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Agenda item 23

DRAFT REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION
AND PROTECTION OF MINORITIES ON ITS FORTY-SEVENTH SESSION

Rapporteur: Mr. José Bengoa

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* E/CN.4/Sub.2/1995/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.2/1995/L.11 and addenda.

VI. QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

1. The Sub-Commission considered item 6 at its 2nd to 4th, 7th, 10th and 11th meetings, on 1, 2, 3, 7 and 8 August 1995.

2. The Sub-Commission had before it the following documents in connection with its consideration of item 6:

Note by the Secretary-General (E/CN.4/Sub.2/1995/8);

Letter dated 15 June 1995 from the Ambassador, Chargé d'Affaires a.i., of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (E/CN.4/Sub.2/1995/41);

Written statement submitted by International Federation Terre des Hommes, a non-governmental organization in consultative status (category II) (E/CN.4/Sub.2/1995/NGO/3);

Written statement submitted by Human Rights Watch, a non-governmental organization in consultative status (category II) (E/CN.4/Sub.2/1995/NGO/11);

Written statement submitted by International Educational Development Inc., a non-governmental organization on the Roster (E/CN.4/Sub.2/1995/NGO/17);

Written statement submitted by Transnational Radical Party, a non-governmental organization in consultative status (category II) (E/CN.4/Sub.2/1995/NGO/18);

3. In the general debate on the item, statements 1/ were made by the following members of the Sub-Commission: Mr. Ali Khan (5th, 6th and 7th), Ms. Attah (3rd, 6th and 7th), Mr. Bengoa (3rd and 4th), Mr. Bossuyt (3rd and 4th), Mr. Boutkevitch (5th), Mr. Chernichenko (5th and 7th), Ms. Daes (7th), Mr. Eide (3rd, 4th, 5th, 6th and 7th), Mr. El-Hajjé (6th), Mr. Fan Guoxiang (5th and 6th), Ms. Forero Ucros (5th), Mr. Guissé (4th), Mr. Hakim (5th), Mr. Hatano (6th), Mr. Joinet (3rd and 7th), Mr. Khalifa (4th and 7th), Mr. Lindgren Alves (4th), Ms. Palley (6th and 7th), Mr. Ramadhane (6th), Mr. Yimer (7th) and Ms. Warzazi (3rd, 5th and 7th).

4. In connection with item 6, the Sub-Commission heard statements by representatives of the following non-governmental organizations: African Association of Education for Development (3rd), American Association of Jurists (2nd), Andean Commission of Jurists (4th), Arab Organization for Human Rights (3rd), Baha'i International Community (3rd), Centre Europe-Tiers Monde (4th), France-Libertés: Fondation Danielle Mitterrand (4th), Human Rights Watch (2nd), Indian Institute for Non-Aligned Studies (2nd), International Association of Democratic Lawyers (3rd, 5th), International Association for the Defence of Religious Liberty (3rd), International Association of Educators for World Peace (4th), International Educational Development, Inc. (4th), International Commission of Jurists (2nd), International Committee for European Security and Cooperation (2nd), International Federation of Human Rights (4th), International Islamic Federation of Student Organizations (3rd), International League for Human Rights (5th), International League for the Rights and Liberation of Peoples (4th), International Service for Human Rights (4th), Latin American Federation of Associations of Relatives of Disappeared Detainees (4th), Minority Rights Group (2nd), Movement against Racism and for Friendship among Peoples (4th), Pax Christi International (3rd), Pax Romana - International Catholic Movement for Intellectual and Cultural Affairs and International Movement of Catholic Students (2nd), Regional Council on Human Rights in Asia (4th), Society for Threatened Peoples (2nd), Survival International (5th), World Federation of Democratic Youth (4th), World Muslim Congress (6th), World Organization Against Torture (4th), World Society of Victimology (6th).

5. Joint statements were made by the representatives of the following non-governmental organizations: Coordinating Board of Jewish Organizations, World Union of Progressive Judaism (3rd).

6. The Sub-Commission heard statements by the observers for Azerbaijan (7th), Colombia (3rd), Cyprus (7th), Egypt (6th), Ethiopia (3rd), Indonesia (7th), Iraq (7th), Pakistan (7th), Peru (6th), Portugal (6th), Sri Lanka (6th) and Turkey (7th).

7. A statement was also made by the observer for Palestine (6th).

8. Statements equivalent to a right of reply were made by the observers for: Algeria (7th), Armenia (7th), Bahrein (7th), China (6th and 7th), Colombia (7th), Cuba (7th), Ethiopia (4th), Guatemala (7th), India (3rd and 7th),

Indonesia (7th), Iran (Islamic Republic of) (7th), Iraq (2nd, 4th and 7th), Japan (6th), Morocco (7th), Nigeria (7th), Pakistan (3rd), Sudan (2nd and 7th), Turkey (7th), Viet Nam (4th).

9. At the 10th meeting, on 7 August 1995, Mr. Khalifa proposed to reopen the general debate on item 6 exclusively in order to consider the issue of human rights and terrorism. This proposal was accepted by the members of the Sub-Commission.

10. At the 11th meeting on 8 August 1995, statements were made on the issue of human rights and terrorism by the following members of the Sub-Commission: Mr. Ali Khan, Mr. Eide, Ms. Ferero Ucros, Mr. El-Hajjé, Mr. Joinet, Mr. Khalifa, Ms. Palley and Ms. Warzazi.

Expression of solidarity with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki

11. At its 4th to 6th meetings, on 2 and 3 August 1995, the Sub-Commission considered a draft resolution proposed orally by Mr. Bengoa, which reads as follows:

"The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Bearing in mind the letter addressed by Mr. Tadeusz Mazowiecki, Special Rapporteur for the former Yugoslavia, to the Secretary-General of the United Nations on 27 July 1995,

Deeply shocked by the events occurring daily in Bosnia and Herzegovina, where, as the letter indicates, 'Human rights violations continue blatantly', 'There are constant blockades of the delivery of humanitarian aid', 'Crimes have been committed with swiftness and brutality' and 'The civilian population is shelled remorselessly',

Agreeing with the Special Rapporteur for the former Yugoslavia that 'the response of the international community has been slow and ineffectual', with the result that the declarations and decisions of the system for the protection of human rights lose credibility and have been seriously challenged by the events occurring in Bosnia and Herzegovina,

Supporting the Special Rapporteur for the former Yugoslavia when he states that 'The character of my mandate only allows me to further describe crimes and violations of human rights but noting that this is not sufficient at the present time,

Respecting and commending the decision of the Special Rapporteur for the former Yugoslavia that he does not 'see any possibility of continuing' his mandate,

Considering that the gesture of the Special Rapporteur for the former Yugoslavia has shaken and moved us by its great dignity and endowed the function entrusted by the United Nations and the struggle for human rights in general with high moral character,

Recognizing the dedication shown by the Special Rapporteur in his work in Bosnia and Herzegovina, which is reflected in the gesture he has made,

Noting that a veritable genocide is being committed against the civilian population, often in the presence of United Nations forces,

Sharing the moral indignation reflected in the letter of the Special Rapporteur for the former Yugoslavia addressed to the Secretary-General,

Decides to:

Convey its solidarity and support to Special Rapporteur Mazowiecki for the gesture he has made by tendering his resignation in response to what is occurring in Bosnia and Herzegovina,

Convey to the Secretary-General of the United Nations its enormous concern over the veritable genocide and massive violations of human rights to which the civilian population in Bosnia and Herzegovina is being subjected and to express its impotence in face of the rapes of women, violent deaths of children and mass movements of refugees, who can daily be seen in the most abject despair, while we can only raise our voice in indignation and express solidarity with the victims,

Request the Secretary-General to make a new and extremely urgent appeal to countries to take the necessary decisions to end these atrocities once and for all, since the world cannot be an indifferent spectator of what is happening in Bosnia and Herzegovina."

12. Mr. Khalifa proposed to insert a new last preambular paragraph, to read as follows:

"Alarmed at the acts of ethnic cleansing and humiliation and the perpetration of atrocities such as summary executions of innocent civilians, mass rape, destruction and looting of property and terrorizing of the population, which have resulted in huge movements of displaced persons and refugees, thus causing pain, homelessness and famine."

13. In connection with the proposed new preambular paragraph, Ms. Warzazi proposed to delete the word "ethnic" before the word "cleansing". This proposal was not accepted by members of the Sub-Commission. Ms. Palley suggested that the words "so-called" should be inserted before the phrase "ethnic cleansing". Mr. Yokota then suggested that the phrase "ethnic cleansing" should be put in quotation marks.

14. Mr. Khalifa's proposal, as amended by Ms. Palley and Mr. Yokota, was accepted by the members of the Sub-Commission.

15. Mr. Khalifa also proposed to replace the operative paragraphs of the draft resolution with the following text:

"1. Expresses its solidarity and support for the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki, for his moral and courageous stand and his resignation in protest at the perpetuation of gross violations in Bosnia and Herzegovina;

2. Stresses its grave concern at the genocidal and massive violations of human rights to which the civilian population in Bosnia and Herzegovina is being subjected;

3. Requests the Secretary-General of the United Nations urgently to take all the necessary measures to stop these violations and secure the human rights of the people of Bosnia and Herzegovina."

16. The members of the Sub-Commission agreed with this proposal.

17. Mr. Hatano proposed to insert, in the eighth preambular paragraph, after the word "committed" the words "massively and in a systematic manner". The amendment was accepted by the members of the Sub-Commission.

18. Mr. Yimer then orally proposed the following amendments:

- (i) To replace, in the sixth preambular paragraph, the word "gesture" with the word "decision";
- (ii) To insert, in the same preambular paragraph, after the word "entrusted" the words "to him"; and
- (iii) To insert, in the eighth preambular paragraph, the words "in Bosnia and Herzegovina" after the word "population".

19. These amendments were accepted by the members of the Sub-Commission.

20. Mr. Bengoa and Mr. Bossuyt proposed that the title of the draft resolution should be "Expression of solidarity with the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki". The members of the Sub-Commission agreed with this proposal.

21. Mr. Lindgren Alves proposed to add, in operative paragraph 3 of the draft resolution, the words "decides to convey the present resolution immediately to the Secretary-General of the United Nations". This amendment was accepted by the members of the Sub-Commission.

22. Statements relating to the draft resolution and amendments were made by the following members of the Sub-Commission: Mr. Ali Khan (4th), Ms. Attah (4th), Mr. Bengoa (6th), Mr. Bossuyt (5th and 6th), Mr. Chernichenko (4th and 6th), Mr. Eide (5th and 6th), Mr. Fan Guoxiang (4th), Mr. Guissé (4th and 6th), Mr. Hatano (6th), Mr. Joinet (4th, 5th and 6th), Mr. Khalifa (5th), Mr. Lindgren Alves (6th), Ms. Palley (6th), Ms. Warzazi (4th, 5th and 6th), Mr. Yimer (6th) and Mr. Yokota (6th).

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

24. For the text of the resolution as adopted, see chapter II, section A, resolution 1995/1.
