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Agenda item 7 (a)

ADOPTION OF THE REPORT ON THE FIFTY-SIXTH SESSION

**Draft report of the Sub-Commission on the Promotion
and Protection of Human Rights**

Rapporteur: Mr. Paulo Sérgio Pinheiro

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* E/CN.4/Sub.2/2004/L.10 and Addenda contain the draft chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Sub-Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Commission on Human Rights will be contained in documents E/CN.4/Sub.2/2004/L.11 and Addenda.

V. Administration of justice, rule of law and democracy

1. The Sub-Commission considered agenda item 3 at its 19th and 20th meetings, on 10 August, at its 21st and 22nd meetings, on 11 August, and at its 23rd meeting, on 12 August 2004.
2. For the list of documents issued under agenda item 3, see annex VII to the present report.
3. At the 20th meeting, on 10 August 2004:

(a) Ms. Rakotoarisoa presented her working paper on the difficulties of establishing guilt and/or responsibilities with regard to crimes of sexual violence (E/CN.4/Sub.2/2004/11). In the interactive dialogue that followed, statements were made by Mr. Cherif, Mr. Guissé, Ms. Hampson and Ms. Hayashi as well as the observer for the non-governmental organization Friends World Committee for Consultation (Quakers). At the 22nd meeting, Ms. Rakotoarisoa made her concluding remarks;

(b) Mr. Decaux, Special Rapporteur on the universal implementation of international human rights treaties, introduced his preliminary report (E/CN.4/Sub.2/2004/8). In the interactive dialogue that followed, statements were made by Mr. Alfonso Martínez, Mr. Casey, Ms. Hampson, Mr. Kartashkin, Ms. Motoc and Mr. Salama. At the same meeting, Mr. Decaux made his concluding remarks;

(c) Ms. O'Connor presented her working paper on the issue of women in prison (E/CN.4/Sub.2/2004/9). In the interactive dialogue that followed, a statement was made by Ms. Hampson as well as the observer for the non-governmental organization Friends World Committee for Consultation (Quakers). At the 22nd meeting, Ms. O'Connor made her concluding remarks.

4. At the 21st meeting, on 11 August 2004:

(a) Mr. Decaux introduced his updated report on the issue of the administration of justice through military tribunals (E/CN.4/Sub.2/2004/7). In the interactive dialogue that followed, statements were made by Mr. Casey, Mr. Cherif, Mr. Guissé, Ms. Hampson, Ms. Koufa, Ms. Motoc and Ms. Warzazi as well as the observers for the following

non-governmental organizations: Friends World Committee for Consultation (Quakers), International Commission of Jurists, South Asia Human Rights Documentation Centre and War Resisters International. At the same meeting, Mr. Decaux made his concluding remarks;

(b) Ms. Motoc, Chairperson-Rapporteur of the sessional working group on the administration of justice, presented the report of the working group (E/CN.4/Sub.2/2004/6). In the interactive dialogue that followed, a statement was made by Ms. Chung.

5. In the general debate on agenda item 3, statements were made by members of the Sub-Commission and observers for Governments and non-governmental organizations. For the detailed list of speakers, see annex II.

Women in prison

6. At the 24th meeting, on 12 August 2004, Ms. Warzazi introduced draft decision E/CN.4/Sub.2/2004/L.16, sponsored by Mr. Alfredsson, Mr. Bengoa, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Hampson, Ms. Koufa, Ms. Motoc, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Wadibia-Anyanwu, Ms. Warzazi and Mr. Yokota. Mr. Alfonso Martínez and Mr. Kartashkin subsequently joined the sponsors.

7. The draft decision was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/116.

Right to an effective remedy in criminal proceedings

8. At the same meeting, the Sub-Commission considered draft decision E/CN.4/Sub.2/2004/L.27, sponsored by Mr. Alfredsson, Mr. Bengoa, Mr. Bíró, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Guissé, Ms. Hampson, Ms. Motoc, Ms. O'Connor, Mr. Salama, Mr. Sattar, Ms. Wadibia-Anyanwu and Ms. Warzazi. Mr. Alfonso Martínez, Mr. Kartashkin, Ms. Koufa, Ms. Rakotoarisoa, Mr. Tuñón Veilles and Mr. Yokota subsequently joined the sponsors.

9. The draft decision was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/117.

Discrimination in the criminal justice system

10. At the same meeting, the Sub-Commission considered draft resolution E/CN.4/Sub.2/2004/L.28, sponsored by Mr. Alfredsson, Mr. Bengoa, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Hampson, Ms. Koufa, Ms. Mbonu, Ms. Motoc, Ms. O'Connor, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota. Mr. Alfonso Martínez, Mr. Kartashkin, Mr. Pinheiro and Ms. Rakotoarisoa subsequently joined the sponsors.

11. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Sub-Commission was drawn to the estimated administrative and programme budget implications of the draft decision.

12. The draft decision was adopted without a vote. For the text of the decision, see chapter II, section A, resolution 2004/24.

Working paper on the relationship between human rights law and international humanitarian law

13. At the same meeting, Ms. Motoc introduced draft decision E/CN.4/Sub.2/2004/L.35, sponsored by Mr. Alfredsson, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Mbonu, Ms. Motoc, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota. Mr. Alfonso Martínez, Mr. Kartashkin and Ms. O'Connor subsequently joined the sponsors.

14. Ms. Hampson orally revised the second line of the draft decision.

15. The draft decision, as orally revised, was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/118.

Working paper on an effective remedy in civil matters against violations of human rights by State agents

16. At the same meeting, Ms. Motoc introduced draft decision E/CN.4/Sub.2/2004/L.37, sponsored by Mr. Alfredsson, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Ms. Hampson, Mr. Kartashkin, 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. Mr. Alfonso Martínez subsequently joined the sponsors.

17. The draft decision was adopted without a vote. For the text of the decision, see chapter II, section B, decision 2004/119.

Imposition of the death penalty on civilians by military tribunals or by tribunals whose composition includes one or more members of the armed forces

18. At the same meetings, Ms. Hampson introduced draft resolution E/CN.4/Sub.2/2004/L.38, sponsored by Mr. Alfredsson, Mr. Bíró, Ms. Chung, Mr. Dos Santos, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Sattar, Ms. Warzazi and Mr. Yokota.

19. Ms. Hampson orally revised the first, second, third and fourth preambular paragraphs and operative paragraph 2 of the draft resolution. Mr. Alfonso Martínez proposed amendment to the second preambular paragraph, which was accepted by the sponsors.

20. Statements in connection with the draft resolution were made by Mr. Alfonso Martínez, Mr. Casey, Mr. Bossuyt, Ms. Hampson and Ms. Wadibia-Anyanwu.

21. At the request of Mr. Casey, a vote was requested on the draft resolution.

22. At the request of Ms. Hampson a roll-call vote was taken on the draft resolution, which was adopted, as orally revised and amended, by 20 votes to 1, with 3 abstentions. The voting was as follows:

In favour: Mr. Alfonso Martínez, Mr. Alfredsson, Mr. Bengoa, M. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Chung, Mr. Decaux, Mr. Guissé, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Motoc, Ms. O'Connor, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota.

Against: Mr. Casey.

Abstaining: Mr. Cherif, Mr. Salama and Ms. Wadibia-Anyanwu.

23. For the text of the resolution, see chapter II, section A, resolution 2004/25.

The universal implementation of international human rights treaties

24. At the same meetings, the Sub-Commission considered draft resolution E/CN.4/Sub.2/2004/L.39, sponsored by Mr. Alfredsson, Mr. Bengoa, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Ms. Mbonu, Ms. Motoc, Ms. O'Connor, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and M. Yokota. Mr. Alfonso Martínez and Mr. Guissé subsequently joined the sponsors.

25. Mr. Bossuyt orally revised the operative paragraph 2 of the draft resolution.

26. The draft resolution, as orally revised, was adopted without a vote. For the text of the resolution, see chapter II, section A, resolution 2004/26.

Issue of the administration of justice and military tribunals

27. At the same meeting, Mr. Bossuyt introduced draft resolution E/CN.4/Sub.2/2004/L.40, sponsored by Mr. Alfredsson, Mr. Bengoa, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Mr. Cherif, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Hampson, Ms. Koufa, Ms. Mbonu, Ms. Motoc, Ms. O'Connor, Mr. Pinheiro, Ms. Rakotoarisoa, Mr. Salama, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota. Mr. Alfonso Martínez, Mr. Kartashkin and Mr. Sattar subsequently joined the sponsors.

28. The draft resolution was adopted without a vote. For the text of the resolution, see chapter II, section A, resolution 2004/27.

Discrimination against convicted persons who have served their sentence

29. At the same meeting, Ms. O'Connor introduced draft resolution E/CN.4/Sub.2/2004/L.41, sponsored by Mr. Alfredsson, Mr. Bíró, Mr. Chen, Ms. Chung,

Mr. Decaux, Mr. Dos Santos, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Salama, Ms. Warzazi and Mr. Yokota. Mr. Alfonso Martínez, Mr. Cherif, Ms. Hampson, Mr. Kartashkin, Ms. Koufa, Mr. Pinheiro, Mr. Sattar and Ms. Wadibia-Anyanwu subsequently joined the sponsors.

30. The draft resolution was adopted without a vote. For the text of the resolution, see chapter II, section A, resolution 2004/28.

The difficulty of establishing guilt and/or responsibility with regard to crimes of sexual violence

31. At the same meeting, Mr. Guissé introduced draft resolution E/CN.4/Sub.2/2004/L.42, sponsored by Mr. Alfredsson, Mr. Bíró, Mr. Bossuyt, Mr. Chen, Ms. Chung, Mr. Decaux, Mr. Dos Santos, Mr. Guissé, Ms. Koufa, Ms. Mbonu, Ms. Motoc, Ms. O'Connor, Ms. Rakotoarisoa, Mr. Salama, Mr. Sattar, Mr. Tuñón Veilles, Ms. Warzazi and Mr. Yokota. Mr. Alfonso Martínez, Mr. Bengoa, Mr. Cherif and Mr. Pinheiro subsequently joined the sponsors.

32. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Sub-Commission was drawn to the estimated administrative and programme budget implications of the draft resolution.

33. The draft resolution was adopted without a vote. For the text of the resolution, see chapter II, section A, resolution 2004/29.

Sessional working group on the administration of justice

34. At the same meeting, Ms. Motoc introduced draft resolution E/CN.4/Sub.2/2004/L.45, sponsored by Ms. Hampson, Ms. Motoc, Ms. O'Connor and Ms. Rakotoarisoa. Mr. Alfredsson, Mr. Bíró, Mr. Bossuyt, Mr. Cherif, Ms. Chung, Mr. Kartashkin, Ms. Koufa, Mr. Pinheiro, Mr. Sattar, Mr. Tuñón Veilles and Mr. Yokota subsequently joined the sponsors.

35. The draft resolution was adopted without a vote. For the text of the resolution, see chapter II, section A, resolution 2004/30.

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