



## General Assembly

Distr.  
LIMITED

A/HRC/Sub.1/58/L.29  
21 August 2006

Original: ENGLISH

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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. Alfonso Martínez, Mr. Alfredsson, Mr. Bengoa, Mr. Bíró,  
Mr. Chen Shiqu, Ms. Chung, Mr. Decaux, Ms. Hampson,  
Mr. Kartashkin, Ms. Koufa, Ms. O'Connor, Mr. Pinheiro,  
Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles,  
Ms. Wadibia-Anyanwu, Ms. Warzazi and Mr. Yokota:  
draft resolution**

#### **2006/... Sessional working group on the administration of justice**

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

*Firmly convinced* that the rule of law is an essential factor in the protection of human rights, as stressed in the Universal Declaration of Human Rights, and should continue to attract the attention of the international community,

*Convinced* that, through their own national legal and judicial systems, States must provide appropriate civil, criminal and administrative remedies for violations of human rights,

*Convinced also* that international tribunals and national judicial systems can work in a complementary manner to provide appropriate remedies for violations of human rights,

*Recalling* the numerous international standards in the field of the administration of justice,

*Emphasizing* that the right to access to justice as contained in applicable international human rights instruments forms an important basis for strengthening the rule of law through the administration of justice,

*Mindful* of the importance of ensuring respect for the rule of law and human rights in the administration of justice as a crucial contribution to ensuring peace and justice and ending impunity,

*Recalling* the recommendation of the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, that a comprehensive programme should be established within the United Nations with a view to helping States in the task of building and strengthening adequate national structures that have a direct impact on the overall observance of human rights and the maintenance of the rule of law,

*Recalling* the United Nations Millennium Declaration of 8 September 2000 which, inter alia, called upon States to strengthen respect for the rule of law in international as well as in national affairs, to consider signing and ratifying the Rome Statute of the International Criminal Court and to ensure implementation, by States parties, of treaties in areas such as international humanitarian law and human rights law,

1. *Welcomes with satisfaction* the report of the sessional working group on the administration of justice (A/HRC/Sub.1/58/8) and takes note of its discussions on the subjects of international criminal justice, women and children in prison, the right to an effective remedy, and transitional justice;
2. *Notes with interest* the increasing number of States, non-governmental organizations and other observers actively participating in the sessional working group;
3. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

4. *Reiterates its call* to Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards;

5. *Reaffirms* the importance of combating impunity as a fundamental obstacle to the observance of human rights and recalls Commission on Human Rights resolution 2005/35 of 19 April 2005 by which it adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, and welcomes the efforts of States and the United Nations international criminal tribunals to work in a complementary manner to ensure that violations of human rights do not go unpunished;

6. *Convinced* that the issue of amnesty as a means of settling conflicts remains a continuing concern because of the possibility that perpetrators of serious human rights will escape accountability for their actions and also notes the need for further study in this area;

7. *Emphasizes* the importance of the accountability of United Nations staff in peace support operations and underlines the importance of further study in this area;

8. *Reaffirms* the importance of reaching a better understanding through further study and debate of the relationship between human rights law and international humanitarian law, including issues relating to the loss by civilians of their right to protection during conflicts and the circumstances in which a party can open fire under international humanitarian law and human rights law;

9. *Emphasizes* the importance and urgency of national and international efforts to restore justice and the rule of law in conflict and post-conflict situations and, where relevant, in the context of the transitional process, to ensure accountability and justice, to promote and achieve reconciliation and to restore confidence in the institutions of the State, in accordance with international human rights standards and the principle of non-discrimination;

10. *Recalls* Commission on Human Rights resolution 2005/70 of 20 April 2005 on human rights and transitional justice and the report of the Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (S/2004/616), and notes with

interest the study on the right to the truth and the study on human rights and transitional justice activities undertaken by the human rights components of the United Nations system, (E/CN.4/2006/93) both by the Office of the United Nations High Commissioner for Human Rights;

11. *Welcomes* the recent publication by the Office of the High Commissioner of five publications in the series Rule-of-law tools for post-conflict States which focus respectively on prosecution initiatives, truth and reconciliation commissions, mapping the justice sector, an operational framework for vetting, and legal systems monitoring;

12. *Notes* that the right to an effective remedy in practice remains a significant goal that has yet to be obtained in many States, and emphasizes the need for further conceptual analysis and study in this regard;

13. *Invites* States, competent bodies of the United Nations, specialized agencies and intergovernmental and non-governmental organizations to provide or continue to provide information to the working group, or its successor entity, at its future sessions;

14. *Decides* to recommend to the Human Rights Council that the activity of the working group on the administration of justice be continued in the framework of any future expert advice mechanism.

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