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DRAFT REPORT OF THE COMMISSION

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\* E/CN.4/1993/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.4/1993/L.11 and addenda.

XXVII. SITUATION OF HUMAN RIGHTS IN THE  
TERRITORY OF THE FORMER YUGOSLAVIA

1. The Commission considered agenda item 27 at its 13th to 16th meetings, from 9 to 11 February 1993, and at its 34th and 35th meetings, on 23 February 1993. 2/
2. The Commission had before it the following documents:
  - Report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, pursuant to Commission resolution 1992/S-1/1 of 14 August 1992 (E/CN.4/1993/50);
  - Letter dated 3 February 1993 from the Permanent Representative of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1993/84);
  - Letter dated 29 January 1993 from the Permanent Representative of the Federal Republic of Yugoslavia to the United Nations Office at Geneva addressed to the Assistant Secretary-General for Human Rights (E/CN.4/1993/86);
  - Note by the Secretariat (E/CN.4/1993/92);
  - Written statement submitted by Human Rights Advocates, a non-governmental organization in consultative status (category II) (E/CN.4/1993/NGO/35).
3. At the 13th meeting, on 9 February 1993, Mr. Tadeusz Mazowiecki, Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, made a statement in connection with his report.
4. In the general debate on item 27, statements 3/ were made by the following members of the Commission: Australia (15th), Austria (13th and 14th), Bangladesh (15th), Bulgaria (15th), Canada (13th), Chile (14th), China (14th), Cyprus (15th), Germany (13th), Finland (14th), Indonesia (15th), Iran (Islamic Republic of) (16th), Japan (15th), Malaysia (14th), Mauritania (15th), Nigeria (15th), Pakistan (13th), Poland (16th), Republic of Korea (15th), Russian Federation (13th), Sudan (15th), Tunisia (14th), United States of America (13th).

5. The Commission heard statements by the observers for: Albania (16th), Algeria (16th), Bosnia and Herzegovina (13th), Croatia (14th), Denmark (on behalf of the European Community and its member States) (13th), Egypt (14th), Hungary (14th), Morocco (16th), New Zealand (16th), Oman (16th), Philippines (16th), Saudi Arabia (16th), Senegal (15th), Slovenia (16th), Turkey (15th), Yugoslavia (16th).
6. The observer for the Holy See also made a statement (13th).
7. The observer for the Organization of the Islamic Conference made a statement (16th).
8. Statements were also made by the following non-governmental organizations: American Association of Jurists (15th), Amnesty International (15th), Commission of the Churches on International Affairs of the World Council of Churches (14th), Coordinating Board of Jewish Organizations (14th), France-Libertés: Fondation Danielle Mitterand (15th), Human Rights Advocates (15th), International Association of Educators for World Peace (14th), International Commission of Jurists (16th), International Confederation of Free Trade Unions (14th), International Federation of Human Rights (14th), International Fellowship of Reconciliation (15th), International League for Human Rights (14th), International League for the Rights and Liberation of Peoples (15th), International Progress Organization (14th), Minority Rights Group (15th), Pax Christi International (14th), World Federalist Movement (15th), World Muslim Congress (16th), World Organization against Torture (13th).
9. A statement equivalent to the right of reply was made by the observer for Croatia (16th).
10. At its 34th meeting, on 23 February 1993, the Commission took up the draft resolutions submitted under agenda item 27.
11. The observer for Denmark (on behalf of the European Community and its member States) introduced draft resolution E/CN.4/1993/L.16, sponsored by Argentina, Australia, Austria, Belgium\*, Bulgaria, Canada, Chile, Costa Rica, the Czech Republic, Denmark\*, Finland, France, Gabon, Germany, Greece\*, Hungary\*, Iceland\*, Ireland\*, Italy\*, Japan, Lesotho, New Zealand\*, the Netherlands, Norway\*, Peru, Poland, Portugal, the Republic of Korea, Romania, the Slovak Republic\*, Slovenia\*, Sweden\*, Switzerland\*, Spain\*,

the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and Zambia. Barbados, Cameroon\*, Liechtenstein\*, Luxembourg\*, Madagascar\*, Malta\* and Mauritius subsequently joined the sponsors. Gabon subsequently withdrew as a sponsor of the draft resolution.

12. The observer for Denmark orally revised the draft resolution by replacing, with a new paragraph, operative paragraph 23 which read as follows:

"Invites the Security Council to consider establishing an international criminal tribunal to try cases involving violations of international humanitarian law occurring within the territory of the former Yugoslavia and to determine in this context whether the crimes committed fall within the scope of the Convention on the Prevention and Punishment of the Crime of Genocide;".

13. Statements in connection with the draft resolution were made by the representatives of Austria, Bangladesh, Canada, Finland, France, Germany, the Islamic Republic of Iran, Malaysia, Nigeria, Pakistan, the Russian Federation, the Sudan, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

14. Statements were also made by the observers for Bosnia and Herzegovina, Croatia, Turkey (as the Chairman of the Organization of the Islamic Conference) and Yugoslavia.

15. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 1/ of draft resolution E/CN.4/1993/L.16.

16. The representative of Malaysia, on behalf of the member States of the Organization of the Islamic Conference, proposed to amend operative paragraph 8 of the draft resolution as follows:

(a) Insert the words "those involved in" between the words "strongest terms" and the words "all violations";

(b) Delete the words "by all sides to the conflict" after the words "in the former Yugoslavia";

(c) Insert the words "Yugoslav People's Army" between the words "Serb paramilitary forces" and the words "and political and military leaders".

17. At the request of the representative of the Islamic Republic of Iran a roll-call vote was taken on the proposed amendment to operative paragraph 8.

18. The proposed amendment to operative paragraph 8 was rejected by 29 votes to 13, with 6 abstentions. The voting was as follows:

In favour: Bangladesh, Cuba, Guinea-Bissau, Indonesia, Iran (Islamic Republic of), Libyan Arab Jamahiriya, Malaysia, Mauritania, Nigeria, Pakistan, Sudan, Syrian Arab Republic, Tunisia.

Against: Argentina, Australia, Austria, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cyprus, Czech Republic, Finland, France, Germany, Japan, Lesotho, Mauritius, Mexico, Netherlands, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Burundi, Gabon, Gambia, India, Kenya, Sri Lanka.

19. The draft resolution, as orally revised, was adopted without a vote.

20. Statements in explanation of vote after the vote and of their delegations' positions were made by the representatives of: Brazil (35th), Chile (34th), China (34th), Colombia (34th), Cuba (35th), India (34th), Mexico (34th), Russian Federation (34th), Republic of Korea (35th), Sri Lanka (35th).

21. A statement equivalent to the right of reply was made by the observer for Yugoslavia (35th).

22. For the text as adopted, see chapter II, section A, resolution 1993/7.

23. On 15 February 1993, a draft resolution (E/CN.4/1993/L.3) had been submitted by Afghanistan\*, Albania\*, Bahrain\*, Bosnia and Herzegovina\*, Indonesia, the Islamic Republic of Iran, Jordan\*, Kuwait\*, Malaysia, Oman\*, Pakistan, Qatar\*, Saudi Arabia\*, Senegal\*, Slovenia\*, Somalia\*, the Sudan, Turkey\*, the United Arab Emirates and Yemen\*, reading as follows:

"Abuse and rape of women and children in the  
territory of the former Yugoslavia

"The Commission on Human Rights,

"In conformity with the Charter of the United Nations, international law and all the relevant human rights instruments, in particular 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 and international humanitarian law, in

particular the Geneva Conventions of 12 August 1949, and the Additional Protocols thereto of 1977 and General Assembly resolution 3074 (XXVIII) of 3 December 1973,

"Appalled at the recurring and substantiated reports of widespread abuse and rape of women and children, in particular their systematic use by Serbian forces against Muslim women and children in the Republic of Bosnia and Herzegovina,

"Convinced that these heinous practices constitute a deliberate weapon of war in fulfilling the Serbian policy of ethnic cleansing which, as stated in General Assembly resolution 47/121 of 17 December 1992, is a form of genocide,

"Recalling the relevant resolutions of the Security Council and the General Assembly which, inter alia, condemned the savage and abhorrent practice of rape,

"1. Condemns in the strongest possible terms the repugnant practices of abuse and rape of women and children in the territory of the former Yugoslavia, and especially their use by the Serbian forces as a weapon of war against Muslim women and children as an integral part of the policy of ethnic cleansing in the Republic of Bosnia and Herzegovina;

"2. Appeals to all Member States and United Nations bodies to provide the victims with all necessary assistance for their physical and mental rehabilitation;

"3. Urges all States Members of the United Nations to take all necessary measures, as provided for in the Charter of the United Nations, aimed at putting an end to these despicable practices;

"4. Demands that, in accordance with international law and bearing in mind the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide, that the States Members of the United Nations individually and collectively bring to justice all those individuals involved directly or indirectly in these outrageous crimes;

"5. Requests the Secretary-General to submit a report on the implementation of the present resolution to the members of the Commission on Human Rights not later than 30 June 1993."

24. On 17 February 1993, a draft resolution (E/CN.4/1993/L.8) had been submitted by Australia, Austria, Belgium\*, Bulgaria, Canada, Costa Rica, the Czech Republic, Denmark\*, Finland, France, Germany, Greece\*, Hungary\*,

Iceland\*, Ireland\*, Italy\*, Japan, Luxembourg\*, the Netherlands, Norway\*, Poland, Portugal, Romania, Rwanda\*, the Slovak Republic\*, Spain\*, Sweden\*, Switzerland\*, the United Kingdom of Great Britain and Northern Ireland and the United States of America, reading as follows:

"Rape and abuse of women in the territory  
of the former Yugoslavia

"The Commission on Human Rights,

"Guided by the principles embodied in 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 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 Convention on the Rights of the Child and international humanitarian law, including the Geneva Conventions of 12 August 1949 for the protection of war victims and the Additional Protocols thereto of 1977,

"Appalled by reports of widespread rape and abuse of women, particularly Muslim women, and children in the former Yugoslavia, which indicate that this is part of a deliberate pattern, forming an important element of war strategy,

"Reaffirming the relevant Security Council resolutions, in particular resolution 798 (1992) of 18 December 1992, which, inter alia, strongly condemned these acts of unspeakable brutality,

"Recalling General Assembly resolution 47/147 of 18 December 1992 and its resolution 1992/S-2/1 of 1 December 1992 which, inter alia, condemned the systematic practice of rape,

"Welcoming the initiatives taken by the Special Rapporteur on the situation of human rights in the former Yugoslavia, particularly his prompt dispatch of a team of female experts to the former Yugoslavia to investigate the allegations of rape and abuse of women,

"Welcoming also the initiative of the European Council on the rapid dispatch of a delegation, led by Dame Anne Warburton, to investigate the treatment of Muslim women in the former Yugoslavia,

"Noting with concern the findings of the team dispatched by the Special Rapporteur (E/CN.4/1993/50, annex II) and those of the European Community mission (S/25240),

"Noting with appreciation the work of humanitarian organizations aimed at supporting the victims of rape and abuse and alleviating their suffering,

"1. Strongly condemns the abhorrent practices of rape and abuse of women, particularly Muslim women, in the former Yugoslavia which, in the circumstances, constitute a war crime;

"2. Demands that the parties involved cease immediately these outrageous acts, which are in breach of the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977 and take all necessary measures to ensure the enjoyment of human rights and fundamental freedoms in accordance with their obligations under these and other international human rights instruments;

"3. Reaffirms that all persons who perpetrate or authorize crimes against humanity and other grave breaches of international humanitarian law are individually responsible for those breaches, that those in positions of authority who fail adequately to ensure that persons under their control comply with the relevant international instruments are also accountable and that the international community will exert every effort to bring those responsible for such violations to justice, and, in this context, invites the Security Council to consider establishing an international criminal tribunal to try cases involving violations of international humanitarian law occurring within the territory of the former Yugoslavia;

"4. Commends the Special Rapporteur for his latest report (E/CN.4/1993/50) on the situation of human rights in the former Yugoslavia containing, inter alia, the report of the team of experts on the rape and abuse of women;

"5. Commends also the report of the European Community mission;

"6. Expresses its grave concern at the detailed evidence in these reports of the rape and abuse of women;

"7. Urges all States and all intergovernmental and non-governmental organizations concerned, including the United Nations Children's Fund, the United Nations High Commissioner for Refugees and



the World Health Organization, to provide to the victims of rape and abuse appropriate assistance for their physical and mental rehabilitation;

"8. Requests the Special Rapporteur to pursue the specific investigation of the rape and abuse of women in the territory of the former Yugoslavia, including the dispatch of a qualified team of female experts, to coordinate this task with the relevant thematic rapporteurs of the Commission and with the European Community mission, and to submit a further report to the Commission;

"9. Requests the Secretary-General to provide such necessary means as are available to him in the area to enable any future missions to have free and secure access to places of detention;

"10. Decides to remain seized of the matter."

25. Draft resolutions E/CN.4/1993/L.3 and E/CN.4/1993/L.8 were subsequently withdrawn by the sponsors.

26. At the 34th meeting, on 23 February 1993, the representative of the United States of America introduced draft resolution E/CN.4/1993/L.21 sponsored by Afghanistan\*, Albania\*, Argentina, Australia, Austria, Bahrain\*, Bangladesh, Belgium\*, Canada, Chile, Costa Rica, Croatia\*, the Czech Republic, Denmark\*, Finland, France, Germany, Hungary\*, Iceland\*, Indonesia, the Islamic Republic of Iran, Ireland\*, Italy\*, Jordan\*, Kuwait\*, Liechtenstein\*, Luxembourg\*, Malaysia\*, Morocco\*, the Netherlands, New Zealand\*, Norway\*, Oman\*, Pakistan, Peru, Poland, Qatar\*, Saudi Arabia\*, Senegal\*, the Slovak Republic\*, Spain\*, the Sudan, Sweden\*, the Syrian Arab Republic, Tunisia, Turkey\*, the United States of America, Uruguay and Yemen\*. Argentina, Azerbaijan\*, Bosnia and Herzegovina\*, Cameroon\*, Cyprus, Gambia, Lesotho, Madagascar\*, Malta\*, Mauritius, Myanmar\*, Nigeria, the Philippines\*, the Republic of Korea, Singapore\* and the United Arab Emirates\* subsequently joined the sponsors.

27. The representative of the United States of America orally revised the draft resolution by replacing, with a new paragraph, operative paragraph 7 which read as follows:

"Invites in this context the Security Council to consider establishing an international criminal tribunal to try cases involving violations of international humanitarian law occurring within the territory of the former Yugoslavia;"

28. In accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council, the attention of the Commission was drawn to an estimate of the administrative and programme budget implications 1/ of draft resolution E/CN.4/1993/L.21.

29. A statement in connection with the draft resolution was made by the observer for Yugoslavia.

30. The draft resolution, as orally revised, was adopted without a vote.

31. Statements in explanation of their delegations' positions were made by the representatives of: Brazil (35th), Colombia (34th), Mexico (34th), Russian Federation (34th).

32. For the text as adopted, see chapter II, section A, resolution 1993/8.

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