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Agenda item 25

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON  
THE FIFTY-SECOND SESSION OF THE COMMISSION

DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. Rajamony VENU

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\* Documents E/CN.4/1996/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council, will be contained in documents E/CN.4/1996/L.11 and addenda.

### III. ORGANIZATION OF THE WORK OF THE SESSION

#### A. Opening and duration of the session

1. The Commission on Human Rights held its fifty-second session at the United Nations Office at Geneva from 18 March to 26 April 1996. It held ... meetings (E/CN.4/1996/SR. ...) 1/ during the session.

2. The session was opened by Mr. Musa bin Hitam, Chairman of the Commission at its fifty-first session, who made a statement. The Secretary-General of the United Nations also addressed the Commission at its 1st meeting.

#### B. Attendance

3. The session was attended by representatives of States members of the Commission, by observers for other States Members of the United Nations, by observers for non-member States and by representatives of the specialized agencies, regional intergovernmental organizations, national liberation movements and non-governmental organizations. An attendance list is given in annex I to the present report.

#### C. Election of officers

4. At its 1st meeting, on 18 March 1996, the Commission elected the following officers by acclamation:

<u>Chairman:</u>	Mr. Gilberto V. Saboia (Brazil)
<u>Vice-Chairmen:</u>	Mr. Emmanuel Mba Allo (Gabon)
	Mr. Volodymyr Vassylenko (Ukraine)
	Mr. Léonard H. Légault (Canada)
<u>Rapporteur:</u>	Mr. Rajamony Venu (India)

#### D. Agenda

5. Also at its 1st meeting, the Commission had before it the provisional agenda of the fifty-second session (E/CN.4/1996/1 and Corr.1, E/CN.4/1996/1/Add.1, Corr.1 and Add.2), drawn up, in accordance with rule 5 of the rules of procedure of the functional commissions of the Economic and Social Council, on the basis of the provisional agenda considered by the Commission at its fifty-first session in accordance with paragraph 3 of Economic and Social Council resolution 1894 (LVII).

6. At its 20th meeting, on 1 April 1996, the Commission decided, upon recommendations of its officers, to revise the provisional agenda, as follows: a new item entitled "Indigenous issues" was added as item 23. Items 23 and 24 of the provisional agenda were accordingly renumbered as items 24 and 25 respectively.

7. The agenda, as revised (E/CN.4/1996/1/Rev.1), was adopted without a vote. For the text of the decision, as adopted, see chapter II, section B, decision 1996/102.

8. At the 20th meeting, on 1 April 1996, the representative of Denmark made a statement.

#### E. Organization of work

9. At its 2nd and 3rd meetings, on 19 March 1996, at its 28th meeting, on 9 April 1996, at its 51st meeting, on 19 April 1996, at its 58th and 60th meeting, on 23 April 1996, at its 62nd meeting, on 24 April 1996, and at its .. meeting, on 26 April 1996, the Commission considered its organization of work.

10. For the documents issued under item 3 of the agenda, see annex IV to the present report.

11. Bearing in mind the respective priority of the items and the availability of the relevant documentation, the Commission accepted the recommendation of its officers that the following agenda items should be considered concurrently: items 4 and 7; items 5, 6, 13 and 14; items 3 and 10; items 11, 16 and 18; items 20 and 15; items 8, 9 and 17; and items 21 and 19. The Commission further agreed to consider the agenda items in the following order: 4, 7; 12; 5, 6, 13, 14; 3, 10; 5, 6, 13, 14; 11, 16, 18; 15; 11, 16, 18; 20, 15; 8, 9, 17; 10 (b); 10; 20; 21; 19; 22; 23, 24.

12. At the same meeting, the Commission accepted the recommendation of its officers regarding limitation of the frequency and duration of statements. Members of the Commission were limited to one statement of 10 minutes or two statements of 5 minutes per item or group of items. Observers and non-governmental organizations were limited to one statement of 5 minutes per item or group of items. Observer States and liberation movements mentioned in reports submitted to the Commission were limited to one statement of 5 minutes under the item concerned. It was also agreed that, with regard to rights of reply, namely a limitation to two replies, 3 minutes for the first and 2 minutes for the second, at the end of the day, would be observed.

13. It was also recommended that guest speakers should limit their statements to 10 to 15 minutes. Special rapporteurs, independent experts and chairpersons of working groups should limit their initial statements to 10 minutes and their concluding remarks to 5 minutes if necessary.

14. At the same meeting, upon the recommendation of its officers, the Commission decided to invite a number of experts, special rapporteurs, special representatives and chairmen-rapporteurs of working groups to participate in the meetings at which their reports were to be considered.

15. For the text of the decision as adopted, see chapter II, section B, decision 1996/101.

16. In the general debate on agenda item 3, statements 3/ were made by the following members of the Commission: Algeria (2nd), Angola (2nd), Australia (3rd), Bangladesh (2nd), Bhutan (2nd), Canada (3rd), China (2nd), Cuba (2nd), Denmark (2nd), India (2nd), Indonesia (2nd), Mauritania (2nd), Netherlands (2nd), Pakistan (2nd) and Sri Lanka (2nd).

17. At the 28th meeting, on 9 April 1996, Mr. José Ayala Lasso, the United Nations High Commissioner for Human Rights, introduced his report (E/CN.4/1996/103) in connection with items 3 and 21. At the same meeting, statements were made by the representatives of Canada and Mexico.

Consideration of draft decision E/CN.4/1996/L.2

18. At its 51st meeting, on 19 April 1996, the Commission took up consideration of draft decision E/CN.4/1996/L.2, entitled "Organization of work", sponsored by: Algeria, Angola, Bangladesh, China, Cuba, India, Indonesia, Iran (Islamic Republic of), Malaysia, Pakistan, the Philippines, Sri Lanka, Thailand and Viet Nam. Bhutan, Egypt, Equatorial Guinea, Dominica, Iraq, Jordan, Nigeria and Singapore subsequently joined the sponsors.

19. At the request of the representative of Sri Lanka, consideration of draft decision E/CN.4/1996/L.2 was postponed. Statements were made by the representatives of Algeria, Bangladesh, China, Cuba and India.

20. At the 58th meeting, on 23 April 1996, the Commission decided to further postpone consideration of draft decision E/CN.4/1996/L.2, at the request of the representative of Sri Lanka.

21. At the 62nd meeting, on 24 April 1996, the Chairman made the following statement in connection with draft decision E/CN.4/1996/L.2:

"In the course of the current session delegations have expressed the view that a more concerted and systematic effort should be made to ensure that decisions of the Commission are taken on the basis of the broadest possible support and, whenever possible, without a vote. Resolutions and decisions adopted by consensus not only carry more weight, morally and politically, as representing the position of the

entire membership, but they also are often more effective in engaging the cooperation of the States and parties concerned in looking for durable solutions of human rights issues.

Preference for consensus does not mean a change of the rules of procedure of the Commission nor the elimination of voting as an acceptable way of taking decisions when there clearly is no possibility of reaching consensus.

Transparency with regard to all initiatives, including draft resolutions and decisions, as well as amendments, is a recognized procedure for facilitating dialogue and understanding between interested delegations and groups and reducing the level of confrontation and politicization of the Commission. At the current session there has been an increased effort towards more openness and dialogue among delegations, resulting in the adoption of resolutions and decisions by consensus.

After consultations with interested delegations, the Chairman wishes to express his satisfaction that there is a general agreement with regard to the need to continue efforts for promoting consensus, dialogue and transparency and with a view to reducing the level of politicization of the Commission. These efforts could be facilitated by holding frequent informal meetings among delegations of different groups between sessions as well as during sessions.

It is my understanding that the co-sponsors of the draft decision contained in document E/CN.4/1996/L.2 would not insist on action on the draft decision this year."

22. The representative of Sri Lanka made a statement on behalf of the sponsors of draft decision E/CN.4/1996/L.2, proposing the deferral of consideration of the draft decision until the fifty-third session of the Commission.

23. The Commission decided, without a vote, to defer consideration of draft decision E/CN.4/1996/L.2 until its fifty-third session. For the text of the decision, see chapter II, section B, decision 1996/114.

#### Situation of human rights in Colombia

24. At the 60th meeting, on 23 April 1996, the Chairman made the following statement on the situation of human rights in Colombia:

"The Commission on Human Rights is deeply concerned that the situation of endemic violence affecting many parts of the country and the confrontation between government and guerrilla groups have resulted in serious consequences for the human rights in the country.

The Commission on Human Rights acknowledges the efforts carried out by the Government in the field of human rights, and its willingness to cooperate with the special rapporteurs and working groups; welcomes the collaboration provided by the Government of Colombia to the High Commissioner for Human Rights during the visit he paid to the country last year; notes the establishment of a follow-up commission in charge of analysing and promoting the fulfilment of recommendations of the United Nations thematic rapporteurs and working groups, as well as of other international and regional organizations.

The Commission on Human Rights is, however, deeply concerned at violations of the right to life, as extensively evidenced in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. Thousands of lives are lost every year as the result of various acts of violence, especially in the context of the armed conflict between the Government and the guerrillas, as well as by the action of paramilitary groups. Such conflict entails serious and continuous abuses and violations of humanitarian law by both state agents and guerrilla groups, the latter persisting in prohibited practices such as the taking of civilian hostages.

The Commission on Human Rights acknowledges that the Government of Colombia has taken steps for the application of humanitarian standards in the conflict, inter alia by an agreement with the International Committee of the Red Cross to facilitate its humanitarian activities in the country.

The Commission on Human Rights remaining deeply preoccupied at the large number of cases of disappearances, as shown in the report of the Working Group on Enforced or Involuntary Disappearances. The application at the national level of the Declaration on the Protection of all Persons from Enforced Disappearances faces several obstacles, generating impunity.

The Commission on Human Rights, while taking note of the intention manifested by the Government of Colombia to undertake efforts in order to enhance the rule of law, calls for the urgent adoption of more effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearances in accordance with article 3 of the Declaration.

The Commission on Human Rights remains concerned about the alarming level of impunity, in particular concerning abuses by state agents that presently fall under the jurisdiction of military courts; it encourages the Government of Colombia to continue and conclude the process of reform of the military penal code in accordance with the recommendations made by the thematic rapporteur, in particular as far as the exclusion from the jurisdiction of military courts of crimes against humanity is concerned. It takes note of the establishment of a human rights unit in the office of the National Prosecutor with competence to investigate and indict state agents, guerrillas and members of paramilitary groups responsible for violations of human rights or humanitarian law.

The Commission on Human Rights is deeply concerned also about the persistence of the practice of torture. The report of the Special Rapporteur on the question of torture shows that the steps taken by the Government of Colombia have not resulted in a tangible improvement of the overall situation, and that the crime of torture is hardly punished. The information before the Committee against Torture indicates that the law in Colombia is not yet in accordance with several obligations under the Convention against Torture.

The Commission on Human Rights urges the Government of Colombia to continue strengthening ordinary justice versus special systems of justice, the misuse of which can lead to serious violations of human rights. The competence of the courts of regional jurisdiction should be limited, and in no instance should be applied to acts of legitimate political dissent and social protest. In no instance should defendants before regional courts be denied a fair trial.

The Commission on Human Rights - while encouraging the work of the Special Commission set up by the Government of Colombia for the follow-up and implementation of the recommendations of the thematic rapporteurs - considers that the implementation of such recommendations and those of

working groups is still not sufficient, nor has the human rights situation improved significantly, and recalls the resolution adopted by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1995.

The Commission on Human Rights requests the High Commissioner for Human Rights to proceed, upon the initiative of the Government of Colombia and the identification of adequate sources of financing, to establish at the earliest possible date a permanent office in Colombia with the mandate to assist the Colombian authorities in developing policies and programmes for the promotion and protection of human rights and to observe violations of human rights in the country, making analytical reports to the High Commissioner; requests, likewise, the High Commissioner to report to the Commission at its fifty-third session on the setting up of the office and on the activities carried out by it in implementing the above indicated mandate."

#### Situation of human rights in Liberia

25. At the 62nd meeting, on 24 April 1996, the Chairman made the following statement on the situation of human rights in Liberia:

"The Commission on Human Rights, meeting in Geneva from 18 March to 26 April 1996, views with grave concern the deterioration of the political, economic and social situation in Liberia. It deplores the indiscriminate destruction of life, limb and property which has necessitated, inter alia, the evacuation of foreign nationals, including United Nations personnel and that of humanitarian agencies, from Liberia.

The Commission further considers it unacceptable that, in spite of the various agreements signed by the warring factions committing themselves to a cease-fire and the pursuit of an agreed peace process, there is an increasing resort to arms in the settlement of differences.

In view of the adverse consequences of this situation on the enjoyment of human rights by the people of Liberia, the Commission calls upon all the Liberian parties to respect and implement fully and expeditiously all the agreements and commitments that have already entered into, in particular the provisions of the Abuja Agreement with regard to the maintenance of the cease-fire, disarmament and demobilization of combatants and national reconciliation.



In this regard, the Commission also wishes to recall all previous Security Council resolutions concerning the situation in Liberia, in particular resolution S/RES/1041 (1996), and appeals to all actors to multiply their efforts with a view to bringing the warring factions to live up to their commitments and to exercise the utmost restraint in the interest of peace.

The Commission calls upon all States of the United Nations system and intergovernmental and non-governmental organizations to provide Liberia with technical and financial assistance to cope with the humanitarian situation and to provide ECOMOG with the necessary logistical and financial support to enable it to carry out its mandate, particularly with respect to disarmament of the Liberian factions.

The Commission decides to remain seized of the matter."

Organization of work of the fifty-third session of the Commission

26. At the 60th meeting, on 23 April 1996, the Commission, in accordance with decisions 1996/297 and 1995/296 of the Economic and Social Council, decided to recommend to the Economic and Social Council that the fifty-third session of the Commission be scheduled from 10 March to 18 April 1997.

27. For the text of the decision, see chapter II, section B, decision 1996/110.

28. At the same meeting, the Chairman orally proposed a draft decision concerning the organization of work for the fifty-third session of the Commission. The draft decision was adopted without a vote. For the text of the draft decision, see chapter II, section B, decision 1996/111.

29. At its 61st meeting, on 24 April 1996, the Commission decided, without a vote, that, unless otherwise indicated in the resolutions adopted by the Commission at its fifty-second session, all continuing thematic or country-oriented mandates established by the Commission and entrusted to special rapporteurs, special representatives, independent experts and working groups were expected to report to the Commission at its fifty-third session, irrespective of whether the relevant resolutions made explicit reference to that reporting obligation or not.

30. For the text of the decision, see chapter II, section B, decision 1996/113.

F. Meetings resolutions and documents

31. Of the ... meetings held by the Commission, ... were extended to the equivalent of ... additional meetings.

32. The resolutions and decisions adopted by the Commission at the fifty-second session are contained in chapter II of the present report. Draft resolutions and decisions for action by the Economic and Social Council are set out in chapter I.

33. Annex III contains estimates of the administrative and programme budget implications of resolutions and decisions of the Commission, prepared in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council.

34. Annex IV contains a list of documents issued for the fifty-second session of the Commission.

G. Visits

35. During its fifty-second session, the Commission heard statements by the following guest speakers: 1/

(a) At the 2nd meeting, on 19 March 1996: Mr. José Ayala Lasso, United Nations High Commissioner for Human Rights; Ms. Susanna Agnelli, Minister for Foreign Affairs of Italy (on behalf of the European Union); Mr. Pierre Schori, Minister of International Cooperation and Deputy Minister for Foreign Affairs of Sweden, in connection with whose statement a statement in exercise of the right of reply was made by the representative of China;

(b) At the 3rd meeting, on 19 March 1996: Mr. Xavier Emmanuelli, Secretary of State for Urgent Humanitarian Action of France;

(c) At the 4th meeting, on 20 March 1996: Mr. Salman Kurshid, Minister of State for External Affairs of India; Ms. Sadako Ogata, United Nations High Commissioner for Refugees;

(d) At the 5th meeting, on 20 March 1996: Ms. Madeleine Albright, Permanent Representative of the United States of America, in connection with whose statements in exercise of the right of reply were made by the representatives of China, Cuba and Iraq;

(e) At the 6th meeting, on 21 March 1996: Mr. Carlos Eduardo Hermoza-Moya, Minister of Justice of Peru; Mr. Serhiy Holovaty, Minister of Justice of Ukraine; Mr. Albert Rohan, Secretary-General for Foreign Affairs of Austria;

(f) At the 7th meeting, on 21 March 1996: Mr. Sergio González Galvez, Deputy Minister for Foreign Affairs of Mexico; a statement in exercise of the right of reply was made by the representative of the Islamic Republic of Iran;

(g) At the 8th meeting, on 22 March 1996: Mr. Niels Helveg Petersen, Minister for Foreign Affairs of Denmark;

(h) At the 10th meeting, on 25 March 1996: Mr. Nelson Jobim, Minister of Justice of Brazil;

(i) At the 12th meeting, on 26 March 1996, Mr. Sardar Aseff Ahmad Ali, Minister for Foreign Affairs of Pakistan, in connection with whose statement a statement in exercise of the right of reply was made by the representative of India (13th), followed by a statement in exercise of the right of reply by the representative of Pakistan (17th); Mr. Nicholas Bonsor, Minister of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Ireland, in connection with whose statement a statement in exercise of the right of reply was made by the representative of Iraq (13th).

(j) At the 13th meeting, on 26 March 1996: Ms. Tarja Halonen, Minister for Foreign Affairs of Finland;

(k) At the 15th meeting, on 27 March 1996: Ms. Marcienne Mujawaha, Minister for Human Rights of Burundi;

(l) At the 22nd meeting, on 2 April 1996, Mr. Stephen Lewis, Deputy Executive Director of the United Nations Children's Fund;

(m) At the 24th meeting, on 3 April 1996: the Hon. Lloyd Axworthy, Minister of Foreign Affairs of Canada, in connection with which a statement in exercise of the right of reply was made by the representative of Nigeria (25th).

(n) At the 26th meeting, on 4 April 1996: the Hon. Kilroy Genia, Minister of Public Service of Papua New Guinea; Mr. Ephrem Seth Dorkenoo, Minister for Human Rights of Togo;

(o) At the 31st meeting, on 10 April 1996: Mr. Peter Piot, Executive Director of the Joint United Nations Programme on HIV/AIDS; Mr. Pierre Max Antoine, Minister of Justice and Public Security of Haiti; Mr. Roberto Robaina González, Minister for Foreign Affairs of Cuba, in connection with whose statement a statement in exercise of the right of reply was made by the representative of the United States of America (32nd), followed by a statement in exercise of the right of reply by the representative of Cuba (32nd);

(p) At the 34th meeting, on 11 April 1996: Mr. Eduardo Stein Barillas, Minister for Foreign Affairs of Guatemala;

(q) At the 39th meeting, on 15 April 1996: Mr. Joseph N'Singa Ujuu, Minister of Justice of Zaire; Mr. Ivan Simonovic, Deputy Minister for Foreign Affairs of Croatia; Mr. Hamid Algabid, Secretary-General of the Organization of the Islamic Conference, in connection with whose statement a statement in exercise of the right of reply was made by the representatives of India (41st) and Pakistan (41st);

(r) At the 40th meeting, on 15 April 1996: Mr. Dariusz Rosati, Minister for Foreign Affairs of the Republic of Poland;

(s) At the 42nd meeting, on 16 April 1996: Mr. Klaus Kinkel, Minister for Foreign Affairs of Germany, in connection with whose statement a statement in exercise of the right of reply was made by the representative of China (44th), followed by a statement in exercise of the right of reply by the representative of Germany (46th).

(t) At the 43rd meeting, on 16 April 1996: Mr. Hilmo Pasic, Minister of Justice of the Republic of Bosnia and Herzegovina;

(u) At the 45th meeting, on 17 April 1996: Ms. Andrea Willi, Minister for Foreign Affairs of the Principality of Liechtenstein; Mr. Vardan Oskanian, Deputy Minister for Foreign Affairs of Armenia; Mr. Abdel Aziz Shiddo, Minister of Justice of the Sudan;

(v) At the 48th meeting, on 18 April 1996: Mr. Uladzimir Syanko, Minister for Foreign Affairs of Belarus; Mr. Flavio Cotti, Federal Counsellor, Chief, Swiss Federal Department for Foreign Affairs and Chairman-in-Office of the Organization for Security and Cooperation in Europe (OSCE);

(w) At the 49th meeting, on 18 April 1996: Mr. Víctor Hugo Cárdenas, Vice-President of Bolivia;

(x) At the 54th meeting, on 22 April 1996: Mr. Franciso J. Ngomo Mbengono, Vice Prime Minister of Equatorial Guinea; Mr. Farooq Sobhan, Foreign Secretary of Bangladesh.

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