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**REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON
THE FIFTY-EIGHTH SESSION OF THE COMMISSION**

Draft report of the Commission

Rapporteur: Mr. Frederico Duque Estrada Meyer (Brazil)

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Chapter

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

- (a) Torture and detention;
- (b) Disappearances and summary executions;
- (c) Freedom of expression;
- (d) Independence of the judiciary, administration of justice, impunity;
- (e) Religious intolerance;
- (f) States of emergency;
- (g) Conscientious objection to military service.

* Documents E/CN.4/2002/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.4/2002/L.11 and addenda.

1. The Commission considered agenda item 11 at its 16th meeting, on 26 March, at its 31st meeting, on 9 April, at its 41st meeting, on 16 April, at its 50th meeting, on 22 April, and at its 51st meeting, on 23 April 2002.
2. For the documents issued under agenda item 11, see annex VI to the present report. For a list of all resolutions and decisions adopted by the Commission and Chairperson's statements, by agenda item, see annex V.
3. At the 16th meeting, on 26 March 2002:
 - (a) The independent expert to examine the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, Mr. Manfred Novak, introduced his report (E/CN.4/2002/71);
 - (b) The Chairperson-Rapporteur of the Open-ended working group on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Ms. Elizabeth Odio Benito, introduced the report of the working group on its tenth session (E/CN.4/2002/78).
4. At the 31st meeting, on 9 April 2002:
 - (a) The Special Rapporteur on extrajudicial, summary or arbitrary executions, Ms. Asma Jahangir, introduced her report (E/CN.4/2002/74 and Add.1);
 - (b) The Special Rapporteur on the independence of judges and lawyers, Mr. Param Cumaraswamy, introduced his report (E/CN.4/2002/72 and Add.1 and 2);
 - (c) The Special Rapporteur on the question of torture, Mr. Theo C. van Boven, introduced his report (E/CN.4/2002/137) and that of his predecessor, Sir Nigel Rodley (E/CN.4/2002/76 and Add.1);
 - (d) The Special Rapporteur on religious intolerance, Mr. Abdelfattah Amor, introduced his report (E/CN.4/2002/73 and Add.1);
 - (e) The Chairperson of the Working Group on Arbitrary Detention, Mr. Louis Joinet, introduced the report of the Working Group (E/CN.4/2002/77 and Add.1 and 2).
5. At the 41st meeting, on 16 April 2002:
 - (a) A statement was read out by a member of the secretariat on behalf of Mr. Abid Hussain, Special Rapporteur on freedom of opinion and expression, in connection with his report (E/CN.4/2002/75 and Add.1);

(b) A statement was read out by a member of the secretariat on behalf of Mr. Ivan Tosevski, member of the Working Group on Enforced or Involuntary Disappearances, on behalf of the Chairperson of the Working Group (E/CN.4/2002/79);

(c) A second statement was read out by a member of the secretariat on behalf of Mr. Tosevski, in his capacity as member of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, on behalf of the Chairperson of the Board of Trustees.

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

Draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

7. At the 50th meeting, on 22 April 2002, the representative of Costa Rica introduced draft resolution E/CN.4/2002/L.5, sponsored by Albania, Armenia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Bulgaria, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, the Democratic Republic of the Congo, Denmark, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Paraguay, Peru, Poland, Portugal, Romania, Senegal, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia. Brazil, Burundi, El Salvador, Iceland, Malta and Panama subsequently joined the sponsors. The Democratic Republic of the Congo withdrew as a sponsor.

8. The representative of Cuba introduced a proposed amendment, which read as follows:
“Replace operative paragraphs 2, 3 and 4 and the annex with new operative paragraphs 2 and 3, reading as follows:

“2. *Decides* to renew the mandate of the Open-ended working group for the period of one year;

“3. *Requests* the working group to submit a final report on the results of its work to its fifty-ninth session.”

9. Statements with regard to the draft resolution were made by the representatives of China, Costa Rica and the Syrian Arab Republic.

10. At the same meeting, the representative of Cuba withdrew the proposed amendment.
11. Under rule 65, paragraph 2, of the rules of procedure of the functional commissions of the Economic and Social Council, the representative of Cuba moved that the Commission take no decision on the draft resolution.
12. Statements in connection with that motion were made by the representatives of Algeria, Chile, Costa Rica, Cuba, the Czech Republic, Guatemala, India, Japan, Mexico, the Russian Federation, South Africa, Spain (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Italy, Portugal, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated countries that are members of the Commission - the Czech Republic and Poland - aligned themselves with the statement), and Uruguay.
13. A recorded vote was taken on the motion, which was rejected by 21 votes to 28, with 4 abstentions. The voting was as follows:

In favour: Bahrain, China, Cuba, India, Indonesia, Japan, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Republic of Korea, Russian Federation, Saudi Arabia, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Viet Nam, Zambia.

Against: Argentina, Armenia, Austria, Belgium, Brazil, Burundi, Canada, Chile, Costa Rica, Croatia, Czech Republic, Ecuador, France, Germany, Guatemala, Italy, Mexico, Peru, Poland, Portugal, Senegal, Sierra Leone, South Africa, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Abstaining: Algeria, Cameroon, Democratic Republic of the Congo, Kenya.

14. Statements in explanation of vote before the vote on the draft resolution were made by the representatives of Argentina, Cuba, Bahrain, Canada, Costa Rica, the Libyan Arab Jamahiriya, Mexico and Uruguay.
15. At the request of the representative of Cuba, a recorded vote was taken on draft resolution E/CN.4/2002/L.5, which was adopted by 29 votes to 10, with 14 abstentions. The voting was as follows:

In favour: Argentina, Armenia, Austria, Bahrain, Belgium, Brazil, Burundi, Canada, Chile, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Guatemala, Italy, Mexico, Peru,

Poland, Portugal, Senegal, South Africa, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Against: China, Cuba, Japan, Libyan Arab Jamahiriya, Malaysia, Nigeria, Republic of Korea, Saudi Arabia, Sudan, Syrian Arab Republic.

Abstaining: Algeria, Cameroon, India, Indonesia, Kenya, Pakistan, Russian Federation, Sierra Leone, Swaziland, Thailand, Togo, Uganda, Viet Nam, Zambia.

16. For the text of the resolution see chapter II, section A, resolution 2002/33.

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

17. At the same meeting the representative of Cuba introduced draft resolution E/CN.4/2002/L.36/Rev.1, sponsored by Algeria, Angola, Bangladesh, Botswana, Burundi, Cameroon, China, Congo, Cuba, the Democratic People's Republic of Korea, the Democratic Republic of the Congo, the Dominican Republic, Equatorial Guinea, Eritrea, Ethiopia, Ghana, Haiti, Iraq, Kenya, the Libyan Arab Jamahiriya, Madagascar, Mauritania, Nigeria, Qatar, Rwanda, Sierra Leone, South Africa, the Sudan, Swaziland, the Syrian Arab Republic, Togo, Uganda, Viet Nam, Yemen, Zambia and Zimbabwe. Venezuela subsequently joined the sponsors.

18. Statements in connection with the draft resolution were made by the representatives of India and Spain (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Italy, Portugal, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated countries that are members of the Commission - the Czech Republic and Poland - aligned themselves with the statement).

19. A statement in explanation of vote before the vote on the draft resolution, was made by the representative of Canada.

20. At the request of the representative of Spain, a recorded vote was taken on draft resolution E/CN.4/2002/L.36/Rev.1, which was adopted by 29 votes to 7, with 17 abstentions. The voting was as follows:

In favour: Algeria, Bahrain, Burundi, Cameroon, Chile, China, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan,

Russian Federation, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Venezuela, Viet Nam, Zambia.

Against: Armenia, Belgium, Canada, Germany, Poland, Sweden, United Kingdom of Great Britain and Northern Ireland.

Abstaining: Argentina, Austria, Brazil, Costa Rica, Croatia, Czech Republic, France, Guatemala, Italy, Japan, Mexico, Peru, Portugal, Republic of Korea, Saudi Arabia, Spain, Uruguay.

21. A statement in explanation of vote after the vote was made by the representative of Chile.

22. For the text of the resolution, see chapter II, section A, resolution 2002/34.

Human rights and terrorism

23. Also at the 50th meeting, the representative of Algeria introduced draft resolution E/CN.4/2002/L.50/Rev.1, sponsored by Afghanistan, Algeria, Bangladesh, Burundi Cameroon, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, the Democratic Republic of the Congo, Egypt, El Salvador, Gabon, Georgia, India, Indonesia, Kenya, Lebanon, Mauritania, Nigeria, Oman, Pakistan, Peru, the Philippines, Qatar, the Russian Federation, Saudi Arabia, Senegal, Sri Lanka, the Sudan, Togo, Tunisia, Turkey, Uganda, Viet Nam, Yemen and Zambia. Azerbaijan, Belarus, Ecuador, Equatorial Guinea and Venezuela subsequently joined the sponsors. Costa Rica, El Salvador and Peru withdrew as sponsors.

24. The representative of Algeria orally revised the draft resolution by adding a new operative paragraph after paragraph 5, proposed by Afghanistan.

25. Statements in connection with the draft resolution were made by the representatives of Argentina, Chile and Pakistan.

26. Statements in explanation of vote before the vote on the draft resolution were made by the representatives of Canada, Croatia, the Libyan Arab Jamahiriya and Spain (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Italy, Portugal, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated countries that are members of the Commission - the Czech Republic and Poland - aligned themselves with the statement).

27. At the request of the representative of Spain, a recorded vote was taken on the draft resolution, as orally revised, which was adopted by 32 votes to none, with 21 abstentions. The voting was as follows:

In favour: Algeria, Bahrain, Brazil, Burundi, Cameroon, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, India, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Thailand, Togo, Uganda, Venezuela, Viet Nam, Zambia.

Against: None.

Abstaining: Argentina, Armenia, Austria, Belgium, Canada, Chile, Croatia, Czech Republic, France, Germany, Guatemala, Italy, Japan, Poland, Portugal, Republic of Korea, Spain, Sweden, Syrian Arab Republic, United Kingdom of Great Britain and Northern Ireland, Uruguay.

28. A statement in explanation of vote after the vote was made by the representative of the Syrian Arab Republic.

29. For the text of the resolution, see chapter II, section A, resolution 2002/35.

30. At the 51st meeting, on 23 April 2002, the Commission had before it draft decision 4 recommended by the Sub-Commission on the Promotion and Protection of Human Rights (E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chap. I). The draft decision read as follows:

“The Commission on Human Rights, taking note of resolution 2001/18 of 16 August 2001 of the Sub-Commission on the Promotion and Protection of Human Rights, approves the Sub-Commission’s request to the Secretary-General to give the Special Rapporteur, Ms. Kalliopi Koufa, all the assistance necessary for the preparation of her second progress report, in particular by providing for visits to Vienna and New York in order to hold consultations with the competent services and bodies of the United Nations located there, to complement and expand her essential research and to collect all the needed and up-to-date information and data.”

31. Also at the same meeting, the Commission had before it draft decision E/CN.4/2002/L.64, sponsored by the United Kingdom of Great Britain and Northern Ireland and replacing draft decision 4 recommended by the Sub-Commission on the Promotion and Protection of Human Rights. The draft decision read as follows:

“The draft decision should read as follows:

“The Commission on Human Rights, taking note of resolution 2001/18 of 16 August 2001 of the Sub-Commission on the Promotion and Protection of Human Rights, requests the Special Rapporteur, Ms. Kalliopi Koufa, to complete her study on human rights and terrorism as mandated in decision 1998/107 of the Commission on Human Rights and decision 1998/278 of the Economic and Social Council, and requests the Secretary-General to provide the Special Rapporteur with the resources necessary to do this.”

32. In view of the adoption of resolution 2002/35, no action was taken on either E/CN.4/2002/L.70, nor on (E/CN.4/2002/2-E/CN.4/Sub.2/2001/40, chapter 1).

Extrajudicial, summary and arbitrary executions

33. At the 50th meeting, on 22 April 2002, the representative of Sweden introduced draft resolution E/CN.4/2002/L.51, sponsored by Argentina, Armenia, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, the Republic of Moldova, Romania, Senegal, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Venezuela. Albania, Angola, Costa Rica, Burundi, Equatorial Guinea, France, Haiti, Madagascar, the Republic of Moldova, San Marino, South Africa, Uruguay and Yugoslavia subsequently joined the sponsors.

34. The representative of Sweden orally revised operative paragraphs 4, 12, 13 (g) and 14 of the draft resolution.

35. The representative of Pakistan proposed to amend the draft resolution by deleting the words “sexual orientation”, in paragraphs 6 and 12 of the draft resolution.

36. Statements in connection with the proposed amendment to the draft resolution were made by the representatives of the Libyan Arab Jamahiriya and Sweden.

37. At the request of the representative of Pakistan, a recorded vote was taken on the proposed amendment, which was rejected by 15 votes to 28, with 9 abstentions. The voting was as follows:

- In favour:* Algeria, Bahrain, China, Democratic Republic of the Congo, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Saudi Arabia, Sudan, Syrian Arab Republic, Togo, Viet Nam, Zambia.
- Against:* Armenia, Austria, Belgium, Brazil, Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Czech Republic, Ecuador, France, Germany, Guatemala, Italy, Japan, Mexico, Peru, Poland, Portugal, Republic of Korea, Spain, Sweden, Thailand, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.
- Abstaining:* Argentina, India, Nigeria, Russian Federation, Senegal, Sierra Leone, South Africa, Swaziland, Uganda.

38. A statement in connection with the draft resolution was made by the representative of Pakistan.

39. At the request of the representative of Saudi Arabia, a recorded vote was taken on the draft resolution, as orally revised, which was adopted by 36 votes to 2, with 14 abstentions. The voting was as follows:

- In favour:* Argentina, Armenia, Austria, Belgium, Brazil, Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Guatemala, India, Italy, Japan, Mexico, Peru, Poland, Portugal, Republic of Korea, Senegal, South Africa, Spain, Swaziland, Sweden, Thailand, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.
- Against:* Syrian Arab Republic, Zambia.
- Abstaining:* Algeria, Bahrain, China, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Nigeria, Pakistan, Russian Federation, Saudi Arabia, Sierra Leone, Sudan, Viet Nam.

40. A statement in explanation of vote after the vote was made by the representative of Pakistan.

41. For the text of the resolution, see chapter II, section A, resolution 2002/36.

Integrity of the judicial system

42. Also at the 50th meeting, the representative of the Russian Federation introduced draft resolution E/CN.4/2002/L.52, sponsored by the Russian Federation. Belarus and the Republic of Moldova subsequently joined the sponsors.

43. A statement in connection with the draft resolution was made by the representative of Canada.

44. At the request of the representatives of Canada and the United Kingdom of Great Britain and Northern Ireland, a recorded vote was taken on draft resolution E/CN.4/2002/L.52, which was adopted by 34 votes to none, with 19 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Armenia, Bahrain, Burundi, Chile, China, Costa Rica, Cuba, Democratic Republic of the Congo, Ecuador, Guatemala, Indonesia, Italy, Kenya, Libyan Arab Jamahiriya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Portugal, Russian Federation, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Sweden, Syrian Arab Republic, Togo, Uganda, Viet Nam, Zambia.

Against: None.

Abstaining: Austria, Belgium, Brazil, Cameroon, Canada, Croatia, Czech Republic, France, Germany, India, Japan, Poland, Republic of Korea, Saudi Arabia, Spain, Thailand, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

45. For the text of the resolution, see chapter II, section A, resolution 2002/37.

Torture and other cruel, inhuman or degrading treatment or punishment

46. At the same meeting, the observer for Denmark introduced draft resolution E/CN.4/2002/L.53, sponsored by Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Colombia, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Eritrea, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Malta, Mauritius, Mexico, Monaco, the Netherlands, New Zealand, Norway, Panama, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain

and Northern Ireland and Yugoslavia. Albania, Andorra, Angola, Argentina, Brazil, Cameroon, Chile, Equatorial Guinea, Latvia, Mongolia, Morocco, the Republic of Korea, the Republic of Moldova, Senegal, Sierra Leone, South Africa, Ukraine, Uruguay and Venezuela subsequently joined the sponsors.

47. At the same meeting, the representative of Cuba introduced proposed amendments (E/CN.4/2002/L.72) to draft resolution E/CN.4/2002/L.53.

48. The representative of Cuba withdrew the proposed amendments (E/CN.4/2002/L.72) to draft resolution E/CN.4/2002/L.53 which read as follows:

“Insert a new operative paragraph:

“5 bis *Affirms* that all forms of individual and collective punishment, inter alia the deprivation of food, water, medicines and medical care, that affect the life, health and physical well-being of persons, at any time and in any place whatsoever, are and shall remain prohibited by international law.”

49. A statement in explanation of vote after the vote was made by the representative of Japan.

50. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2002/38.

The incompatibility between democracy and racism

51. Also at the 51st meeting, the representative of Brazil introduced draft resolution E/CN.4/2002/L.55, sponsored by Argentina, Azerbaijan, Brazil, Burundi, China, the Dominican Republic, Ecuador, Egypt, Georgia, India, Mexico, Nepal, Panama, Paraguay, Peru, Poland, Romania, Thailand, Turkey, Uruguay and Venezuela. Belarus, Bosnia and Herzegovina, Cameroon, Canada, Chile, Costa Rica, El Salvador, Equatorial Guinea, Guatemala, Iran (Islamic Republic of), Israel, Italy, Kenya, Malta, Morocco, Panama, the Republic of Korea, the Republic of Moldova, the Russian Federation, Senegal, Spain, Sri Lanka and Tunisia subsequently joined the sponsors.

52. The representative of Brazil orally revised operative paragraph 6 of the draft resolution.

53. The draft resolution, as revised, was adopted without a vote. For the text, see chapter II, section A, resolution 2002/39.

Elimination of all forms of religious intolerance

54. At the 51st meeting, the observer for Ireland introduced draft resolution E/CN.4/2002/L.56, sponsored by Afghanistan, Albania, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, Côte d'Ivoire, Croatia, Cuba, Cyprus, the Czech Republic, Denmark, Ecuador, Eritrea, Ethiopia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Mauritius, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Peru, the Philippines, Poland, Portugal, Romania, Sierra Leone, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, The former Yugoslav Republic of Macedonia, Tunisia, the United Kingdom of Great Britain and Northern Ireland, Uruguay and Yugoslavia. Andorra, Burundi, Chile, Costa Rica, the Dominican Republic, El Salvador, Equatorial Guinea, India, Malta, Mauritius, Panama, the Republic of Korea, San Marino, Togo, the United States of America and Venezuela subsequently joined the sponsors.

55. Statements in connection with the draft resolution were made by the representatives of India and Pakistan.

56. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2002/40.

Question of enforced or involuntary disappearances

57. Also at the same meeting, the representative of France introduced draft resolution E/CN.4/2002/L.57, sponsored by Albania, Argentina, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Chile, Cuba, Cyprus, the Czech Republic, Denmark, Finland, France, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Lithuania, Luxembourg, Malta, Mexico, Monaco, Morocco, the Netherlands, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and Uruguay. Andorra, Burundi, Costa Rica, Croatia, Ecuador, Equatorial Guinea, Madagascar, Senegal, the Republic of Korea, the Republic of Moldova and Yugoslavia subsequently joined the sponsors.

58. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2002/41.

Question of arbitrary detention

59. At the 51st meeting, the representative of France introduced draft resolution E/CN.4/2002/L.58, sponsored by Albania, Argentina, Austria, Belgium, Bulgaria, Cameroon, Canada, Cyprus, the Czech Republic, Denmark, Ecuador, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Monaco, Morocco, the Netherlands, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland. Burundi, Costa Rica, Croatia, Equatorial Guinea, Italy, the Republic of Moldova, Senegal and Uruguay subsequently joined the sponsors.

60. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2002/42.

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

61. At the same meeting, the observer for Hungary introduced draft resolution E/CN.4/2002/L.60, sponsored by Argentina, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Chile, Croatia, Cyprus, the Czech Republic, Denmark, the Dominican Republic, Ecuador, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, India, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, Nepal, the Netherlands, Norway, Paraguay, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, the United Kingdom of Great Britain and Northern Ireland and Uruguay. Armenia, Australia, Burundi, El Salvador, India, Israel, Madagascar, the Republic of Korea and Senegal subsequently joined the sponsors.

62. 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 of the draft resolution.

63. The draft resolution was adopted without a vote. For the text, see chapter II, section A, resolution 2002/43.

Right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms

64. At the 51st meeting, the representative of Chile introduced draft resolution E/CN.4/2002/L.61, sponsored by Chile, Cuba, Denmark, Ecuador, Guatemala,

Iceland, Mexico, Peru and the United Kingdom of Great Britain and Northern Ireland. Argentina, Armenia, Brazil, Canada, Costa Rica, Equatorial Guinea, France, Germany, the Netherlands, Norway, Panama, Portugal, Slovenia, Spain, Sweden and Venezuela subsequently joined the sponsors.

65. The representative of Chile orally revised the second preambular paragraph and operative paragraph 1 of the draft resolution.

66. The draft resolution, as revised, was adopted without a vote. For the text, see chapter II, section A, resolution 2002/44.

Conscientious objection to military service

67. At the same meeting, the representative of Croatia introduced draft resolution E/CN.4/2002/L.62, sponsored by Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, the Netherlands, Poland, Romania, Slovenia and the United Kingdom of Great Britain and Northern Ireland. Austria, Bosnia and Herzegovina, Costa Rica, Georgia, Italy, Portugal, the Republic of Moldova, San Marino, Slovakia and Spain subsequently joined the sponsors.

68. The draft resolution was adopted without a vote. For the text, as adopted, see chapter II, section A, resolution 2002/45.

Further measures to promote and consolidate democracy

69. Also at the 51st meeting, the representative of Peru introduced draft resolution E/CN.4/2002/L.65, sponsored by Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Croatia, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, Slovakia, Spain, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay. Costa Rica, the Dominican Republic, El Salvador, Equatorial Guinea, Georgia, India, Japan, Latvia, Malta, Nepal, the Republic of Korea, San Marino, Slovenia, Tunisia, Turkey, Venezuela and Yugoslavia subsequently joined the sponsors.

70. The representative of Peru orally revised the draft resolution by including a new preambular paragraph and modifying the sixth preambular paragraph.

71. The representative of Cuba introduced the proposed amendment (E/CN.4/2002/L.71) to draft resolution E/CN.4/2002/L.65, sponsored by Cuba. The proposed amendments read as follows:

“Additions

“1. Add a new preambular paragraph 3 bis, reading as follows: ‘*Reaffirming* that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives;’

“2. Add a new preambular paragraph 3 quater, reading as follows: ‘*Recognizing* that democracy is incompatible with the situation of peoples living under colonial or other forms of alien domination or foreign occupation, since for those peoples democracy is dramatically undermined and human rights and fundamental freedoms are systematically violated;’

“3. Add a new operative paragraph 1 bis, reading as follows: ‘*Also declares* that while all democracies share common features, there is no one universal model of democracy;’

“4. Add a new operative paragraph 3 bis, reading as follows: ‘*Reaffirms* that the right to development, as established in the Declaration on the Right to Development, is a universal and inalienable right and an integral part of fundamental human rights;’

“Deletions

“5. In the ninth preambular paragraph, delete: Inter-American Democratic Charter (2001)

“6. In the first operative paragraph, delete: a pluralistic system of political parties and organizations, the separation of powers,

“7. In operative paragraph 4, delete: including the Conference on Democratic Transition and Consolidation held in Madrid in October 2001.

“8. Delete operative paragraph 5.”

72. At the same meeting, the representative of Cuba withdrew all the proposed amendments except 2 and 8.

73. Statements in connection with the proposed amendments to the draft resolution were made by the representatives of China, India, Peru and Spain (on behalf of the States members of the European Union that are members of the Commission - Austria, Belgium, France, Germany, Italy, Portugal, Sweden and the United Kingdom of Great Britain and Northern Ireland; the associated countries that are members of the Commission - the Czech Republic and Poland - aligned themselves with the statement).

74. A statement in explanation of vote before the vote on the proposed amendments to the draft resolution was made by the representative of India.

75. At the request of the representative of Cuba, a separate recorded vote was taken on proposed amendments 2 and 8 to the draft resolution. Proposed amendment 2 was rejected by 22 votes to 25, with 6 abstentions. The voting was as follows:

In favour: Algeria, Bahrain, Burundi, Cameroon, China, Cuba, Democratic Republic of the Congo, Indonesia, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Russian Federation, South Africa, Sudan, Swaziland, Syrian Arab Republic, Thailand, Togo, Uganda, Viet Nam, Zambia.

Against: Argentina, Armenia, Austria, Belgium, Brazil, Canada, Chile, Costa Rica, Croatia, Czech Republic, Ecuador, France, Germany, Guatemala, Italy, Japan, Mexico, Peru, Poland, Portugal, Republic of Korea, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay.

Abstaining: India, Nigeria, Senegal, Sierra Leone, Saudi Arabia, Venezuela.

Proposed amendment 8 was rejected by 9 votes to 37, with 7 abstentions. The voting was as follows:

In favour: China, Cuba, Democratic Republic of the Congo, Libyan Arab Jamahiriya, Malaysia, Pakistan, Sudan, Syrian Arab Republic, Viet Nam.

Against: Algeria, Argentina, Armenia, Austria, Belgium, Brazil, Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Czech Republic, Ecuador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Mexico, Nigeria, Peru, Poland, Portugal, Republic of Korea, Senegal, South Africa, Spain, Sweden, Thailand, Togo, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela.

Abstaining: Bahrain, Kenya, Russian Federation, Saudi Arabia, Sierra Leone, Swaziland, Zambia.

76. Statements in connection with the draft resolution were made by the representatives of Algeria, Cuba, India, the Libyan Arab Jamahiriya and Venezuela.

77. Statements in explanation of vote before the vote on the draft resolution were made by the representatives of the Democratic Republic of the Congo, the Sudan and the Syrian Arab Republic.

78. At the request of the representative of Cuba, a recorded vote was taken on the draft resolution, as revised, which was adopted by 43 votes to none, with 9 abstentions. The voting was as follows:

In favour: Algeria, Argentina, Armenia, Austria, Bahrain, Belgium, Brazil, Burundi, Cameroon, Canada, Chile, Costa Rica, Croatia, Czech Republic, Democratic Republic of the Congo, Ecuador, France, Germany, Guatemala, India, Indonesia, Italy, Japan, Kenya, Malaysia, Mexico, Nigeria, Pakistan, Peru, Poland, Portugal, Republic of Korea, Russian Federation, Senegal, South Africa, Spain, Sweden, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Zambia.

Against: None.

Abstaining: China, Cuba, Libyan Arab Jamahiriya, Saudi Arabia, Sierra Leone, Sudan, Swaziland, Syrian Arab Republic, Viet Nam.

79. A statement in explanation of vote after the vote was made by the representative of Bahrain.

80. For the text of the resolution, see chapter II, section A, resolution 2002/46.

Human rights in the administration of justice, in particular juvenile justice

81. At the same meeting, the representative of Austria introduced draft resolution E/CN.4/2002/L.67, sponsored by Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Croatia, Cyprus, Denmark, Equatorial Guinea, Finland, Georgia, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Liechtenstein, Malta, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovenia, Spain, Sweden, Thailand and the United Kingdom of Great Britain and Northern Ireland. Albania, Angola, Australia, Bosnia and Herzegovina, Burundi, Chile, Costa Rica, Ethiopia, France, Japan, Latvia, Luxembourg, Paraguay, Slovakia, Switzerland, Turkey and Ukraine subsequently joined the sponsors.

82. The representative of Austria orally revised operative paragraph 17 of the draft resolution.

83. Statements were made with regard to the draft resolution by the representatives of Algeria and the Russian Federation.

84. The draft resolution, as revised, was adopted without a vote. For the text, see chapter II, section A, resolution 2002/47.

The right to freedom of opinion and expression

85. Also at the 51st meeting, the representative of Canada introduced draft resolution E/CN.4/2002/L.69, sponsored by Albania, Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Côte d'Ivoire, Cyprus, the Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Ireland, Italy, Japan, Liechtenstein, Lithuania, Luxembourg, Malta, Mexico, the Netherlands, New Zealand, Norway, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Venezuela and Yugoslavia. Andorra, Armenia, Bosnia and Herzegovina, Burundi, Brazil, Cameroon, Chile, Colombia, Costa Rica, Croatia, the Dominican Republic, El Salvador, Equatorial Guinea, Georgia, India, Latvia, Madagascar, Panama, the Republic of Korea, San Marino, Senegal, Sierra Leone and Uruguay subsequently joined the sponsors. Israel withdrew as a sponsor.

86. The representative of Canada orally revised operative paragraphs 7, 13 and 15 of the draft resolution.

87. The representative of Cuba withdrew draft decision E/CN.4/2002/L.70, sponsored by Cuba, amending draft resolution E/CN.4/2002/L.69. The proposed amendment read as follows:

“1. Add, as a new operative paragraph, operative paragraph 86 of the Durban Declaration which reads as follows:

‘*Reaffirms* that the dissemination of all ideas based upon racial superiority or hatred shall be declared an offence punishable by law with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination;’

“2. Add as a new operative paragraph:

‘*Reaffirms* that freedom of information requires as an indispensable element the willingness and capacity to employ its privileges without abuse and it requires as a basic discipline the moral obligation to seek facts without prejudice and to spread knowledge without malicious intent;’

“3. Add a new operative paragraph based on article VI of the UNESCO Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War:

‘*Stresses* the importance of the establishment of a new equilibrium and greater reciprocity in the international flow of information and, in particular, the necessity to correct the inequalities in the flow of information to and from developing countries;’.”

88. Statements in connection with draft resolution E/CN.4/2002/L.69, as orally revised, were made by the representatives of Algeria, Germany and Pakistan.

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

90. The draft resolution, as revised, was adopted without a vote. For the text, see chapter II, section A, resolution 2002/48.
