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COMMISSION ON HUMAN RIGHTS
Sub-Commission on the Promotion
and Protection of Human Rights
Fifty-first session
Agenda item 2

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL
COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT
COUNTRIES AND TERRITORIES:

REPORT OF THE SUB-COMMISSION UNDER COMMISSION RESOLUTION 8 (XXIII)

Mr. Alfonso Martínez: draft resolution

1999/... Question of the violation of human rights and fundamental
freedoms in all countries

The Sub-Commission on the Promotion and Protection of Human Rights,
Recalling that, in accordance with Article 56 of the Charter, all
Members of the United Nations have pledged themselves to take joint and
separate action, in cooperation with the Organization, for the achievement of
the purposes set forth in Article 55, in particular, to promote universal
respect for, and observance of, human rights and fundamental freedoms,
Bearing in mind the violations of the norms and standards of
international human rights law that have occurred and continue to occur in
various countries and territories, including the province of Kosovo, an
integral part of the Federal Republic of Yugoslavia, as well as the military
operations launched by a group of Member States with the declared purpose of
putting an end to this type of violation,

Recalling the obligation assumed by all Members of the United Nations to be guided in their international actions by the strict observance of the principles of ius cogens set forth in Article 2 of the Charter, in particular those relating to the sovereign equality of all its Members, the fulfilment in good faith of the obligations assumed by them in accordance with the Charter, the obligation to settle international disputes by peaceful means, the obligation to refrain from the threat or use of force against the territorial integrity or political independence of any State, and the prohibition on intervening in matters which are essentially within the domestic jurisdiction of any State,

Convinced, in the light of the present international situation, of the growing need to achieve international cooperation in solving international problems of a humanitarian character, as established in Article 1, paragraph 3, of the Charter of the United Nations,

Stressing the importance of the provisions contained in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949 and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities of 18 December 1992,

Deeply concerned at the increasingly strenuous efforts to develop the concept of a so-called "duty" or "right" of certain States to carry out "humanitarian interventions", including through armed force, in situations to be unilaterally identified by themselves, as well as at the military operations undertaken in recent months against another Member State using such justification, which have caused a most serious breach of international peace and security, heavy loss of life among the civilian population and immense damage to civilian targets,

Bearing in mind the provisions of Articles 3, paragraph 1 (b), 12, 24, paragraph 2, 39, 41, 51, 52, paragraph 1, 53, 60, 62, paragraph 2, and 83 of the Charter, which clearly establish the respective functions, powers of and limitations to the actions of the General Assembly, the Security Council and the Economic and Social Council in matters relating to the solution of international humanitarian problems, the use of armed force and other enforcement measures, as well as all possible actions to be taken to maintain or re-establish international peace and security,

1. Expresses its deepest consternation at the serious violations of key provisions of international human rights law, general international law and humanitarian law which have occurred and continue to occur in a number of countries and territories, including violations of the rights of the various ethnic or national groups in the Federal Republic of Yugoslavia;

2. Expresses its firmest conviction that the so-called "duty" and "right" to carry out "humanitarian interventions", in particular by means of the threat or use of force, is juridically totally unfounded under current general international law and consequently cannot be considered as a justification for violations of the principles of ius cogens enshrined in Article 2 of the Charter of the United Nations;

3. Calls upon all States to increase their efforts to achieve international cooperation in the search for peaceful solutions to international humanitarian problems and to comply strictly, in their actions towards that purpose, with the basic principles and norms of current general international law and other pertinent norms and standards of international human rights law and international humanitarian law, in particular those governing the functioning of the main United Nations bodies, accountability for war crimes, the realization and protection of the rights of national or ethnic minorities, and the protection of the civilian population and civilian installations in cases of military operations.

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