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HUMAN RIGHTS COUNCIL  
Sub-Commission on the Promotion  
and Protection of Human Rights  
Fifty-eighth session  
Agenda item 3

### ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY

**Mr. Alfredsson, Mr. Chen Shiqu, Mr. Cherif, Ms. Chung,  
Mr. Decaux, Mr. Guissé, Ms. Koufa, Ms. Mbonu, Ms. Motoc,  
Ms. O'Connor, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Salama,  
Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota:  
draft resolution**

#### **2006/... The difficulty of establishing guilt or responsibility with regard to sexual violence**

*The Sub-Commission on the Promotion and Protection of Human Rights,*

*Guided by the Universal Declaration of Human Rights, the Convention on the  
Elimination of All Forms of Discrimination against Women and the various legal instruments  
adopted at the national, regional and international levels,*

*Reaffirming that everyone has the right to life, liberty and security of person and to an  
effective remedy by the competent national tribunals for acts violating the inherent dignity and  
value of the human person, as well as the fundamental rights granted him by the constitution or  
by law,*

*Reaffirming also* that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations or of any criminal charge against him,

*Noting with great concern* the constantly increasing number of victims of sexual violence,

*Concerned* by the laws and practices that make it even more difficult to adduce evidence in cases of sexual abuse and violence directed against women and children, and that threaten to constitute flagrant violations of the norms guaranteeing the right to a fair trial,

*Convinced* that the difficulty encountered in establishing evidence of sexual violence constitutes an impediment to the administration of justice and a basic obstacle to respect for victims' rights, and threatens to lead directly to impunity,

*Stressing, therefore,* the need to draw up principles and guidelines on the rules of evidence in cases of sexual violence,

*Recalling* its resolution 2004/29 of 12 August 2004 and Commission on Human Rights decision 2005/108 of 8 August 2005,

*Taking note* of the working papers prepared by Ms. Lalaina Rakotoarisoa (E/CN.4/Sub.2/2003/WG.1/CRP.1 and E/CN.4/Sub.2/2004/11) and her oral presentation on the subject at the fifty-seventh session of the Sub-Commission,

1. *Welcomes* her preliminary report (A/HRC/Sub.1/58/CRP.9);
2. *Requests* the Special Rapporteur to submit to it an interim report at its fifty-ninth session and a final report in the following year, or, failing that, to submit them to the Human Rights Council, or at the first session of the future expert body responsible for advising the Council;
3. *Requests* the Secretary-General to invite Governments, United Nations bodies, the specialized agencies and non-governmental organizations to provide the Special Rapporteur with the information necessary for the preparation of her report;

4. *Also requests* the Secretary-General to provide the Special Rapporteur with any assistance she may require to carry out her mandate, including the assistance of a consultant with specialized knowledge in this field;

5. *Recommends* the following draft decision to the Human Rights Council for adoption:

“The Human Rights Council, taking note of resolution 2006/... of ... of the Sub-Commission on the Promotion and Protection of Human Rights, decides to confirm the mandate of the Special Rapporteur entrusted with preparing a detailed study on the difficulties of establishing guilt and/or responsibilities with regard to crimes of sexual violence, and to approve the decision to request the Special Rapporteur to submit an interim report to the Sub-Commission at its fifty-ninth session or to the future expert body at its first session and a final report in the following year, or, failing that, to submit them to the Human Rights Council. The Council requests the Secretary-General to provide the Special Rapporteur with any assistance she may require to complete her mandate successfully.”

6. *Decides* to continue consideration of this issue at its fifty-ninth session under the same agenda item, or recommends that it be considered at the first session of the future expert body.

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