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### HUMAN RIGHTS COUNCIL

#### SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-eighth session

#### SUMMARY RECORD OF THE 21st MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 24 August 2006, at 10 a.m.

Chairperson: Mr. BOSSUYT

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- (a) WOMEN AND HUMAN RIGHTS
- (b) CONTEMPORARY FORMS OF SLAVERY
- (c) TERRORISM AND COUNTER-TERRORISM
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The meeting was called to order at 10 a.m.

ADMINISTRATION OF JUSTICE, RULE OF LAW AND DEMOCRACY (agenda item 3)  
(continued) (A/HRC/Sub.1/58/L.5, L.7, L.17, L.20, L.21, L.23 and L.29)

Draft decision on human rights and State sovereignty (A/HRC/Sub.1/58/L.5)

1. The CHAIRPERSON announced that Mr. Alfonso Martínez and Mr. Tuñón Veilles had become sponsors of the draft decision.
2. He said that it was necessary to specify to whom the working paper referred to should be submitted, and suggested adding the words “to the Sub-Commission or to any future expert advice mechanism” to the end of the first sentence.
3. The draft decision, as orally amended, was adopted without a vote.

Draft resolution on the universal implementation of international human rights treaties  
(A/HRC/Sub.1/58/L.7)

4. Ms. HAMPSON, replying to a question from Mr. ALFONSO MARTÍNEZ on paragraph 5, said that monitoring meant verifying the status of treaties in respect of accessions, ratifications and reservations.
5. Mr. ALFONSO MARTÍNEZ said that confirmed what he had thought, namely that it did not involve any qualitative judgement regarding States’ exercise of their sovereign right to accede to or ratify such instruments, or to choose not to do so.
6. The draft resolution was adopted without a vote.

Draft decision on transitional justice: investigation mechanisms for truth and reconciliation, with emphasis on Latin America (A/HRC/Sub.1/58/L.17)

7. The CHAIRPERSON announced that Ms. Hampson and Mr. Kartashkin had become sponsors of the draft decision.
8. He said that it was necessary to specify the name of the body to which the working paper should be submitted, and therefore suggested replacing the words “working group” with the words “working group on the administration of justice”.
9. The draft decision, as orally amended, was adopted without a vote.

Draft resolution on the right to an effective remedy (A/HRC/Sub.1/58/L.20)

10. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission.
11. The draft resolution was adopted without a vote.

Draft resolution on accountability of international personnel taking part in peace support operations (A/HRC/Sub.1/58/L.21)

12. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Ms. Hampson, Mr. Tuñón Veilles and Ms. Wadibia-Anyanwu had become sponsors of the draft resolution.

13. Mr. ALFONSO MARTÍNEZ, referring to paragraph 2 of the statement of financial implications, requested a breakdown of the amount of US\$ 27,700 in respect of the annual costs of the Special Rapporteur's activities.

14. Mr. WARD (Office of the United Nations High Commissioner for Human Rights) explained that travel accounted for US\$ 4,000, daily subsistence allowance (DSA) for US\$ 2,695 and secretariat support for US\$ 21,000. In respect of travel, standard Secretariat guidelines were applied, while the DSA was associated with specific locations. Secretariat support was based on the salary and associated costs for a post at the P-3 level for three months.

15. Mr. KARTASHKIN, referring to paragraph 3 of the statement of financial implications, asked what was meant by the sentence "The mandate of the Special Rapporteur falls under the category of activities considered to be of a perennial nature."

16. Mr. WARD (Office of the United Nations High Commissioner for Human Rights) said it referred to the fact that special rapporteur mandates were considered part of the ongoing work of the Secretariat and the associated costs were therefore a standard item in the budget of OHCHR for each biennium. Currently, because of the financial situation of the Organization, any additional activities of that nature were required to be undertaken within existing resources.

17. Ms. WARZAZI said that it would be helpful if the statement of financial implications were to include a breakdown of the allocations made so that the experts in question would know exactly what they were entitled to in respect of travel and secretariat services.

18. The draft resolution was adopted without a vote.

Draft resolution on the difficulty of establishing guilt or responsibility with regard to sexual violence (A/HRC/Sub.1/58/L.23)

19. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Mr. Alfonso Martínez, Mr. Bíró, Ms. Hampson and Mr. Kartashkin had become sponsors of the draft resolution.

20. The draft resolution was adopted without a vote.

Draft resolution on the sessional working group on the administration of justice (A/HRC/Sub.1/58/L.29)

21. The CHAIRPERSON announced that Mr. Cherif had become a sponsor of the draft resolution.

22. The draft resolution was adopted without a vote.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 4) (continued)  
(A/HRC/Sub.1/58/L.6, L.14, L.15, L.16, L.25 and L.30)

Draft resolution on corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights (A/HRC/Sub.1/58/L.6)

23. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Mr. Tuñón Veilles and Ms. Wadibia-Anyanwu had become sponsors of the draft resolution.

24. Referring to paragraph 9, he said that, in the interests of clarity, the words “to the recipients named in the resolution” should be replaced by “to Member States and other stakeholders, including the specialized agencies dealing with corruption issues, relevant non-governmental organizations, relevant members of civil society, international financial institutions, etc.”.

25. Ms. HAMPSON, referring to paragraph 2, said the word “posit” should be replaced by the word “positive”.

26. The draft resolution, as orally amended, was adopted without a vote.

Draft resolution on the effects of the working methods and activities of transnational corporations on the enjoyment of human rights (A/HRC/Sub.1/58/L.14)

27. The draft resolution was adopted without a vote.

Draft resolution on the Social Forum (A/HRC/Sub.1/58/L.15)

28. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Mr. Salama and Mr. Yokota had become sponsors of the draft resolution.

29. The draft resolution was adopted without a vote.

Draft resolution on the implementation of existing human rights norms and standards in the context of the fight against extreme poverty (A/HRC/Sub.1/58/L.16)

30. The CHAIRPERSON announced that Ms. Rakotoarisoa had become a sponsor of the draft resolution.

31. The draft resolution was adopted without a vote.

32. Mr. DECAUX said the resolution just adopted was of historic significance, representing as it did the culmination of 10 years’ work by the Sub-Commission.

Draft resolution on the promotion of the realization of the right to drinking water and sanitation (A/HRC/Sub.1/58/L.25)

33. The CHAIRPERSON announced that Mr. Chen Shiqiu, Ms. Chung, Mr. Kartashkin and Mr. Tuñón Veilles had become sponsors of the draft resolution.

34. He pointed out that Mr. Guissé should not be referred to in the text as the Special Rapporteur, as his mandate had ended in 2004.

35. Ms. HAMPSON said that the description of Mr. Guissé as Special Rapporteur in paragraph 1 was in fact correct, since the document referred to had been the final report of his mandate.

36. The CHAIRPERSON suggested replacing the words “Special Rapporteur” in paragraphs 8 and 9 by the words “Mr. Guissé”.

37. The draft resolution, as orally amended, was adopted without a vote.

Draft decision on the right to development (A/HRC/Sub.1/58/L.30)

38. The CHAIRPERSON announced that Mr. Alfonso Martínez and Mr. Kartashkin had become sponsors of the draft decision.

39. The draft decision was adopted without a vote.

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) (A/HRC/Sub.1/58/L.2, L.3, L.4, L.8, L.18 and L.22)

Draft resolution on the rights of persons belonging to national or ethnic, religious and linguistic minorities (A/HRC/Sub.1/58/L.2)

40. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Mr. Alfonso Martínez, Mr. Bíró, Mr. Chen Shiqiu, Ms. Chung, Ms. Hampson, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Sattar, Mr. Tuñón Veilles, Ms. Wadibia-Anyanwu, Ms. Warzazi and Mr. Yokota had become sponsors of the draft resolution.

41. Ms. HAMPSON said that, as it stood, paragraph 1 of the draft resolution suggested that the Working Group on Minorities would report only to the Human Rights Council. She

proposed amending the paragraph to indicate a preference for reporting through a subsidiary body - i.e., the successor to the Sub-Commission - and directly to the Human Rights Council only in the absence of such a subsidiary body. She therefore suggested replacing the words “to the Council and its subsidiary bodies” with the words “to the Council, preferably through its subsidiary bodies”.

42. The draft resolution, as orally amended, was adopted without a vote.

Draft resolution on the Second International Decade of the World's Indigenous Peoples (A/HRC/Sub.1/58/L.3)

43. The CHAIRPERSON announced that Mr. Chen Shiqiu, Ms. Chung, Mr. Decaux, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar and Mr. Tuñón Veilles had become sponsors of the draft resolution.

44. The draft resolution was adopted without a vote.

Draft resolution on the Working Group on Indigenous Populations (A/HRC/Sub.1/58/L.4)

45. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Mr. Alfredsson, Mr. Chen Shiqiu, Ms. Chung, Mr. Decaux, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles and Ms. Warzazi had become sponsors of the draft resolution.

46. The draft resolution was adopted without a vote.

Draft resolution on discrimination based on work and descent (A/HRC/Sub.1/58/L.8)

47. The CHAIRPERSON drew attention to the statement of financial implications which had been circulated to the Sub-Commission. He announced that Mr. Bíró, Ms. Koufa, Ms. Hampson, Ms. O'Connor and Mr. Tuñón Veilles had become sponsors of the draft resolution.

48. Ms. HAMPSON requested clarification on paragraph 3 of the programme budget implications statement, which mentioned funds for consultations by experts in Geneva. She wondered whether those were extra consultations, since experts already had budget allocations for one trip to Geneva for consultations.

49. Mr. ALFONSO MARTÍNEZ asked whether the amounts mentioned in paragraph 5 of the statement were being requested from the regular budget.

50. Mr. WARD (Office of the United Nations High Commissioner for Human Rights), responding to the question raised by Ms. Hampson, said that the consultations in question were indeed extra consultations, which were not provided for in the regular budget. As to

Mr. Alfonso Martínez's question, he said that the African and Asian workshops would be considered to come within the remit of the regular budget. That notwithstanding, the contingency fund for additional activities had been exhausted, and there were therefore no funds currently available. Resources would be reviewed by the General Assembly in September 2006.

51. Ms. CHUNG said that discrimination based on work and descent was currently one of the most important human rights issues requiring the attention of the United Nations. Some 260 million persons worldwide were victims of that form of discrimination, which was so culturally ingrained in some countries that it would need a concerted effort on the part of United Nations bodies, specialized agencies and special rapporteurs in order to make any significant progress. Involving concerned partners in the issue would enable them to be sensitive to discriminatory practices based on work and descent while carrying out their own programmes and research. Moreover, workshops organized formally by the United Nations would lend authority and credibility to those efforts, as well as help to raise awareness of the problem. She therefore appealed to members to support the draft resolution as it currently stood.

52. Mr. YOKOTA endorsed the comments made by Ms. Chung. He pointed out that, in their capacity as Special Rapporteurs, he and Ms. Chung would continue their efforts to seek outside funding for the two proposed workshops.

53. Mr. ALFONSO MARTÍNEZ said that, if no amendment was made to the draft resolution concerning its financial implications amounting to over half a million US dollars, every other decision made by the Sub-Commission would be negatively affected. He could only support the proposal to organize the two workshops if they required no additional appropriations.

54. Mr. BENGUA said that, given the fact that the Sub-Commission had been informed that the cost of the workshops could not be covered by the contingency fund for additional activities, it was not appropriate to adopt the draft resolution without amending it. He proposed that the words "by securing independent funding" should be inserted after the references to "the first quarter of 2007" in paragraphs 2 and 4.

55. The draft resolution, as orally revised, was adopted without a vote.

Draft resolution on discrimination against leprosy-affected persons and their families  
(A/HRC/Sub.1/58/L.18)

56. The CHAIRPERSON said that in paragraphs 10 and 13, the expression "progress report" should be replaced by "preliminary report". He drew attention to the statement of financial implications which had been circulated to the Sub-Commission.

57. Mr. DECAUX expressed concern regarding the extremely high level of funding required.



58. The CHAIRPERSON said that he too was concerned that a request for the sum of US\$ 659,200 was excessive and could have negative repercussions for the Sub-Commission.
59. Mr. ALFONSO MARTÍNEZ asked what the system was for prioritizing activities to which funds would be allocated, and whether OHCHR set those priorities.
60. Mr. BENGUA said that in previous cases in which international workshops had been held, private foundations had provided funding. He suggested indicating in the text of the draft resolution that private funding would be sought.
61. Mr. YOKOTA said that the two regional workshops were particularly important, since people suffering from leprosy-related discrimination lived in poverty and could not be expected to attend a seminar in Geneva. He had intended to seek funding from private sources, and in formal negotiations had begun between OHCHR and a private foundation in Japan. Since the future of the Sub-Commission was uncertain, the negotiations had been suspended, but they would resume if the mandate for the Special Rapporteur was approved.
62. Ms. HAMPSON suggested inserting the word “independent” before the word “funding” in paragraphs 9 and 13.
63. Mr. YOKOTA said he could agree to Ms. Hampson’s suggestion, since he expected to find private funds to cover the cost of the two regional workshops. The statement of financial implications should be amended accordingly.
64. Mr. SATTAR said that the amendment suggested by Ms. Hampson would be an appropriate solution to the problem, particularly since in the past, Mr. Yokota had successfully found funding for regional workshops and the travel of some victims to Geneva.
65. Mr. WARD (Office of the United Nations High Commissioner for Human Rights) said that the amount required for the two regional workshops would be deleted from the statement of financial implications.
66. The draft resolution, as orally amended, was adopted without a vote.

Draft resolution on the legal implications of the disappearance of States and other territories for environmental reasons, including the implications for the human rights of their residents, with particular reference to the rights of indigenous peoples (A/HRC/Sub.1/58/L.22)

67. The CHAIRPERSON drew attention to the statement of financial implications, which had been circulated to the Sub-Commission. He announced that Mr. Alfredsson, Mr. Chen Shiqu, Mr. Cherif, Ms. Chung, Mr. Guissé, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O’Connor, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles and Ms. Warzazi had become sponsors of the draft resolution.
68. The draft resolution was adopted without a vote.

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/L.9, L.12, L.13, L.19, L.24, L.27, L.28 and L.31)

Draft resolution on the report of the Working Group on Contemporary Forms of Slavery  
(A/HRC/Sub.1/58/L.9)

69. Mr. KARTASHKIN requested clarification on the meaning of the term “stronger mandate” in paragraph 6 (a).
70. Mr. SATTAR said that, although some monitoring was already being conducted, the Working Group required the support of the Human Rights Council to be able to exercise its own initiative. The word “stronger” could be deleted.
71. The CHAIRPERSON announced that Mr. Alfredsson, Mr. Bíró, Mr. Chen Shiqiu, Ms. Chung, Mr. Guissé, Ms. Hampson and Mr. Tuñón Veilles had become sponsors of the draft resolution.
72. Mr. SATTAR said that the recommendations in paragraph 2 had financial implications for the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. He was unsure whether they should be referred to some other body for consideration.
73. Mr. WARD (Office of the United Nations High Commissioner for Human Rights) said that the Council would take note of the recommendations and its decision would be cited when additional funds were sought from donors.
74. The draft resolution, as orally amended, was adopted without a vote.

Draft decision on human rights of elderly people (A/HRC/Sub.1/58/L.12)

75. The CHAIRPERSON announced that Ms. Hampson had become a sponsor of the draft decision.
76. The draft decision was adopted without a vote.

Draft resolution on systematic rape, sexual slavery and slavery-like practices during armed conflicts (A/HRC/Sub.1/58/L.13)

77. The CHAIRPERSON announced that Ms. Hampson and Mr. Salama had become sponsors of the draft resolution.
78. The draft resolution was adopted without a vote.

Draft resolution on the World Programme for Human Rights Education (A/HRC/Sub.1/58/L.19)

79. The CHAIRPERSON announced that Mr. Alfonso Martínez, Mr. Cherif, Mr. Decaux, Ms. Hampson, Ms. O'Connor, Ms. Rakotoarisoa and Mr. Tuñón Veilles had become sponsors of the draft resolution.

80. The draft resolution was adopted without a vote.

Draft resolution on the 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/L.27)

81. The CHAIRPERSON announced that Ms. Motoc had become a sponsor of the draft resolution. He drew attention to the statement of financial implications that had been circulated to the Sub-Commission.

82. The draft resolution was adopted without a vote.

Draft decision on human rights and the human genome (A/HRC/Sub.1/58/L.28)

83. The CHAIRPERSON announced that Mr. Cherif had become a sponsor of the draft decision.

84. The draft decision was adopted without a vote.

Draft resolution on the protection of civilians during armed conflicts (A/HRC/Sub.1/58/L.31/Rev.1)

85. Ms. HAMPSON said that as a result of ratifications by Nauru and Montenegro a few days previously, the four 1949 Geneva Conventions had achieved universal ratification.

86. The CHAIRPERSON announced that Ms. Chung had become a sponsor of the draft resolution but that Mr. Decaux was not a sponsor.

87. Mr. SALAMA, introducing the revised version of the draft resolution on behalf of the sponsors, said that the future role of the Sub-Commission's successor body included identifying gaps in protection and proposing concrete remedial action. Paragraph 1 identified what could be termed a monitoring gap in the protection of civilians during armed conflicts. The contracting parties to the Geneva Conventions had a collective legal, political and moral responsibility to respect and ensure respect for the provisions of the Conventions in all circumstances. The draft resolution proposed that consideration should be given to holding a meeting of the contracting parties to discuss possible options for enhancing the monitoring of compliance with their obligations.

88. In addition, the draft resolution proposed the elaboration of guidelines for commissions of inquiry and fact-finding missions on human rights violations during armed conflict, the conduct of a dialogue between human rights special procedures and international humanitarian

law experts to identify mechanisms for improved coordination of their work, and the inclusion of a permanent item on the agenda of the Sub-Commission's successor body concerning respect for human rights during armed conflict.

89. The principal message conveyed by the draft resolution was that an attempt should be made, when cases of possible gross human rights violations associated with armed conflicts were addressed, to distinguish the human rights dimension of a conflict from its political aspects.

90. Mr. DECAUX welcomed the proposals made in the draft resolution but cautioned against undermining the role of the International Committee of the Red Cross (ICRC), which was deeply committed to maintaining its independence and impartiality.

91. The goal of coordinating the work of human rights experts and experts in international humanitarian law was commendable. However, the message should, in his view, be clarified and simplified. He proposed deleting the fourth preambular paragraph, which referred to country-specific situations, and making operative paragraph 4 into a preambular paragraph, since it merely stated clear-cut principles of international humanitarian law. He further proposed deleting paragraph 6, which he found confusing and ambiguous.

92. Mr. SALAMA said that he could agree, with some hesitation, to the deletion of the fourth preambular paragraph, subject to the approval of the other sponsors, and he had no objection to the proposal to convert paragraph 4 into a preambular paragraph.

93. He had reservations about the deletion of paragraph 6, which had been inspired by what had occurred at the two special sessions of the Human Rights Council. There was a tendency to mix political thinking with human rights considerations. Human rights were being invoked in the context of conflicts and the maintenance of international peace and security. Although the Human Rights Council had no mandate to pass judgment on the merits of a conflict or to call for a ceasefire, it should not be prevented from addressing its human rights dimensions.

94. Mr. ALFONSO MARTÍNEZ emphasized the importance of paragraph 7 in view of the high risk of armed conflict at a time when the greatest military Power on earth had reserved the right to undertake pre-emptive attacks.

95. ICRC would, in his view, welcome paragraph 1, which enhanced its authority as an agent mandated to promote the implementation of the Geneva Conventions.

96. He saw no reason to delete the final preambular paragraph and felt that paragraph 4 would be weakened if it was moved to the preamble.

97. Paragraph 6 was vital and he opposed its deletion.

98. Ms. WARZAZI said that she could accept all of Mr. Decaux's proposed amendments except the deletion of paragraph 6. When the Sub-Commission, fulfilling its duty to react to human rights violations, had adopted a Chairperson's statement by consensus at the beginning of the session, it had been the target of disagreeable criticism. Paragraph 6 was intended to address precisely that kind of criticism. It was also directed against the mixing of politics and human rights issues at the special sessions of the Human Rights Council.

99. Mr. KARTASHKIN said that the revised version of the draft resolution raised complex issues and required careful consideration. He objected, for instance, to the use of the word “disproportionate” in the first preambular paragraph, since it implied that causing proportionate harm to civilians and civilian property was acceptable.

100. Ms. HAMPSON said that the first preambular paragraph simply reflected the provisions of international humanitarian law.

101. While she had no objection to the deletion of the final preambular paragraph or to the conversion of paragraph 4 into a preambular paragraph, she could not accept the deletion of paragraph 6. To meet Mr. Decaux’s objection, she proposed amending it to read: “Emphasizes that allegations of gross or widespread violations of human rights should be addressed in a reasoned, objective and judicious manner.”

102. Mr. DECAUX said that he withdrew his objection to paragraph 6 in the light of the statements by previous speakers. However, he proposed deleting the word “given” before “conflict”.

103. Mr. SALAMA said that the sponsors found the latter amendment acceptable. They agreed to move paragraph 4 so that it became the penultimate preambular paragraph, but they wished to retain the final preambular paragraph, which reflected the essence of the future expert body’s work.

104. Mr. YOKOTA expressed support for Mr. Kartashkin’s objection to the use of the word “disproportionate” in the first preambular paragraph. If the word “disproportionate” was deleted, he could sponsor the draft resolution.

105. Ms. HAMPSON said that if the word “disproportionate” was deleted, she would be unable to support the draft resolution, since it would contradict the principles that ICRC was required to uphold. Under humanitarian law States were obliged to refrain from deliberately targeting civilians. It was recognized, however, that when they attacked permissible objects, civilians inevitably suffered some harm. Under customary and treaty law, States’ legal obligation in such cases was to take into account the likely harm to civilians so as not to cause disproportionate harm. She might consider supporting the draft resolution if the word “intentional” was inserted before “attacks” and the remainder of the paragraph, beginning with the words “and requiring”, was deleted, but the resulting text would be significantly weaker.

106. Mr. KARTASHKIN said that he had a series of objections to the proposed new text of the draft resolution and would withdraw as a sponsor.

107. Mr. SALAMA said that removing the word “disproportionate” would be equivalent to prohibiting collateral damage, which was permitted by the law of war. He had opted for the current wording precisely because the notions of collateral damage, proportionality and intent were not precisely defined in the law of war.

108. Mr. YOKOTA said that the principle of proportionality was an established principle in international humanitarian law but the concept was used in the wrong way in the first preambular paragraph, which carried the implication that proportionate harm to civilians and civilian property was acceptable. Although he had a strong reservation about that provision, he would not object to it if there was consensus regarding the draft's adoption.

109. Ms. KOUFA said that, although she remained a sponsor of the draft resolution, she wished to indicate that she would have preferred the text as originally worded by Mr. Salama.

110. The CHAIRPERSON announced that Mr. Decaux, Ms. Hampson and Ms. Warzazi had become sponsors of the draft resolution.

111. Mr. SALAMA, referring to operative paragraph 4 (new penultimate preambular paragraph) said that the first word should be "reaffirming".

112. The draft resolution, as orally amended, was adopted without a vote.

Draft resolution on prevention of human rights violations committed with small arms and light weapons (A/HRC/Sub.1/58/L.24)

113. Ms. HAMPSON said that the sponsors had been informed of the following proposed amendment to paragraph 6: the phrase "as amended by Ms. Frey to reflect the discussion at the fifty-eighth session of the Sub-Commission" should be inserted after "small arms".

114. Mr. DECAUX requested that the term "small arms" should be translated in French as "armes légères" in keeping with the usage found in Security Council documents.

115. Mr. CHEN Shiqiu, referring to paragraph 3, enquired what exactly was meant by "armed private actors". He pointed out that in some countries, it was difficult for the Government to take action against certain individuals whose activities were not under its control.

116. Ms. HAMPSON said that the paragraph was designed to reduce the use of small arms by private actors by making their acquisition more difficult. It was within the range of responsibilities of the State to institute laws and practices that reduced the likelihood that private individuals could obtain small arms.

117. Ms. KOUFA, referring to paragraph 3, said that the term "actors" should be replaced by "individuals".

118. Mr. YOKOTA said that in some provisions of the draft resolution, reference was made only to small arms, whereas others mentioned small arms and light weapons. Unless that was intentional, he would prefer consistent use of the phrase "small arms and light weapons" so as to avoid implying that, in some cases, only small arms were prohibited but light weapons could be used.

119. Ms. HAMPSON concurred with Mr. Yokota's proposal to make consistent reference to small arms and light weapons. The term "private actors" was commonly used in international law and should be maintained.

120. Mr. TUÑÓN VEILLES remarked that the term "private actors" referred to private security agents, who, in many parts of the world, were increasingly being used to replace law enforcement personnel.

121. Ms. WARZAZI proposed using both terms: "private actors" and "individuals".

122. Ms. HAMPSON endorsed Ms. Warzazi's proposal. The words "and individuals" should be inserted after "actors" in paragraph 3.

123. Ms. O'CONNOR said that, in principle, she supported the aim of the draft resolution; however, it did not address the root cause of the problem, which was the fact that certain States allowed small arms and light weapons to enter other countries.

124. Mr. ALFONSO MARTÍNEZ endorsed the comments made by Ms. O'Connor.

125. The draft resolution, as orally amended, was adopted without a vote.

Draft decision on the effect of debt on the enjoyment and exercise of human rights  
(A/HRC/Sub.1/58/L.26)

126. Mr. GUISSÉ said that he was opposed to the idea of deferring the draft decision until a later stage. Since it concerned a request for a study, he did not anticipate that any objections would be raised by members.

127. Mr. DECAUX said that an independent expert on the issue of debt and its human rights implications had already been appointed, which could raise concerns within the Human Rights Council concerning duplication of effort.

128. Mr. YOKOTA said that he was in favour of considering the draft decision at the current meeting.

129. Mr. ALFONSO MARTÍNEZ said that a problem arose from the fact that the draft decision contained a request for Mr. Guissé to prepare a preliminary report, when preliminary reports could only be prepared by special rapporteurs. The Sub-Commission should therefore nominate Mr. Guissé as special rapporteur on the effect of debt on the enjoyment and exercise of human rights and request his appointment by the Human Rights Council.

130. The CHAIRPERSON said that a decision by the Sub-Commission to request the appointment of Mr. Guissé as special rapporteur would involve financial implications, which had not been evaluated within the context of the current draft decision.

131. Mr. GUISSÉ said that the adoption of the draft decision did not preclude making a request to the Human Rights Council for his appointment as special rapporteur and a subsequent evaluation of the potential financial implications. In the past, such studies had not implied financial costs.

132. Ms. HAMPSON suggested that, in the second line, the term “a preliminary report” should be replaced by “an expanded working paper”. In the third line, the following text should be inserted after “rights”: “taking account of the reports of the Independent expert on the effects of economic reform policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights”. The inclusion of such a reference would acknowledge the existence of the independent expert and show that the Sub-Commission was sensitive to the issue of duplication.

133. Ms. MOTOC stressed that the studies conducted by the Sub-Commission were aimed at standard-setting, whereas those carried out by the former Commission on Human Rights or the Human Rights Council were for the purpose of monitoring.

134. Mr. GUISSÉ reiterated his request for the Sub-Commission to adopt the draft decision without revision or amendment, which would enable him to submit his preliminary report to the Sub-Commission at its next session or to its successor body. As a member of the Sub-Commission, his perspective on the issue of debt might well differ from that of the independent expert appointed by the Commission on Human Rights, thereby justifying the request made in the draft decision.

135. The CHAIRPERSON said that consideration of the draft decision would be postponed until the next meeting.

The meeting rose at 1 p.m.