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

Summary record of the 18th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 22 August 2006, at 3 p.m.

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

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The meeting was called to order at 3.05 p.m.

Administration of justice, rule of law and democracy (*continued*)
(E/CN.4/Sub.2/2006/7; A/HRC/Sub.1/58/5 and Add.1; A/HRC/Sub.1/58/CRP.9; A/HRC/Sub.1/58/8)

1. **Mr. Yokota** said that he wished to make some comments about the working paper entitled "Human rights and State sovereignty" issued as document E/CN.4/Sub.2/2006/7 and presented at the previous meeting by Mr. Kartashkin. He agreed that if State sovereignty was understood to mean the State's supreme power over its territory and its independence in international relations, that sovereign power was not absolute. On the national level, sovereignty was limited by the will of the people; it was also limited by international law beyond the State's borders. Sovereignty was no longer considered to derive from the absolute power of a monarch, but from the people. In other words, sovereignty resided in the people, while the exercise of sovereignty was entrusted to the State. That interpretation of the concept of sovereignty was compatible with the right of self-determination, which had served as the legal basis for the independence of colonial peoples.

2. In chapter 2, on the principles of respect for human rights and State sovereignty in the Charter of the United Nations, the author observed that the Charter guaranteed the principle of sovereign equality of States on the one hand, while at the same time emphasizing the importance of respect for and protection of human rights, which implied that individuals were henceforth subjects of international law, meaning that they had international rights and obligations. Paragraph 12 of the working paper stated that prior to the establishment of the United Nations, the individual had had virtually no rights or obligations in international relations. That statement seemed to contradict paragraph 25 of the working paper.

3. In chapter 3, on human rights and the limitation of State sovereignty in contemporary international relations, the author pointed out that contemporary international law strictly limited State sovereignty (para. 18). Concrete examples were given, such as the monitoring activities of some treaty bodies and the binding decisions of the European Court of Human Rights and the Inter-American Court of Human Rights. In that regard, it might be worthwhile to distinguish between "limits on sovereignty" and "limits on the exercise of sovereignty". In fact, most of the examples mentioned by the author were actually examples of the latter rather than the former. A State could always regain full sovereignty by withdrawing from a treaty or an international organization. In chapter 4, which dealt with criminal violations of human rights and State sovereignty, the author asserted that State sovereignty had been seriously limited by the fact that a series of gross and massive violations of human rights had been characterized as international crimes, which entailed criminal responsibility for the offender. There was no problem with that assertion from a theoretical point of view; in practice, however, it was very difficult to assign criminal responsibility to offenders, as had been shown by the serious crimes committed in 1999 in Timor-Leste, where most of the Indonesian senior armed forces officers responsible for massive violations of human rights had avoided any effective legal sanctions.

4. In chapter 5, the author tackled the controversial issue of the use of force for humanitarian purposes. Mr. Yokota agreed that efforts made by the international community or by States to secure the worldwide respect of fundamental rights and freedoms could not be regarded as interference in the internal affairs of a country. However, he did not agree with the argument that, by virtue of Articles 55 and 56 of the Charter of the United Nations, States could take unilateral military action under certain conditions. Articles 55 and 56 were contained in Chapter 9 of the Charter, entitled "International economic and social cooperation". The measures referred to in Article 56 in

no way encompassed the use of force or military intervention, which were only authorized in the context of Chapter 7 of the Charter. Prudence must be exercised when authorizing States to use force, including for humanitarian purposes. Lastly, he agreed with the conclusion that, given the importance of the issue, the Sub-Commission should ask the Human Rights Council to appoint a special rapporteur or special rapporteurs to continue the work completed thus far.

5. **Mr. Sattar** said that there was an obvious and urgent need to establish principles and guidelines concerning the promotion and protection of human rights when combating terrorism. It was clear that, in their fight against terrorism, States had sometimes taken measures that were incompatible with human rights, particularly with the right to a fair trial. One example was the extraordinary rendition of persons suspected of having committed acts of terrorism. There was therefore a need to emphasize the responsibility of States in terms of international judicial cooperation with a view to combating terrorism and to speed up the process of establishing principles and guidelines specifying States' obligations in that regard. It was therefore important for Ms. Koufa to continue with her work as quickly as possible. It would be worthwhile to distinguish between the national and international facets of counter-terrorism. Some States had already adopted provisions on aid to victims of terrorist acts, but the complex issue of whether or not a State was bound by international law to compensate foreigners who had been victims of terrorist acts while in the State's territory had not yet been addressed.

6. He shared the views expressed at the previous meeting by Mr. Alfredsson and Mr. Chen Shiqiu on the issue of human rights and State sovereignty. The document submitted by Mr. Kartashkin was much more than just a working paper. It was an in-depth and promising study in which the Special Rapporteur rightly pointed out that State sovereignty must not be an obstacle to the enjoyment of human rights. In reading the document, however, one had the impression that the author had given precedence to the so-called Western concept of sovereignty. There were other concepts, however; for example, the Constitution of Pakistan stipulated that the sovereignty of the State resided in almighty Allah alone, which implied that the exercise of that power was subject to certain universal restrictions and principles. As Mr. Kartashkin rightly pointed out, restrictions on the exercise of sovereignty also derived from the treaties or conventions ratified by States. He would take the time during the current session to read the working paper more closely and would make further comments if necessary.

7. He commended Mr. Decaux on the high quality of his work on the universal implementation of international human rights treaties. Lastly, regarding the preliminary report on the difficulties of establishing guilt and responsibilities with regard to crimes of sexual violence, he noted that such crimes were very widespread in a number of traditional societies, though some States were gradually abandoning traditional practices that were harmful to women. He encouraged the Special Rapporteur to continue her work on the issue.

8. *Ms. Chung, Vice-Chairperson, took the Chair.*

9. **Mr. Guissé** said that he wished to make a few comments on the working paper entitled "Human rights and State sovereignty", in which Mr. Kartashkin outlined many pertinent issues that he intended to study further. He pointed out that the author discussed the State and sovereignty separately, as if the two concepts were distinct. In fact, sovereignty was an element of the State in the same way that the population and territory were, at least according to the definition of a State in international law: a State was a people in a given territory who exercised sovereignty over that territory. There was no State without sovereignty; distinguishing between the two therefore weakened both.

10. Sovereignty was also what allowed the State to express itself in an international context. Without such international sovereignty, a State was not sovereign. History had long taught that the State was the only subject of international law. It was only in recent years, with the establishment of international courts, that the principle of international subjectivity had been put forward, heralding the arrival of the individual in the context of international law. By virtue of that principle, an individual could bring legal action against their State of nationality or another State in cases of human rights violations. That was only possible, however, if the State in question, exercising its sovereignty, had consented to be bound by international obligations. International human rights law, or human rights law, limited the abuse of sovereignty, particularly at the national level. That was why it would be interesting if, in his future work, Mr. Kartashkin further reflected on the necessary bridge between the individual and the international community, without separating the concepts of the State and sovereignty. Regarding the preliminary report on the difficulties of establishing guilt and responsibilities with regard to crimes of sexual violence, he invited Ms. Rakotoarisoa to also consider the issue of the right to compensation for victims of acts of sexual violence committed by military personnel during an international armed conflict.

11. **Mr. Decaux** congratulated Ms. Rakotoarisoa on the quality of her preliminary report on the difficulties of establishing guilt and responsibilities with regard to crimes of sexual violence and encouraged her to continue her efforts. Noting that her study raised many questions concerning comparative law, he said that he hoped the secretariat would assist her in successfully completing her work. Regarding the issue of human rights and counter-terrorism, he thought it would be useful for the sessional working group responsible for establishing detailed principles and guidelines concerning the promotion and protection of human rights when combating terrorism to become a focal point for all the work undertaken on that issue by the United Nations system as a whole.

12. With regard to the working paper presented by Mr. Kartashkin, given the wide range of questions deriving from the topic of human rights and State sovereignty, the subject should be carefully defined and clear priorities should be set. For example, the author should guard against reopening the debate on limited State sovereignty. In other words, Mr. Kartashkin should strive to clarify the issues he wished to address within such a vast topic.

13. **Ms. Warzazi** said that Mr. Kartashkin's study dealt with a very sensitive issue involving the connections between State sovereignty and what might be called "humanitarian intervention". Mr. Kartashkin might recall that the concept of humanitarian intervention had first been introduced as part of an initiative by France, which in the beginning had not generated any enthusiasm from the United Nations General Assembly. Nevertheless, given the disastrous situation in certain countries such as Somalia and Ethiopia in the early 1980s, the idea of intervention had been accepted in the end so that humanitarian aid could reach the populations of those two countries. She fully shared Mr. Yokota's concerns about the use of force for humanitarian purposes. Any armed intervention that was or was claimed to be for humanitarian purposes, in any given country, should not only be justified but should also be free from any political objective and should be in accordance with the decisions of the Security Council.

14. She welcomed Mr. Decaux's final report on the universal implementation of international human rights treaties, which was the result of an in-depth and long-term study. The report was a useful source of information for all who followed developments in the ratification of international instruments. As Mr. Decaux himself had pointed out, the Sub-Commission had created a working group on the issue, but that group had been short-lived owing to the lack of interest from Governments. The final report was thus available thanks to Mr. Decaux's commitment and readiness to work towards an objective that would be useful to anyone looking for a tool to highlight the need for the universal implementation of human rights. The objective of Mr. Decaux's study was to call attention not only to the

importance of universal ratification of international human rights instruments, but also to the importance of their implementation. She agreed with Mr. Decaux that conventions that were not systematically monitored were forgotten. It was unfortunate that States had not given sufficient attention to the issue of international human rights law during the 2005 World Summit. If, as Mr. Decaux had noted, there had been a decline in human rights commitments since the World Conference on Human Rights held in Vienna in 1993, then efforts should be made to determine the causes of that decline. As paragraph 52 of the report clearly indicated, the issue of effectiveness must be at the heart of any consideration of the subject. For treaties to be truly meaningful it was not enough to simply ratify them; measures must also be taken, including in the areas of education, training and information, and plans of action must be adopted.

15. The preliminary report on the difficulties of establishing guilt and/or responsibilities with regard to crimes of sexual violence clearly showed that studying sexual violence was extremely complex. The number of victims of that type of violence continued to increase, whether in periods of conflict or in peacetime. Because they were unable to establish the facts, victims were deprived of their right to a fair remedy and to compensation for the harm they had suffered. It must not be forgotten that in countries where the concept of honour was sacrosanct, women victims of sexual violence were condemned by their families and society. The mere fact that the victim was a woman was sometimes enough to exonerate the rapist from any responsibility. Trafficking in women and children for the purposes of forced prostitution was on the rise. Unfortunately, all the legal instruments adopted thus far to combat the phenomenon seemed to be ineffective. It was incumbent upon all States to take all necessary measures to ensure that victims of crimes of sexual violence, who in many cases did not dare to file a complaint, could obtain compensation. In that regard, the legal representation of victims by organizations involved in women's rights was welcome. States should study the reasons why victims did not file complaints. One of the reasons was that the victims had to approach men in order to do so. In that context, the measures taken by India to have cases of sexual violence handled by women police officers and judges should be welcomed. Ms. Rakotoarisoa's recommendations on that issue should be fully supported.

16. Given the late hour, she would limit herself to expressing her approval of the recommendations contained in the report of the sessional working group responsible for establishing detailed principles and guidelines concerning the promotion and protection of human rights when combating terrorism. She wished to thank Ms. Frey for her very thorough study of human rights violations committed with small arms and light weapons, the conclusions and recommendations of which the Sub-Commission should support. The body of experts that was to succeed the Sub-Commission should be able to continue the work already begun, clarifying beforehand the responsibilities of States with regard to protecting persons against human rights violations involving the use of small arms and light weapons.

17. **Ms. Motoc** welcomed the work carried out by the sessional working group responsible for establishing detailed principles and guidelines concerning the promotion and protection of human rights when combating terrorism. She said the working group was an ideal discussion forum that produced important working papers on issues that were sometimes controversial. Taking note of the various United Nations bodies working on the issue of terrorism, she wished to know whether Ms. Koufa thought it would be useful to streamline them in order to avoid any overlap. Regarding the preliminary report on the difficulties of establishing guilt and responsibilities with regard to crimes of sexual violence, she noted that, under certain conditions, acts of sexual violence could be considered gross and massive violations of human rights.

18. Congratulating Mr. Decaux on his final report on the universal implementation of international human rights treaties, she pointed out that interest in the distinction between monist and dualist systems had waned. One might even ask how such a distinction was currently relevant, given that the difference between the two systems, which were converging, was no longer obvious. Mr. Decaux might like to focus more on other issues, such as the precedence of treaties over domestic law. Some constitutions, such as the Constitution of Romania, gave human rights treaties precedence over domestic law. Mr. Decaux might also consider the issue of treaties that were directly applicable in domestic law, that is, treaties that were specific enough to be applied without the State needing to adopt legislative measures to that end.

19. **Mr. Salama** said that the Sub-Commission's two primary tasks were to identify possible loopholes in international law and to propose measures that States could take to close those loopholes. He welcomed the fact that the various reports considered at the current session subscribed to that logic, particularly the report presented by Ms. Koufa. The study undertaken by Ms. Rakotoarisoa was particularly interesting for two main reasons. The first was that the issue of sexual violence was considered from a very specific angle, namely, the difficulties victims encountered in establishing proof. Secondly, sexual violence was a much more serious phenomenon than was imagined. It must not be forgotten that that type of violence often derived from traditional practices and the inferior status of women. He wished to know whether the good practices that Ms. Rakotoarisoa had identified to date were sufficiently established to serve as a basis for creating a set of norms. The proposal for more women police officers to handle cases of sexual violence should be supported.

20. Regarding the working paper on human rights and State sovereignty, it was unilateral humanitarian interventions above all that posed a problem in international law. He suggested that Mr. Kartashkin might draw on the report of the High-level Panel on Threats, Challenges and Change for his further work on the subject. He noted that the study implicitly posed the question of the distinction between human rights considerations and political issues. In terms of future work on the issue of human rights and State sovereignty, Mr. Kartashkin should aim to further clarify which issues his study would address.

21. With regard to the universal implementation of international human rights treaties, it would be interesting to consider why some States had not ratified the universal treaties. As States sometimes had good reasons for not doing so, it would be interesting to understand those reasons instead of launching appeals for ratification. Those issues could be discussed at the seminar suggested by Mr. Decaux in paragraph 61 of his report, and more generally as part of the universal periodic review. Lastly, he agreed with Mr. Decaux that nothing could be done "without the individuals themselves". For the past 60 years, the human rights movement had undoubtedly concentrated too much on States; individuals must also be considered. In that regard, it would be useful to conduct awareness-raising campaigns for individuals on the benefits they could draw from international human rights instruments. Such campaigns would also be an indirect way of encouraging States to ratify the universal instruments.

22. **Mr. Chérif** said he would be grateful if Mr. Decaux could provide him with further information on how many times and how often States had withdrawn the reservations they had entered upon ratification of international human rights instruments. Ms. Rakotoarisoa was right to have devoted a section of her report to false accusations. In fact, accusations of sexual assault were sometimes used as a weapon to unjustly and fraudulently attack the honour and freedom of certain individuals, particularly economic and political leaders. While it was important to protect the victims and ensure justice for them, one must also be aware of manipulation and fabricated accusations. The evaluation of evidence differed greatly depending on whether it was done by the prosecuting authorities, who might be

content with mere doubts or circumstantial evidence to bring persons accused of crimes of sexual violence to trial, or by the trial court, which would only consider corroborating or circumstantial evidence and inferences that were convincing and sufficient to satisfy the judge beyond reasonable doubt. The overly hasty arrest of suspects of crimes of sexual violence often resulted in an acquittal and posed the problem of due compensation for persons unjustly arrested or imprisoned.

23. With regard to the working paper presented by Mr. Kartashkin, a balance should be reached between respect for State sovereignty and the need for negotiated monitoring to protect and promote human rights. Such monitoring should not be marked by interference and hostility, but rather fruitful cooperation. Was respect for State sovereignty necessary from a human rights point of view? The answer could only be yes. The protection and promotion of human rights could only be effective within the framework of a sovereign State governed by the rule of law. From that point of view, Mr. Kartashkin's report was related to that of Mr. Decaux on the universal implementation of international human rights treaties. State sovereignty should be respected while at the same time establishing constructive dialogue with States on the protection and promotion of human rights.

24. *Mr. Bossuyt resumed the Chair.*

25. **Ms. O'Connor** said that the various working papers and reports submitted at the current session were all interrelated because human rights were indivisible. With regard to sexual violence, the culture and traditions of some countries posed a challenge to anyone wishing to bring justice to the victims. She invited Ms. Rakotoarisoa to further study possible ways of lightening the burden of proof for victims. It was also worth pointing out that some States had established special units to investigate sexual violence, which comprised men and women police officers with special training in taking statements from victims, advising victims and initiating prosecutions. Regarding the universal ratification of treaties, which was related to the issue of sovereignty, she agreed with Mr. Salama on the need to look into the causes of non-ratification. As for Mr. Decaux, he was right to insist on the importance of education and training measures. It was true that at times some States went no further than ratification, but the non-implementation of treaties could not always be explained by a lack of political will, but rather of capacity. That was why technical assistance was essential, particularly with regard to drafting reports. Lastly, she wished to stress that it would be useful to include a definition of terrorism in the draft principles and guidelines concerning the promotion and protection of human rights when combating terrorism. Such a definition would be useful for States involved in drafting anti-terrorist legislation.

26. **Ms. Rakotoarisoa** thanked the speakers for their comments and said that she would take them into account when drafting her next report. In reply to the comments made by Mr. Chérif, she said that victims and witnesses of acts of sexual violence needed particular protection, but that protecting them must not compromise the rights of the defence or affect the fairness of the proceedings. With regard to DNA testing, she recalled that document E/CN.4/Sub.2/2004/11 dealt with the issue in depth. Such tests were of undeniable technical interest insofar as each person had a unique genetic imprint. In order for them to be effective, however, they must be carried out quickly, before the biological data deteriorated. It should also be pointed out that methods of analysis could vary from one country or laboratory to another and that they were not infallible. In reply to Mr. Salama, she said that she would use good practices in taking evidence in cases regarding acts of sexual violence as the basis on which she would eventually formulate her draft principles and guidelines.

27. **Mr. Kartashkin** thanked all the speakers for their many comments on his working paper on human rights and State sovereignty and said that he might not have the time to reply to all those comments due to time restraints. He wished to point out first of all that

any humanitarian intervention carried out without the approval of the Security Council involved military or political objectives, except for interventions in which a State attempted to save the lives of its nationals. Contrary to what some speakers had said, he had been careful not to limit himself to a particular approach to the concept of State sovereignty and had essentially based his work on the Charter of the United Nations and the relevant international agreements. With regard to limits on sovereignty, it was true that a State could always withdraw from a treaty. There were a number of international agreements, however, that did not allow for such a possibility; such was the case with the international human rights covenants. As Mr. Chen Shiqiu had pointed out at the previous meeting, the State exercised its sovereignty when it ratified a treaty, but that did not mean that the obligations it subscribed to could not limit its sovereignty. Such was the case when ratified conventions stipulated that experts could conduct visits in the State's territory without its consent.

28. Given the page limit applicable to his working paper, there were a number of issues that he had been unable to address. He therefore hoped that the Sub-Commission would allow him to submit a longer working paper. He also hoped that the body of experts that would succeed the Sub-Commission would appoint several special rapporteurs to study the issue of human rights and State sovereignty, in order to gain an overall view of the issue.

29. **Ms. Hampson** said that, given the lack of time remaining, she would limit herself to a few comments on the issue of forced disappearance. She welcomed the Human Rights Council's adoption of the draft International Convention for the Protection of All Persons from Enforced Disappearance. Enforced disappearance was the worst human rights violation for the family and friends of the victims, because they had no knowledge of the victim's fate. To abandon the search for a missing person seemed like betrayal in the eyes of their loved ones; some women whose husbands had disappeared 30 years ago had never remarried and still did not consider themselves as widows. Those women were trapped forever in a kind of hell.

30. In most cases of forced disappearance, the police denied having ever detained the disappeared person, so it was pointless to search policy custody registers for any mention of the disappeared person's detention. In order for a commission of inquiry to be able to reach conclusions, it was imperative to establish the credibility of the witnesses. In all the cases of forced disappearance examined by the European Court of Human Rights, it was by hearing witnesses called by both the complainant and the respondent Government that the court had been able to decide on the credibility of the witnesses. When such hearings were not held, it could be very difficult to reach a conclusion, owing to the completely contradictory nature of the evidence. In that regard, forced disappearances were different from other serious human rights violations.

31. Once they had ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, several States had assumed more obligations than required. They had agreed to increase the minimum age for conscripting or enlisting children into the national armed forces to 18 years, even though the Optional Protocol called for a minimum age of 15 years. She strongly encouraged States who planned to ratify the International Convention for the Protection of All Persons from Enforced Disappearance to authorize the committee that would be established under that Convention to hear all material witnesses to a case, including within the context of urgent measures or the right to submit individual communications. Without such competence, which was not mentioned in the Convention, the committee would face the same problems as the Working Group on Enforced or Involuntary Disappearances.

32. **Mr. Chérif**, introducing the working paper on the implementation in practice of the right to an effective remedy for human rights violations, issued as document A/HRC/Sub.1/58/CRP.4, said that the subject was obviously a very important one that raised many theoretical and practical questions. At a previous meeting, Mr. Decaux had

insisted that the right to obtain a judicial determination could not be infringed. In fact, in all cases, each individual must find the appropriate procedure, the relevant body or the effective mechanism to file a complaint or bring a civil action before a competent court, regardless of whether the perpetrator of the human rights violation was a private person or a law enforcement officer. The right to remedy must be fair and effective; all international human rights instruments, and even national instruments adopted by various countries, expressly guaranteed that right. However, it was the question of the effectiveness of the right to obtain a judicial determination that needed to be examined. That effectiveness was based on the express mention of the right, and also on its implementation in practice. The right to a fair and effective remedy required that the court dealing with the case was competent and independent and that the proceedings were public, did not discriminate against the person on trial, and guaranteed the rights of the defence. Those principles implied certain additional guarantees. The person on trial must be adequately and effectively informed of their right to obtain a judicial determination. It must also be materially and financially possible for them to exercise that right or to file a complaint in court for violation of that right. In that context, legal assistance or legal aid was adopted in many legal systems as a way of making the right to a remedy effective. The study therefore determined the scope of the right to a fair and effective remedy, the reasons why that particular right was so important, and ways of fulfilling and strengthening it through concrete measures that could be adopted by States, human rights bodies and NGOs working in that field.

33. Human rights violations, even in the most regulated of countries, were perhaps a clear sign that the State's implementation of its treaty obligations and its own domestic laws left something to be desired. Determining why the right to a domestic remedy was not respected was therefore equally important – all the more so since the failure to respect the right to an effective remedy was closely linked to impunity, which in turn led to serious and systematic human rights violations. The effectiveness of the judicial remedy was likely to deter human rights violations. The establishment of domestic remedies was undeniably useful because they were a prerequisite for guaranteeing the subsidiarity of international monitoring. That issue was generally considered by all mechanisms dealing with human rights violations.

34. It would be very useful to analyse the jurisprudence of some human rights bodies concerning the right to a remedy and the right to obtain a judicial determination, even though doing so would not be simple. The position of human rights bodies on the issue could be of great importance. Ms. Hampson had prepared a draft resolution asking him to prepare an in-depth study on the implementation of the right to an effective remedy. That draft would be submitted to the Sub-Commission members and put to a vote.

35. **Ms. Motoc** introduced the report of the sessional working group on the administration of justice (A/HRC/Sub.1/58/8). She said that the working group had held two public meetings at which several working papers had been considered. Ms. Hampson had presented her working paper on the accountability of international personnel taking part in peace support operations (A/HRC/Sub.1/58/CRP.3). Ms. Hampson and Mr. Chérif had presented a working paper on the implementation in practice of the right to an effective remedy for human rights violations (A/HRC/Sub.1/58/CRP.4). The working group had also considered an informal paper prepared by Mr. Yokota on the issues of amnesties, impunity and accountability for violations of international humanitarian law and of international human rights law. Ms. Hampson had also presented a working paper on the circumstances in which a party could open fire in the law of armed conflict, international humanitarian law and human rights law (A/HRC/Sub.1/58/CRP.5).

36. The working group had also considered another very important issue, which was that of transitional justice. A representative of the Office of the United Nations High

Commissioner for Human Rights (OHCHR) had given a presentation on the activities of the United Nations in the field of transitional justice. The representative had provided information on the recent establishment of the United Nations Peacebuilding Commission and the United Nations Peacebuilding Support Office, which had been set up in accordance with joint resolutions of the General Assembly and the Security Council adopted in 2005. The representative had indicated that OHCHR was assisting the United Nations Independent Special Commission of Inquiry in Timor-Leste to establish the facts and circumstances regarding, in particular, the incidents of 28 and 29 April and 23 to 25 May 2006. The representative had also indicated that an OHCHR team was currently in the Democratic Republic of the Congo investigating the most severe violations of human rights and international humanitarian law that had allegedly been committed in that country between March 1993 and June 2003. Lastly, she pointed out that OHCHR had set up, or was in the process of setting up, various methodological tools to ensure transitional justice in the field.

37. The working group had adopted a provisional agenda for its next session and had proposed that Mr. Yokota should continue his study on the connection between international humanitarian law and international human rights law and that Ms. Hampson should draft a working paper on the circumstances in which civilians lost their immunity from attack that they enjoyed under international humanitarian law and international human rights law. The working group had also proposed that Mr. Salama should draft a working paper on measures to prevent violations in cases where international humanitarian law and international human rights law were both applicable, and that Mr. Tuñón Veilles should draft a document on transitional justice in Latin America.

The meeting rose at 6 p.m.