** (India) said that every State had the sovereign right to determine its own legal system and appropriate legal penalties, whether that meant retaining the death penalty, imposing a moratorium or abolishing it. In India the death penalty was carried out only in the rarest cases, where the crime committed was so heinous as to shock the conscience of society. The law provided for the requisite procedural safeguards, including the right to a fair hearing by an independent court, the presumption of innocence, minimum guarantees for the defence and the right to review by a higher court. There were provisions for the suspension of the death penalty in cases involving pregnant women, and court rulings prohibited the execution of persons with mental or intellectual disabilities. Juvenile offenders could not be sentenced to death. Death sentences must be confirmed by superior courts, and convicted persons had the right to appeal to a high court or the Supreme Court, which had adopted guidelines on clemency and the treatment of death-row prisoners and had established mitigating factors, such as poverty and undeserved adversities, that were to be considered by courts in commuting death sentences to life imprisonment. The President of India and the governors of the Indian states had the power to grant pardons, reprieves, respite or remission of punishment or to suspend or commute the sentence of any person convicted of any offence.

127. The draft resolution did not reflect a balanced perspective, as it failed to indicate that there was no international consensus on the use of capital punishment and that the imposition

of the death penalty was not a contravention of international law. The Indian delegation would vote against the draft resolution.

128. **Mr. Bucheeri** (Bahrain), speaking on behalf of 17 States, including 8 members of the Council, said that international law did not prohibit the use of the death penalty and there was no consensus on its prohibition or on what constituted the most serious crimes. Each State had the sovereign right to adopt such laws as it deemed appropriate in its national circumstances. For many States, the death penalty was an important element of the criminal justice system and a major deterrent to crime. Just as other States had the sovereign right to hold points of view that differed from those of his delegation regarding what constituted the most serious crimes, his Government had the sovereign right to hold its own views. The draft resolution did not fairly reflect the variety of views on the use of the death penalty. The text was designed to push the Council towards calling for the prohibition of the death penalty without sufficient regard for the needs of legal systems in all countries, and it included an attempt to promote a narrow definition of the most serious crimes that had been proposed by non-governmental organizations. He called for a vote on the draft resolution, which his delegation would vote against.

129. **Mr. Lee Taeho** (Republic of Korea) said that his delegation would vote in favour of the draft resolution. His Government had taken into account a range of considerations in taking that decision, including the fact that there had been no executions in his country for 24 years, which had led to its being recognized as a *de facto* abolitionist State by the international community. The *de jure* abolition of the death penalty was a weighty matter that concerned the fundamentals of the State's criminal justice system. His Government would continue to review the issue with prudence, considering a comprehensive set of factors, including the death penalty's function in criminal justice, public opinion, and domestic and international circumstances.

130. **Mr. Taguchi** (Japan) said that Japan attached importance to transparency in procedures relating to the death penalty in order to ensure due process and the right to a defence and to prevent its discriminatory use. As the draft resolution also highlighted the importance of transparency in the application of the death penalty, his delegation had engaged constructively in the informal consultations to find common ground with the main sponsors. Regrettably, the draft resolution was strongly biased towards the abolition of the death penalty and moratoriums on its use. International law did not prohibit the use of the death penalty, as long as the actions of States were compliant with their international human rights obligations, and there was no universally accepted obligation to introduce moratoriums on its use. The Constitution of Japan set out measures to ensure due process and the right to a defence, and the Government published information on the number of executions carried out and on the number of persons on death row, thus providing transparency.

131. The question of whether to abolish the death penalty or to declare a moratorium on its use was for each State to decide, with careful consideration of public opinion, the situation of crime and the criminal justice policy of the State in question. In Japan, the death penalty was an important issue that concerned the very foundation of the country's criminal justice system and thus required consideration from various perspectives, including the need for justice in society and trends in public opinion, which encompassed a wide range of views. It was difficult to abolish the death penalty, as many serious crimes were still being committed. For those reasons, his delegation would vote against the draft resolution.

132. **Mr. Suleman** (Pakistan) said that there was no international consensus either for or against the death penalty when it was imposed in full compliance with due process of law, as had been repeatedly affirmed in Human Rights Council and General Assembly resolutions. International human rights law was very clear on the subject. Article 6 of the International Covenant on Civil and Political Rights stated that the death penalty could be imposed for the most serious crimes. States had the sovereign right to determine the gravity of crimes depending on the national context and circumstances, and to choose criminal justice responses in pursuit of the welfare of their populations, peace and security. The fundamental rights to life and to an effective remedy must be protected for the victims of the most horrific and serious crimes. His delegation therefore opposed any attempt to unilaterally define the most serious crimes or to use general comments to promote a lopsided narrative on the subject.

133. The policy on the death penalty in Pakistan was in full accord with the country's Constitution, national law and international obligations under the International Covenant on Civil and Political Rights. In Pakistan, the death penalty was applied only in conformity with due process of law pursuant to a final judgment rendered by a court, and convicted persons had the right to seek a pardon or to appeal for commutation. Persons with mental health conditions and minors were exempt from death sentences, and the Pakistani authorities periodically considered the possibility of reducing the number of offences that were punishable by the death penalty. His delegation would thus vote against the draft resolution and would dissociate itself from the text if it was adopted.

134. **Mr. Jiang Duan** (China) said that the death penalty was a legislative and judicial issue that fell within the scope of national sovereignty. There was no consensus in the international community regarding the retention or abolition of the death penalty. Full consideration must be given to factors such as the specific features of each country's judicial system, economic and social development level and historical and cultural background. China had a policy of retaining and strictly applying the death penalty owing to the country's specific social consensus. Its criminal law provided that the death penalty was applicable only to persons who had committed extremely serious crimes, and set out very strict criteria and approval procedures for its application.

135. The Council should adopt an objective, impartial and balanced approach in discussing and adopting resolutions on the death penalty, with respect for the judicial sovereignty of each country. His delegation was not in favour of turning judicial issues into human rights questions. It would thus vote against the draft resolution.

136. *At the request of the representative of Bahrain, a recorded vote was taken.*

In favour:

Argentina, Armenia, Austria, Bolivia (Plurinational State of), Brazil, Bulgaria, Burkina Faso, Côte d'Ivoire, Czechia, Denmark, Fiji, France, Gabon, Germany, Italy, Marshall Islands, Mexico, Namibia, Nepal, Netherlands, Poland, Republic of Korea, Russian Federation, Togo, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Uzbekistan, Venezuela (Bolivarian Republic of).

Against:

Bahamas, Bahrain, Bangladesh, Cameroon, China, India, Japan, Libya, Mauritania, Pakistan, Somalia, Sudan.

Abstaining:

Eritrea, Indonesia, Malawi, Philippines, Senegal.

137. *Draft resolution [A/HRC/48/L.17/Rev.1](#) was adopted by 29 votes to 12, with 5 abstentions.*

The meeting rose at 12.20 p.m.