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Human Rights Council
Sub-Commission on the Promotion and Protection of Human Rights
Fifty-eighth session

Summary record of the 16th meeting
Held at the Palais des Nations, Geneva, on Monday, 21 August 2006, at 3 p.m.

Chairperson: Mr. Bossuyt
later: Ms. Motoc (Vice-Chairperson)
later: Mr. Bossuyt (Chairperson)

Contents

The meeting was called to order at 3.10 p.m.

Prevention of discrimination

(a) Racism, racial discrimination and xenophobia

(b) Prevention of discrimination and protection of indigenous peoples

(c) Prevention of discrimination and protection of minorities

(agenda item 5) (*continued*)

1. **Ms. Hampson** said that she wanted to speak briefly about what she considered to be a gap in the current human rights standards application system. It concerned two distinct groups that nevertheless had points in common: persons with a permanent disability and those with a temporary disorder, whether mental illness or physical conditions such as leprosy. As issues pertaining to those two groups of persons related to health, they came under the mandate of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. Those groups did not only face health-related problems; they were also victims of different forms of direct and indirect discrimination linked to their state of health. Discrimination was common and was not limited to a particular region of the world. It was therefore necessary to examine the application of non-binding standards with regard to persons with an illness or infirmity. Those standards existed but were not respected in practice. With regard to standards of living, the difficulty lay in the lack or non-application of legislation on equal access by persons with disabilities to services that others took for granted. One of the main problems arose from the way in which those groups were treated by their fellow citizens, which meant that further efforts in terms of education were required. She hoped that the Sub-Commission, or the body appointed to succeed it, would give thought to the need to draw up guidelines on the application of the rights of those two groups, including guidelines on the monitoring of implementation strategies.

Specific human rights issues

(a) Women and human rights

(b) Contemporary forms of slavery

(c) Terrorism and counter-terrorism

(d) New priorities

(agenda item 6) (*continued*) (A/HRC/Sub.1/58/27 and Add.1; A/HRC/Sub.1/58/26; A/HRC/Sub.1/58/CRP.6 and CRP.11; A/HRC/Sub.1/58/NGO/5)

3. **Ms. Frey**, introducing her final report on Prevention of human rights violations committed with small arms and light weapons (A/HRC/Sub.1/58/27 and Add.1), recalled that States should strive for the progressive protection of human rights for the entire population, at both the national and international levels. In order to meet their obligations under international human rights law, States should enact and enforce laws and policies that provided the most human rights protection for the most people. That was the background to the final report, which contained information and a legal analysis aimed at helping States to better understand their human rights responsibilities. Annexes I, II and III contained a summary of the responses of 40 Governments to the questionnaire and excerpts of the laws

and regulations of States concerning small arms and light weapons. The report also examined the due diligence obligation of States and the consequences of the principle of self-defence for the strategies and practices of States with regard to small arms and light weapons.

4. In her preliminary report, she had concluded that States had a duty, under international human rights law, to prevent human rights violations by State actors as well as by individuals and non-State actors. The final report addressed the issue of the specific measures that States must take to fulfil their due diligence obligation with regard to the prevention of human rights abuses committed with small arms by non-State actors. It also contained an analysis of the due diligence obligation, as defined by the treaty bodies. International human rights case law required minimum effective measures to be adopted by States to prevent violence caused by the use of small arms and light weapons. Such measures must go beyond mere criminalization of acts of armed violence.

5. The report also addressed the issue of self-defence in international law and studied the weight it should be given in the establishment of human rights principles governing small arms and light weapons. The primary sources of international law — treaties, customary law, or general principles — did not set forth any international fundamental right of self-defence. In international criminal law, self-defence was a basis for avoiding, if necessary, criminal responsibility. It was not therefore an independent right. In addition, it was widely accepted in international law that self-defence must meet the requirements of necessity and proportionality. It could only alleviate responsibility if the use of small arms was necessary to protect the person concerned and the force used was proportionate to the threat.

6. The issue of individuals wishing to carry a weapon to defend themselves should be replaced more generally by States' obligation to maximize human rights protection. The existence of a human right to self-defence would not negate the due diligence obligation of States. They would still have a duty to maximize protection of human rights — in particular the right to life — by ensuring that weapons did not fall into the hands of people likely to use them illegally.

7. Responses to the questionnaire had been received from 38 States; two had not sent any specific responses. With regard to application of the law, the responses indicated a high degree of consensus regarding laws and practices governing the use of small arms by police forces or other national security bodies. The responses showed that a chain of command, inquiries into misuse of firearms by State officials and, where necessary, sanctions for those concerned, were all needed. In the second part of the questionnaire, which concerned the illegal use of small arms by civilians, the States had indicated that they had implemented a licensing system for ownership of arms. Lastly, there was less consensus on the manufacture and transfer of small arms and light weapons.

8. She would like the Sub-Commission to consider adopting the draft principles on the prevention of human rights violations committed with small arms, contained in document A/HRC/Sub.1/58/27/Add.1. It would certainly have been preferable to examine them more in depth before adopting them, but it seemed, given the consensus that had come out of the States' responses and the discussions held on the draft principles during the last two sessions, that they were a good reflection of the Sub-Commission's common position on States' human rights obligations regarding small arms and light weapons. She was convinced that, by grouping together the principles in a core document and underlining the need to protect the security of the person, States would be encouraged to consider their responsibility with regard to small arms violence from an international human rights law perspective.

9. **Mr. Decaux** welcomed the important work done by Ms. Frey on the key issue of small arms and light weapons. He recalled that the Security Council, in response to the publication of the annual Report of the Secretary-General on small arms, had emphasized the need for international bodies, non-governmental organizations (NGOs), relevant trade and financial institutions and other local, regional and international actors to help to enforce arms embargoes and, more generally, to prevent trafficking in small arms. The Sub-Commission had adopted a complementary approach by focusing on the prevention of human rights violations linked to purely domestic misuse of small arms.

10. The scientific analysis of the 38 responses to the questionnaire sent by Ms. Frey had been exemplary and accounted for an important section of her final report. She might also perhaps consider the historic and social dimensions of the traffic in small arms and light weapons. He took issue with some of the translation in the latest French version of the draft principles in document E/CN.4/Sub.2/2005/35. He did not understand why, in the title of the draft, the Geneva translation service had not translated "small arms" by *armes légères* as New York had done. To translate "tactical situations" as *situations tactiques* meant nothing in French; it should be *maintien de l'ordre*. Conversely, the idea of *mode alternatif de règlement* should be kept in the French instead of *méthodes de règlement des conflits*. The phrase *menace imminente de mort ou de blessure grave* had been used to translate "grave threat to life", while the phrase *menace à la vie* would have been crystal clear. Some recurring language would need to be checked and harmonized.

11. But underlying those careless translations is a matter of substance: the State had a duty to respect and ensure respect for human rights, which meant that the draft also applied to non-State actors. That was all the more important since, with the high level of decentralization in modern States, "law enforcement officials" were not answerable only to the State. It should be emphasized that training, ethics and monitoring requirements applied to all law enforcement officials in the broadest sense of the term, and not only to "State officials". The solution could be to mention other relevant persons or to set out a new principle in order to emphasize that the rules applied mutatis mutandis to all State officials.

12. With regard to private actors, a clear distinction should be made between two legal situations, namely private actors who were in legal possession of small arms — which entailed rules on training and licensing — and "public service officials", private prison staff and private actors who were entitled to carry out certain responsibilities in the community (private militias or security firms). An ordinary-law system allowing licensed individuals to carry a weapon was no longer enough, and specific rules and enhanced controls were becoming necessary. He hoped that Ms. Frey would take his suggestions into account; they were not intended to challenge the philosophy of the proposed draft principles, but to increase their scope.

13. **Mr. Yokota** expressed appreciation of the quality of Ms. Frey's final report, which was exhaustive and highly informative on a subject that had not yet been addressed in depth. He fully supported its conclusions on States' due diligence obligation and self-defence, especially when human rights violations committed with small arms and light weapons were perpetrated by individuals. During the recent discussions of the working group on the working methods and activities of transnational corporations, several speakers had emphasized the need to regulate the activities of transnational corporations in order to ensure effective protection of human rights. In that context, the issue of large enterprises that manufactured or sold small arms had been raised. It would be interesting to see how far those corporations' activities could be regulated through the draft principles. Governments should specify the obligations of those corporations, which must not be exempt from the law. In that regard, the draft principles proposed by Ms. Frey were very useful and he firmly supported their adoption by the Sub-Commission.

14. **Ms. O'Connor** said that it was important to remember that some States, in particular small island developing States, did not have the means for effective control of their borders. The homicide rate in her country was one of the highest in the region, although it was not experiencing civil war. Successive Governments had striven, unsuccessfully, to obtain the cooperation of the countries of origin of most of the arms that illegally entered the country. Unfortunately, law enforcement officials were not trained in the use of the small arms they issued, which in practice often led to a "shoot-to-kill" policy. More emphasis should therefore be placed on training so as better to protect the right to life. States might also be recommended to classify small arms, which ranged from revolvers to weapons of war. In conclusion, she once again emphasized the need for governments to place particular emphasis on human rights training for those persons using small arms and light weapons.

15. **Ms. Hampson** said that Ms. Frey's final report and previous reports on the prevention of human rights violations committed with small arms and light weapons were among the most important documents that the Sub-Commission had examined while she had been a member. She expressed appreciation of the quality of those documents, their practical value and their author's intellectual rigour. Ms. Frey's final report that contained important guidelines for tangible protection of the right to life.

16. She firmly supported Ms. O'Connor's observations on training. She hoped that the suggestions made by other members of the Sub-Commission would not slowdown the process for adoption of the final report and the principles it contained. The draft principles had already been in existence for several years and it would surely be more judicious, given the current transition period, to adopt them without delay. In the interests of efficiency, the draft principles could, therefore, be adopted subject to further amendments that Ms. Frey might submit in the light of speakers' observations; the Sub-Commission had done that in the past. Lastly, the draft principles should be disseminated as widely as possible.

17. **Mr. Sattar** said that he approved the proposed draft principles and their submission to the Human Rights Council for adoption. He drew Ms. Frey's attention to a number of countries that had not prohibited the carrying of weapons by individuals for cultural reasons, and wished to know if she intended to draw up a specific recommendation for such countries. He would also like to know whether Ms. Frey had addressed the liability of arms manufacturers.

18. **Ms. Frey** thanked the members of the Sub-Commission for their comments on the draft principles and their thought-provoking remarks on the links between light weapons, small arms, and human rights. Since the submission of her preliminary report, she had noted that States and civil society organizations were focusing increasingly on the effects of small arms and light weapons on human rights. She would take into account Mr. Decaux's comments on the translation and would make the necessary adjustments. Noting with interest Mr. Yokota's comments on the responsibility of transnational corporations, she observed that it was they that most frequently used subcontractors to sell their weapons and transport them between countries, thus raising the issue of drawing up a treaty or a set of regulatory standards for the activities of those intermediaries. The Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights, previously adopted by the Sub-Commission, could perhaps be used as a basis for specifying the responsibilities of those enterprises. The norms could be directly applicable to weapons manufacturers, a point that certainly merited further discussion.

19. She hoped that the advisory body that would replace the Sub-Commission would continue to consider how small arms and light weapons affected the rights of women and children. Regarding Ms. O'Connor's comments on the important issue of firearms training, paragraph 6 of the draft principles could be redrafted to enlarge its scope. She was aware of the difficulties facing small island developing States in controlling their borders.

Complaints could be lodged with the International Criminal Court against individuals or transnational corporations involved in the trafficking of small arms and light weapons.

20. She endorsed Ms. Hampson's proposals on the procedure for adopting the report and agreed with Mr. Sattar that the subject also had a cultural dimension. In some countries, a real attachment to arms existed, and in those cases it would not be enough to prohibit the carrying of weapons. People should be made aware of the dangers of firearms and of how they should be used.

21. **Ms. Koufa**, introducing the report of the sessional working group to elaborate detailed principles and guidelines, with relevant commentary, concerning the promotion and protection of human rights when combating terrorism (A/HRC/Sub.1/58/26), warmly thanked Ms. Hampson and Mr. Decaux for taking the time, even though they were not members of the working group, to draft extremely useful working papers on the key issues raised at the previous session.

22. In paragraph 12 of her working paper on international judicial cooperation, Ms. Hampson had briefly described the initiatives taken by the Security Council and other bodies to strengthen judicial cooperation, stressing that terrorist activities had become transnational, which made international cooperation vital. She had explained that international assistance raised the issue of harmonizing legislation on derogations, definitions and rules of evidence. Ms. Hampson had also addressed the transfer of persons, which was normally part of an extradition process, and emphasized that, in accordance with the principle of the primacy of the law, extradition must comply with the law. She hoped that the seminar on judicial cooperation organized by the Office of the United Nations High Commissioner for Human Rights (OHCHR) would be attended by as many States as possible.

23. Mr. Decaux's presentation of his working paper on the rights of victims of terrorism had sparked a lively discussion on the obstacles and difficulties encountered by such victims. The need to align the rules on compensation for victims of terrorism in common law had been emphasized. Other issues raised were the legal obstacles facing foreigners in States where they had been victims of terrorist attacks, as well as the difficulties victims faced in obtaining compensation, as long as the concept of terrorism was not clearly defined in national law.

24. The submission of her second expanded working paper, which contained the updated version of the draft principles and guidelines concerning human rights and terrorism, had also triggered a lively debate. Several speakers had made useful comments on the content of those provisions and had welcomed the progress made in key areas. The issue of continuing work under the new Human Rights Council had also been raised. Regarding Mr. Guissé's comments, numerous experts and NGO representatives had focused on the need to address the root causes of terrorism in more detail. Mr. Biró had initiated discussions on freedom of speech and expression and on freedom of the press.

25. Lastly, she wished to draw the Sub-Commission's attention to three recommendations made by the working group: first, that the Chairperson-Rapporteur should prepare a new draft and submit the draft principles and guidelines to the Human Rights Council for adoption; second, that OHCHR should hold a seminar on international judicial cooperation with attendance by representatives of different legal traditions; and third, that whatever form the body appointed to succeed the Sub-Commission took, it should continue work on the draft principles and guidelines.

Administration of justice, rule of law and democracy (agenda item 3)
(A/HRC/Sub.1/58/5 and Add.1; A/HRC/Sub.1/58/CRP.9)

26. **Mr. Decaux** introduced his final report on the universal implementation of international human rights treaties (A/HRC/Sub.1/58/5 and Add.1). He regretted that it was available only in French and hoped that it could be translated into all the working languages of the Sub-Commission as soon as possible. He would have liked to do as Ms. Frey had done and collate the responses to his questionnaire in another addendum but, for technical reasons, that had unfortunately not been possible. The report contained data permitting analysis of recent developments and trends in the ratification of international human rights treaties, which were encouraging, as were pledges on ratification by candidate States to the new Human Rights Council. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights had been ratified by Indonesia and Kazakhstan in 2006 and by Liberia, Mauritania and Swaziland in 2004. Firm commitments had been made by Bahrain and Pakistan. South Africa had indicated that the ratification process for the International Covenant on Economic, Social and Cultural Rights was under way. China had recalled that it had signed the International Covenant on Civil and Political Rights and that it was currently amending its national law so that it could ratify the International Covenant in the near future. Progress had therefore been made with regard to those two Covenants and more was in the pipeline.

27. A permanent ratification table of the international human rights instruments was crucial. The official tables and the documents submitted selectively to the General Assembly and the Sub-Commission were difficult to read, hence the need for a complete table with chronological, geographical and demographic information clearly indicating new ratifications. He had focused on the "core instruments", but that work could have a much wider scope if it focused on all the treaties. Many of the commitments made by candidate States to the Human Rights Council related to instruments of other organizations or to regional instruments. To undertake a complete review, other conventions, such as the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the Conventions against Slavery and the Rome Statute of the International Criminal Court, should also be taken into consideration.

28. Universal ratification of international human rights instruments was far from being a reality. Political will was still needed in order to achieve universal or quasi-universal ratification. It would be particularly dangerous to weaken the increasingly fine weave of *erga omnes* treaty obligations through expedients that would modify existing treaties by means of a mere General Assembly resolution. The nature of some universal commitments in the area of human rights should be elucidated. In that regard, he hoped that the work that Mr. Kartashkin was proposing to undertake would allow international human rights law issues to be clarified. He also hoped that Ms. Hampson could continue to work on the issue of reservations. Enforceability and the implementation of a more comprehensive system of additional protocols enabling all the treaty bodies to receive individual communications should also be looked at further. The highest priority should be given to adopting the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights.

29. With regard to the practical side of universal application of treaties, he had endeavoured to draw a distinction between two essential aspects: the applicability and implementation phases. The implementation of treaties at the national level raised not only legal issues: the non-contentious aspect, the role of national human rights protection institutions and the political will of States also needed to be addressed. He was aware that, aside from legal and political issues, there were social and cultural obstacles to implementing international instruments. Lastly, information on the status of ratification, and non-ratification in particular, of international human rights instruments should be

updated annually. That topic should be placed on the agenda of the new Human Rights Council.

30. *Ms. Motoc, Vice-Chairperson, took the Chair.*

31. **Mr. Pinheiro** said he was pleased that Mr. Decaux had focused on the encouraging pledges made by States during the establishment of the new Human Rights Council. Some had made firm commitments on that occasion and there was every reason to believe that they would fulfil them. A ratification table showing the ratification status of the different treaties should certainly be created. Mr. Decaux had rightly pointed out that the Sub-Commission was responsible for regularly and systematically informing the Commission on Human Rights about treaty ratifications. The Human Rights Council should continue to do so by closely examining ratifications under the universal periodic review. Mr. Decaux had also been right to emphasize the importance of reservations dialogue and the need to promote it. That should be continued under the Human Rights Council.

32. **Mr. Rajkumar** (Pax Romana) said that the analysis of the pledges made by candidate States to the Human Rights Council were particularly interesting. It was an important core issue that should be examined under the universal periodic review. With regard to the reservations dialogue, he drew members' attention to the recent work by the working group on reservations, which had held its last meeting on 6 June 2006. In most cases, effective implementation of international human rights instruments required legal personnel to receive specific training in domestic implementation of treaties. Pax Romana strongly encouraged Mr. Decaux to continue his work on that issue.

33. **Mr. Decaux**, thanking the speakers for their comments, said that the International Law Commission, which had just examined the eleventh report on reservations to treaties, had planned a seminar on reservations dialogue in which representatives of the treaty bodies would take part; it would be useful if representatives of the Human Rights Council also participated. Regarding Mr. Pinheiro's comments, under the Vienna Declaration and Programme of Action States were encouraged to accede to international human rights treaties and to review any reservations. Although reservations were neutral matters and related to sovereignty in traditional international law, the same was not the case with reservations to human rights treaties, as States themselves had set the objective of progressively withdrawing their reservations to the latter. He recognized that judges had a key role to play in the effective implementation of treaties. Recent work by the International Law Association on the legal guarantees required to protect human rights had raised new and interesting perspectives. In conclusion, he emphasized the need to organize seminars to promote reservations dialogue.

34. **Ms. Rakotoarisoa**, introducing her preliminary report on the difficulties of establishing guilt and/or responsibility with regard to crimes of sexual violence (document A/HRC/Sub.1/58/CRP.9), said that in the report she had addressed the role of evidence in determining responsibility or culpability, reviewed the different forms of sexual violence and discussed the difficulties that victims encountered in establishing the facts. Evaluation of evidence was also discussed from national and international perspectives alike. She intended to identify best practices in the taking of evidence and subsequently to establish guidelines to improve the situation. She emphasized that victims of acts of sexual violence encountered major difficulties in establishing the guilt of their aggressor. In many cases, the perpetrator went unpunished and victims obtained no redress.

35. All acts of sexual violence — rape, sexual harassment, early and forced marriages, honour crimes, trafficking in women, forced prostitution, forced pregnancy — were attacks on the dignity and physical integrity of the victim. Victims of trafficking in persons were often considered as illegal aliens rather than as victims in need of protection. Sex tourism was snowballing as a result of the promotion of tourism as a factor of development.

36. Measures needed to be taken to protect the physical and psychological safety and the dignity of victims of sexual violence and respect for their privacy, but such measures should in no way be prejudicial or inconsistent with the rights of the defence. The authorities' treatment of victims, protracted proceedings, repeated cross-examinations, lack of preparation for giving evidence in open court, prejudice, and conclusions based on appearances or behaviour all had an effect on the proper conduct of trials.

37. Discretion was called for in the evaluation of evidence. The admissibility of evidence in no way prejudiced its effectiveness. Judges should remain objective in their evaluation of evidence, and courts should ensure that evaluation did not disrupt the proceedings. The Rome Statute of the International Criminal Court set out certain issues relating to evidence of sexual violence; consent could in no way be inferred from silence or lack of reaction on the part of an alleged victim of sexual violence. Collaboration between different women's rights NGOs, and information campaigns on respect for women's rights and the equality of the rights and dignity of men and women should be promoted. Female victims of sexual violence should be provided with legal assistance. Lastly, convicted persons should be subject to judicial supervision in order to prevent reoffending.

38. **Mr. Chérif** drew Ms. Rakotoarisoa's attention to the fact that presumption of innocence, a fundamental principle in criminal justice, was likely to lead to failure to charge a suspect, especially because of the difficulties faced by victims in bringing evidence. The presumption of innocence could be crucial in terms of satisfaction beyond reasonable doubt: in general, when faced with a lack of evidence, a judge would prefer the acquittal of a guilty defendant to the conviction of an innocent one. In addition, he wished to emphasize how important the great strides made in DNA evidence were for sex crime victims.

39. **Mr. Kartashkin**, introducing his working paper, Human rights and State sovereignty (document E/CN.4/Sub.2/2006/7), said that he had attempted to highlight the main issues and to examine them in the light of the new profile of the international community. The end of the twentieth century and the beginning of the twenty-first had been marked by radical changes in international relations and international law. Globalization had led to the reinterpretation of many principles and standards of international law, which were constantly evolving to adapt to new realities. He had tried to include those changes in his working paper. Why study such issues from an international law perspective? The reason was clear: in current times, violating international law principles and standards, in particular those relating to human rights, was in the interests of many groups.

40. The first chapter of the working paper focused on the notion of State sovereignty, a problem that concerned virtually all areas and principles of contemporary international law. Sovereignty was inherent in any State from the moment of its creation, but the sovereign power of the State over its territory was not absolute; its powers were limited by law. A State could not restrict the exercise of human rights and fundamental freedoms in violation of its own obligations. In addition, the absolute sovereignty of States would not affect the existence of modern international relations that respected human rights. Chapter 2 covered principles of respect for human rights and State sovereignty in the Charter of the United Nations. While enshrining the principle of the sovereign equality of States, the Charter also contained provisions that limited sovereignty. The Universal Declaration of Human Rights, in acknowledging in its very first article the intrinsic nature of human rights, rejected absolute State sovereignty.

41. Chapter 3 addressed human rights and the limitation of State sovereignty in contemporary international relations. Sovereignty was strictly limited by certain international obligations assumed by States, in particular with regard to human rights. It was also limited by bilateral or multilateral treaties to which States became a party and by the obligations binding on States when they joined international organizations. Chapter 4

emphasized that States could not invoke their sovereignty to criminally violate human rights. Lastly, chapter 5 discussed the use of force for humanitarian purposes and State sovereignty. Practice in international relations since the establishment of the United Nations and the adoption of its Charter evidenced many cases in which a State or group of States had resorted to force "for humanitarian purposes" without the approval of the Security Council. It was especially important that armed force was resorted to only in accordance with the Charter of the United Nations and a Security Council resolution and only when the other measures for bringing influence to bear on the State in question had been exhausted. If those criteria were not fulfilled, humanitarian intervention could be used for foreign policy aims.

42. In conclusion, the body that would succeed the Sub-Commission should continue its work on human rights and State sovereignty. The various Special Rapporteurs could be given the task of examining the issue to give the study a global perspective. Once all the aspects of the issue had been examined, he would propose some recommendations.

43. *Mr. Bossuyt, Chairperson, resumed the Chair.*

44. **Mr. Alfredsson**, thanking Mr. Kartashkin for his statement, agreed that State sovereignty was limited by international human rights obligations. The concept of the absolute sovereignty of States was no longer relevant. The paper was thought-provoking and covered a wide range of issues; however, some paragraphs needed clarification. In paragraph 8, Mr. Kartashkin had stated, perhaps somewhat prematurely, that State sovereignty was usually identified with the notion of the sovereignty of a people and nation. In paragraph 14 of the paper, Mr. Kartashkin had said that the sovereign equality of States presupposed their juridical (de jure) equality as subjects of international law and not their substantive (de facto) equality, then had emphasized that States differed in the size of their territories, populations, economic potential, military might and so forth. On the basis of such information, powerful States should not consider that they had more rights, especially in the humanitarian field. In his working paper, Mr. Kartashkin had stated that, under Article 56 of the Charter of the United Nations, States pledged themselves to take joint and separate action in cooperation with the Organization for the purposes of achieving universal respect for and observance of human rights. That article should not be used to justify unilateral use of force. Lastly, while agreeing that different Special Rapporteurs could be given the task of examining the issue of human rights and State sovereignty, he invited Mr. Kartashkin to continue his work.

45. **Mr. Chen** said that the issue of limits to State sovereignty deserved further study. He did not feel the same way about treaty ratifications: States were always free to enter reservations or withdraw. He did not believe that humanitarian interventions were firmly established in international law. With regard to the use of force, he agreed with Mr. Kartashkin that, in today's globalizing world, when international security and universal peace could be threatened by States' unilateral acts of force, it was impossible to allow each State to decide on its own whether it was entitled to embark on a humanitarian intervention. Contemporary international law was governed by the Charter of the United Nations, which established the collective framework for the maintenance of international peace and security. To circumvent that framework by authorizing unilateral military interventions raised important political issues.

The meeting rose at 6.05 p.m.