



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



Integrity of the judicial system

Human Rights Resolution 2005/30

The Commission on Human Rights,

Guided by articles 5, 7, 8, 10 and 11 of the Universal Declaration of Human Rights and articles 2, 4, 6, 7, 10, 14, 15 and 26 of the International Covenant on Civil and Political Rights, and bearing in mind the Vienna Declaration and Programme of Action,

Recalling other important documents on the issue of the integrity of the judiciary endorsed by various forums of the United Nations, in particular the Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers, the Guidelines on the Role of Prosecutors, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the Standard Minimum Rules for the Treatment of Prisoners, the Basic Principles for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and the safeguards guaranteeing protection of the rights of those facing the death penalty,

Recalling also its previous resolutions on the subject, in particular its most recent, resolution 2004/32 of 19 April 2004,

Taking note of resolution 2004/27 of 12 August 2004 of the Sub-Commission on the Promotion and Protection of Human Rights,

Convinced that the integrity of the judicial system is an essential prerequisite for the protection of human rights and for ensuring that there is no discrimination in the administration of justice,

Stressing that the integrity of the judiciary should be observed at all times,

1. *Takes note* of the relevant sections of the report of the Special Rapporteur on the independence of judges and lawyers on the subject (E/CN.4/2004/60 and Add.1), as well as the report submitted by the Special Rapporteur of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2004/7);

2. *Reiterates* that, as declared in article 14 of the International Covenant on Civil and Political Rights, every person is entitled, in full equality, to a fair and public hearing by a competent, independent and impartial tribunal duly established by law, in the determination of

his/her rights and obligations and of any criminal charge against him/her, and that he/she is entitled to the presumption of innocence until proved guilty according to law;

3. *Also reiterates* that according to paragraph 5 of the Basic Principles on the Independence of the Judiciary, everyone has the right to be tried by ordinary courts or tribunals using established legal procedures and that tribunals that do not use such duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals;

4. *Underlines* that any court trying a person charged with a criminal offence should be competent, independent and impartial;

5. *Urges* States to guarantee that all persons brought to trial before courts or tribunals under their authority have the right to be tried in their presence, to defend themselves in person or through legal assistance of their own choosing and to have all the guarantees necessary for the defence;

6. *Calls upon* States to ensure that the principles of equality before the courts and before the law are respected within their judicial systems, inter alia by providing to those being tried the possibility to examine, or to have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;

7. *Reaffirms* that every convicted person should have the right to have his/her conviction and sentence reviewed by a tribunal of competent, independent and impartial jurisdiction according to law;

8. *Calls upon* States that have military courts or special criminal tribunals for trying criminal offenders to ensure that such courts are an integral part of the general judicial system and that such courts apply due process procedures that are recognized according to international law as guarantees of a fair trial, including the right to appeal a conviction and a sentence;

9. *Stresses* the importance of developing cooperation between the national judicial systems, inter alia with a view to strengthening the protection of persons deprived of their liberty;

10. *Requests* the Special Rapporteur of the Sub-Commission on the issue of the administration of justice through military tribunals to continue to take account of the present resolution in his ongoing work;

11. *Requests* the Special Rapporteur on the independence of judges and lawyers to take full account of the present resolution in the discharge of his mandate and in his report to the sixty-second session of the Commission.

56th meeting

19 April 2005

[Adopted by a recorded vote of 52 votes to none,
with 1 abstention. See chap. XI, E/CN.4/2005/L.10/Add.11]