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COMMISSION ON HUMAN RIGHTS  
Fifty-first session  
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS  
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND  
OTHER DEPENDENT COUNTRIES AND TERRITORIES

Albania\*, Bosnia and Herzegovina\*, Croatia\*, Egypt, Hungary,  
Morocco\*, Poland, Turkey\*, and United States of America:  
Revised draft resolution

1995/... Situation of human rights in the Republic of Bosnia  
and Herzegovina, the Republic of Croatia and the Federal  
Republic of Yugoslavia (Serbia and Montenegro)

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Elimination of All Forms of Discrimination against Women, the Geneva Conventions, of 12 August 1949 for the Protection of Victims of War and the Additional Protocols thereto of 1977, as well as other instruments of international humanitarian law, the principles and commitments undertaken by the States members of the Organization on Security and Cooperation in Europe and the principles of the London Conference,

Mindful of its duty to promote and encourage respect for human rights and fundamental freedoms for all, and to prevent violations of such rights,

Recalling its resolutions 1992/S-1/1 of 14 August 1992 and 1992/S-2/1 of 1 December 1992, 1993/7 and 1993/8 of 23 February 1993, 1994/72, 1994/75 and 1994/77 of 9 March 1994, General Assembly resolution 49/196 of 23 December 1994 and all relevant resolutions of the Security Council,

Recalling also Security Council resolutions 824 (1993) of 6 May 1993 and 836 (1993) of 4 June 1993, in which the Council declared that Sarajevo, Tuzla, Zepa, Gorazde, Bihac, Srebrenica and their surroundings should be treated as safe areas and that international humanitarian agencies should be given free and unimpeded access to those areas,

Recalling further the decision adopted by the World Conference on Human Rights on 15 June 1993 (A/CONF.157/24(Part I), chap. IV) to appeal to the Security Council to take the necessary measures to end the genocide taking place in Bosnia and Herzegovina,

Recalling in addition the Order of the International Court of Justice of 8 April 1993 for provisional measures, reaffirmed on 13 September 1993, that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) should immediately, in pursuance of its undertaking under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide,

Dismayed by the continuation of the human tragedy addressed to those resolutions and decision, and by the associated massive and systematic violations of human rights, especially in Bosnia and Herzegovina,

Reiterating the commitments of the international community to preserve and protect the territorial integrity, sovereignty and political independence of all States on the territory of the former Yugoslavia within their internationally recognized borders,

Mindful that the mutual recognition of all new States of the former Yugoslavia within their internationally recognized borders and the acceptance of the international Contact Group Peace Plan by the self-proclaimed Bosnian Serb authorities would greatly benefit the achievement of a peaceful solution and reconciliation, as well as the improvement of the human rights situation in the areas concerned,

Gravely concerned that despite the efforts of the international community, just and durable peace in the Republic of Bosnia and Herzegovina has not yet been achieved, further prolonging the human tragedy and violations of human rights and the principles of humanitarian law there, and by the consequences for the international community of the continuing crisis in the territories of the former Yugoslavia,

Gravely concerned also by the ongoing human rights situation and particularly by the systematic policy of "ethnic cleaning" and genocidal acts whose principal victims are the Bosniac population, which is threatened with virtual extermination, as well as Croats and other non-Serbs, in the areas of the Republic of Bosnia and Herzegovina under the control of the self-proclaimed Bosnian Serb authorities,

Deeply aware that the unlawful use of massive military force and intervention against the territorial integrity of the Republic of Bosnia and Herzegovina is a cause of the current violations of humanitarian law in Bosnia and Herzegovina as recently witnessed in the Bihac United Nations safe area,

Aware of the inherent right to self-defence of a State Member of the United Nations, as recognized in article 51 of the Charter of the United Nations, and noting that the Government of Bosnia and Herzegovina has not been able fully to protect human rights throughout its territory because it has not been able to exercise this right fully in the face of superior military force,

Noting with appreciation the achievements realized towards enhancing friendly relations between Bosniacs and Croats as constituent peoples through the process of the Federation of Bosnia and Herzegovina established by the Washington Agreement of 18 March 1994, which also constitutes a democratic model for the reconciliation of all peoples of Bosnia and Herzegovina and the territory of the former Yugoslavia and which has tangibly improved the human rights situation and facilitated the delivery of humanitarian supplies in the territory of the Republic of Bosnia and Herzegovina,

Sustained by the international community's continued determination to bring a peaceful, just and lasting resolution to the conflicts in Bosnia and Herzegovina and in Croatia, and supporting the continuing efforts of all who seek to bring about a peaceful resolution to the conflict,

Welcoming in particular the efforts undertaken by representatives of the international community to assist the parties in reaching a settlement to the

conflict in Bosnia and Herzegovina and to achieve a cease-fire, the signature of an economic agreement and the eventual resolution of the political situation in Croatia, as well as the role played by the United Nations Protection Force under very difficult circumstances, the activities of the European Commission Monitoring Mission and the European Union administration of Mostar, the constitutional provisions for the protection of human rights and other aspects of the Federation agreements of Washington and Vienna, and other proposals which could, if accepted by all parties, lead to a substantial improvement in the human rights situation of members of all ethnic groups in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro),

Also welcoming in this regard the efforts of the International Conference on the Former Yugoslavia,

Welcoming in this regard the signature of the comprehensive cease-fire agreement on 23 December 1994, and of the Agreement on Complete Cessation of Hostilities, signed on 31 December 1994, by the Government of Bosnia and Herzegovina and the self-proclaimed Bosnian Serb authorities,

Noting with interest the meeting convened on 3 February 1995 by the High Commissioner for Human Rights, after consultation with the Secretary-General and his Special Representative, to develop, in close coordination with other United Nations bodies operating in Bosnia and Herzegovina, a coordinated and more effective response to human rights requirements in that country (E/CN.4/1995/98, para. 31),

Welcoming the progress made by the International Tribunal established by the Security Council in its resolution 827 (1993) of 25 May 1993 in the nomination of prosecutors and the announcement of initial indictments,

Urging the self-proclaimed Bosnian Serb authorities to cooperate fully with the International Tribunal, and calling on all Governments and the international community to continue to support the mission of the Tribunal,

Drawing the attention of the international community to the importance of an urgent rehabilitation and reconstruction programme for utility services and production capacity for basic needs with a view to enhancing the living standards and human rights situation in the Republic of Bosnia and Herzegovina,

Calling on the international community to take all appropriate measures for the provision of necessary medical and psychological care to victims of

rape, within the framework of programmes to rehabilitate women and children traumatized by war, and for coordination by all concerned in support of the social integration of child victims,

Recognizing the important role played particularly by the United Nations High Commissioner for Refugees, the World Health Organization, the United Nations Protection Force and other relevant organizations in delivering humanitarian relief in Bosnia and Herzegovina,

Encouraging the international community, acting through the United Nations and other international organizations, as well as bilaterally, to enhance its humanitarian support for Bosnia and Herzegovina,

Deeply concerned that rape and other forms of inhuman and degrading treatment of women and children continue to be used as a deliberate instrument of war and "ethnic cleaning", particularly in the areas of Bosnia and Herzegovina under Bosnian Serb control,

Dismayed by the number of missing persons still unaccounted for, particularly in Bosnia and Herzegovina and in the Republic of Croatia, and noting in this regard the report of the expert member of the Working Group on Enforced or Involuntary Disappearances on the special process on missing persons in the territory of the former Yugoslavia (E/CN.4/1995/37),

Grateful for the work of the special mechanisms of the Commission on Human Rights and of all those involved in the humanitarian relief effort, including the Office of the United Nations High Commissioner for Refugees, the International Committee of the Red Cross, and the officers and personnel of the United Nations Protection Force,

Deeply concerned at the situation of human rights in Serbia and Montenegro, particularly in Kosovo as described in the ninth and tenth reports of the Special Rapporteur (A/49/641-S/1994/1252 and E/CN.4/1995/57), but also in the Sandzak and in Vojvodina, and at the situation of the Bulgarian minority,

Recalling in particular:

(a) Police brutality against ethnic Albanians, killings, arbitrary searches, seizures and arrests, torture and ill-treatment of detainees and discrimination in the public administration;

(b) Discriminatory and arbitrary dismissals of ethnic Albanian civil servants, mass dismissals of ethnic Albanians, discrimination against ethnic Albanian pupils and teachers of primary schools, the closing of the Albanian-language secondary schools and university, as well as the closing of Albanian cultural and scientific institutions;

(c) The intimidation and imprisonment of ethnic Albanian journalists and the systematic harassment and disruption of the news media in the Albanian language;

(d) The dismissals of doctors and members of other categories of the medical profession of ethnic Albanian origin from clinics and hospitals;

(e) The massive arrests, imprisonment and Draconian punishment of ethnic Albanian political and human rights activists during the past year;

(f) The gradual elimination in practice of the Albanian language, particularly in the public administration and services;

(g) The serious and massive occurrence of discriminatory and repressive practices aimed at Kosovo Albanians as a whole, resulting in widespread involuntary emigration;

(h) The attempts at changing the ethnic structure of Kosovo, through a policy of State-sponsored resettlement of refugee Serbian populations in traditional ethnic Albanian communities, as well as through the harassment of ethnic Albanians from Kosovo wishing to return to their homeland,

Gravely concerned that any change to the Citizenship Law may lead to a further deterioration in the situation of human rights and that its purpose may be to change the demographic composition of Kosovo,

Noting with anguish the reports of the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, in particular his seventh, eighth, ninth and tenth periodic reports (E/CN.4/1995/4, E/CN.4/1995/10, A/49/641-S/1994/1252, E/CN.4/1995/57) and his special report on the media (E/CN.4/1995/54),

Noting with special appreciation the continuing efforts of the Special Rapporteur and those under his direction, both in field offices and at the Centre for Human Rights, and regretting that the Special Rapporteur still has not been allowed to open an office in the Federal Republic of Yugoslavia (Serbia and Montenegro),

Commending the Special Rapporteur for his activities, and in particular, his courage and objectivity in accomplishing his mandate under most trying circumstances, urging the self-proclaimed Serb authorities to cooperate fully with him, and calling on the Governments of all States in the region to continue to support his mission,

1. Commends and thanks the Special Rapporteur for his continued tenacity in fulfilling his mandate under the most trying circumstances, and

for the light shed by his important reports, in particular his latest reports, and notes that his continuing activity can be a force to reduce human rights violations in the region;

2. Again deplores and strongly condemns the continual refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the self-proclaimed Bosnian Serb authorities, as defined in the reports of the Special Rapporteur, to permit the Special Rapporteur to conduct investigations in territories under their control, as mandated by the Commission;

3. Strongly condemns the specific violations identified by the Special Rapporteur in his reports, most of which are committed in connection with the systematic policy of "ethnic cleansing" and genocidal acts in the areas of the former Yugoslavia under the control of the self-proclaimed Serb authorities, and which include mass killing, torture, disappearances, rape, and other sexual abuses against women and children, use of civilians as human shields on confrontation lines and as mine clearers, arbitrary executions, destruction of houses, religious objects and cultural and historical heritage, forced and illegal evictions, detentions, arbitrary searches and other acts of violence;

4. Also condemns the systematic impediments by the self-proclaimed Bosnian Serb authorities and the self-proclaimed Serb authorities in the occupied part of the Republic of Croatia of humanitarian operations and particularly the obstruction of humanitarian relief convoys forwarded to besieged areas and towns;

5. Further condemns the indiscriminate shelling and besieging of cities and civilian areas, the systematic terrorization and murder of non-combatants, the destruction of vital services and the use of military force against civilian populations and relief operations, including the use of cluster and napalm bombs against civilian targets by Bosnian and Croatian Serb forces;

6. Again denounces the continued deliberate and unlawful attacks and use of military force against civilians and other protected persons by all sides, recognizing that the primary, though not the sole, responsibility lies with the Serbian forces;

7. Reaffirms the responsibility of all parties to the conflict to find peaceful solutions through negotiations and to protect fully human rights at all times;

8. Strongly reaffirms that in order to achieve a peaceful and lasting solution and to improve the human rights situation in the Republic of Bosnia and Herzegovina, the right of return to their homes in safety and dignity of all refugees and displaced persons victims of the "ethnic cleansing" and the invalidity of forcible territorial gains and of forced transfers of property and other acts under duress must be recognized, and that the practice and consequences of "ethnic cleansing" should in no way be legitimized;

9. Strongly condemns the continued refusal of the Federal Republic of Yugoslavia (Serbia and Montenegro) and the self-proclaimed Bosnian Serb authorities to permit the Special Rapporteur to conduct investigations in territories under their control;

10. Condemns categorically all violations of human rights and international humanitarian law, as established by the Special Rapporteur in his reports, recognizing that primary responsibility for most of these violations is borne by the leadership in territory under Serb control and political and military leaders in the Federal Republic of Yugoslavia (Serbia and Montenegro);

11. Strongly condemns the self-proclaimed Bosnian Serb authorities for gravely violating the Cessation of Hostilities Agreement concluded on 31 December 1994, as exemplified in the safe area of Bihac;

12. Strongly urges the international community to continue to support the ongoing peace process through acceptance by all sides of the International Contact Group Peace Plan on Bosnia and Herzegovina, and to exert all pressure on the self-proclaimed Bosnian Serb authorities to accept that Peace Plan;

13. Demands immediate, firm and resolute action by all concerned parties and the international community to put an end to all human rights violations and breaches of international law, to secure a just and lasting peace in Bosnia and Herzegovina, and to bring those responsible to trial;

14. Expresses its alarm at the conclusions of the Special Rapporteur that nationalistic rhetoric and sweeping attacks and slurs against other national groups have been a dominant feature of reports propagated in some media in Croatia and in Bosnia and Herzegovina, but especially in a systematic way by most media of the Federal Republic of Yugoslavia (Serbia and Montenegro), and particularly in media under the control of the self-proclaimed Bosnian Serb authorities as described in the reports of the Special Rapporteur, and of the self-proclaimed Serb authorities in parts of



the Republic of Croatia, and that this phenomenon has led directly to the commission of fearful atrocities on the battlefields and throughout the territory, underlines in this regard the importance of ensuring the existence of independent media, and calls for immediate action by each Government to implement the recommendations by the Special Rapporteur in this regard (E/CN.4/1995/54, paras. 211-216);

15. Stresses in this context the importance of the closure of the international border between the Federal Republic of Yugoslavia (Serbia and Montenegro) and the Republic of Bosnia and Herzegovina, and the sealing of border crossing points in accordance with the expressed desire of the international community in support of the acceptance of the Contact Group's territorial proposal;

16. Condemns the continuation, particularly in the areas of Banja Luka, Prijedor and Bijeljina, of the heinous and illegitimate acts identified by the Special Rapporteur as elements of "ethnic cleansing", while commending the courage and sacrifice of the many Serbs who continue to refuse to take part in such violations, and urges the international community to use all its influence on the parties, in particular the authorities in parts of Croatia and Bosnia and Herzegovina under Serbian control and occupation, to end it immediately and to reverse its effects;

17. Also condemns all deliberate and arbitrary impeding of the delivery of food, medical and other supplies essential for the civilian population, in particular of the Bihac area, which can constitute a serious violation of international humanitarian law, and of medical evacuations, as well as attacks on and continued harassment of the United Nations Protection Force and on personnel working with the United Nations High Commissioner for Refugees and other humanitarian organizations, which have caused injuries to and the death of those who seek to protect civilians and to deliver humanitarian assistance, and demands that all parties ensure that all persons under their control cease all such attacks and acts of harassment;

18. Renews its expression of outrage at the use of the systematic practice of rape as a weapon of war against women and children and as an instrument of "ethnic cleansing" in the areas of armed conflict in the territory of the former Yugoslavia, and again recognizes that rape in these circumstances constitutes a war crime;

19. Reaffirms that all persons who perpetrate or authorize violations of international humanitarian law are individually responsible and accountable, and should be brought to justice in accordance with internationally recognized principles of due process;

20. Welcomes in this connection the expanding activities of the International Tribunal established by the Security Council in its resolution 827 (1993) of 25 May 1993, and in this context requests States, as a matter of urgency, to make available to the International Tribunal resources, services and expert personnel, including experts in the prosecution of crimes of sexual violence, as recommended by the General Assembly, and encourages as well voluntary contributions from intergovernmental and non-governmental organizations so that the Tribunal may conduct without any further delay its stipulated functions of trying those accused of and punishing those responsible for violations of international law;

21. Also welcomes the progress made by the Prosecutor of the International Tribunal, as shown by the series of indictments announced by the Tribunal, and expresses its support for this crucial effort to investigate and prosecute persons suspected of having committed serious violations of international humanitarian law;

22. Reaffirms that States are to be held accountable for violations of human rights, that they have the obligation to enforce respect for human rights and that they should ensure that those responsible for violations are brought to trial;

23. Requests all States, as required under Security Council resolution 827 (1993), to cooperate with the International Tribunal in providing information and evidence for investigations and trials and in the apprehension and surrender of persons accused of crimes within the jurisdiction of the Tribunal;

24. Again urges the Special Rapporteur, all United Nations bodies, including the United Nations Protection Force and the United Nations human rights treaty bodies, specialized agencies, Governments and informed intergovernmental and non-governmental organizations to cooperate fully with the Prosecutor of the International Tribunal and provide him on a continuing basis with all relevant and accurate information in their possession related to his task;

25. Demands the immediate internationally supervised release of all persons arbitrarily or otherwise illegally detained and the immediate closure of all places of detention not authorized by or in compliance with the Geneva Conventions of 12 August 1949 and the Additional Protocols thereto;

26. Reiterates its demand that all parties immediately notify the International Committee of the Red Cross of the locations of all camps, prisons and other places of detention, and that there be immediate, unimpeded and continued access to such places by the International Committee of the Red Cross, the Special Rapporteur and other relevant international and regional organizations;

27. Commends and thanks the expert member of the Working Group on Enforced and Involuntary Disappearances for his first report on the special process on missing persons in the territory of the former Yugoslavia (E/CN.4/1995/37);

28. Recalls its resolution 1995/35 of 3 March 1995, in which the Commission expressed its appreciation to the Governments of Bosnia and Herzegovina and Croatia and requested them to continue and expand their cooperation with the special process and urged the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro) to undertake maximum efforts to cooperate by disclosing all relevant available information and documentation, and again urges all parties to cooperate with the special process;

29. Strongly condemns the discriminatory measures and practices, as well as the violations of human rights, carried out by the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro) against ethnic Albanians in Kosovo;

30. Again demands that the Federal Republic of Yugoslavia (Serbia and Montenegro) respect the human rights and fundamental freedoms of ethnic Albanians in Kosovo, recalling that the best means to prevent the possible escalation of the conflict is to safeguard human rights and establish democratic institutions in Kosovo;

31. Urgently demands that the authorities of the Federal Republic of Yugoslavia (Serbia and Montenegro):

(a) Cease all human rights violations, discriminatory measures and practices against ethnic Albanians in Kosovo, in particular arbitrary detention and violation of the right to a fair trial and the practice of torture and other cruel, inhuman and degrading treatment;

(b) Release all political prisoners and cease the persecution of political leaders and members of local human rights organizations;

(c) Respect the will of the inhabitants of Kosovo, allowing its expression by democratic means as the best way of preventing the escalation of the conflict there;

(d) Guarantee the freedom of the media throughout the country, and in particular in Kosovo, and cease the obstruction of the Albanian-language media in Kosovo;

(e) Abrogate the official settlement policy of the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), which is conducive to the heightening of ethnic tensions;

(f) Allow the Special Rapporteur to visit Kosovo in order to prepare comprehensive reports on the human rights situation there;

(g) Cooperate with the Organization on Security and Cooperation in Europe to enable the long-term mission to resume its activities immediately, inter alia by permitting its return to Kosovo;

32. Urges the Secretary-General to explore ways and means to establish an adequate international monitoring presence in Kosovo;

33. Expresses its serious concern at a new escalation of violence and harassment mainly directed against members of the Muslim community in Sandzak, especially in the regions at the border with the Republic of Bosnia and Herzegovina, as reported by the Special Rapporteur in his ninth report (A/49/641-S/1994/1252, para. 188), and demands that the Government of the Federal Republic of Yugoslavia (Serbia and Montenegro), as well as the Governments of Serbia and of Montenegro, end these violations and respect the human rights and fundamental freedoms of the local population in Sandzak;

34. Also expresses its grave concern at renewed reports of violations of human rights in Vojvodina and, as noted by the Special Rapporteur, concerning members of the Bulgarian minority, and the Croatian minority, while commending the courage and sacrifice of the many Serbs who continue to refuse to take part in such violations;

35. Urges all parties in Serbia and Montenegro, particularly in Kosovo, Sandzak and Vojvodina, to engage in a substantive dialogue, under the auspices of, inter alia, the International Conference on the Former Yugoslavia and the Organization on Cooperation and Security in Europe, to act with the utmost restraint and to settle disputes peacefully and with full respect for human rights;

36. Demands that the Federal Republic of Yugoslavia (Serbia and Montenegro) permit entry into Kosovo, Sandzak and Vojvodina of United Nations observer missions and field officers of the Special Rapporteur and resumption of the missions of long duration of the Organization on Security and Cooperation in Europe;

37. Expresses its serious concern at the prevalence of lawlessness in the Serb-controlled territories of Croatia and the lack of adequate protection for Croatian and other non-Serb populations remaining in the Serb-controlled municipalities where these populations continue to experience physical violence and insecurity, as reported by the Special Rapporteur;

38. Welcomes the efforts by the Governments of the Republic of Croatia and the Republic of Bosnia and Herzegovina to uphold human rights in their territories, urges them to fulfil the human rights commitments they have made, and in particular asks the Republic of Croatia to eliminate the arbitrary practices on the part of the Croatian authorities, as reported by the Special Rapporteur;

39. Condemns the continuation of "ethnic cleansing" in areas under the control of the self-proclaimed Serb authorities in the United Nations Protected Areas;

40. Notes with concern that many of the Special Rapporteur's past recommendations have not been fully implemented, in some cases because of resistance by the parties on the ground, and again strongly urges the parties, all States and relevant organizations to give immediate consideration to them;

41. Recommends that there be a human rights component in any internationally negotiated arrangements for Bosnia and Herzegovina and that implementation of such a component be conducted in close cooperation with the High Commissioner for Human Rights, the Special Rapporteur and the Centre for Human Rights;

42. Decides to extend for one year the mandate of the Special Rapporteur as defined in its resolution 1994/72, and requests that he continue his vital efforts, especially by carrying out all such additional missions as he deems necessary, in particular to the Federal Republic of Yugoslavia (Serbia and Montenegro), and that he continue to submit periodic reports, as appropriate, to the Commission and the General Assembly, and to request the Secretary-General to continue to make the Special Rapporteur's reports available to the Security Council and to the International Conference on the Former Yugoslavia;

43. Requests the Secretary-General to take steps to assist in obtaining active cooperation by all United Nations bodies to implement this resolution and, pursuant to paragraph 28 of General Assembly resolution 49/196, to make available, from within the overall budgetary framework of the United Nations, all necessary resources requested by the Special Rapporteur, including for his field staff, to enable him to fulfil his mandate and, in particular, to provide for the appointment of field staff in the countries under his mandate in order to provide first-hand, timely reports on the situation of human rights there and to ensure coordination with other United Nations bodies involved, including the United Nations Protection Force;

44. Decides to remain seized of the matter and to consider the reports of the Special Rapporteur at its fifty-second session under the relevant agenda item.

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