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Fifty-fifth session

SUMMARY RECORD OF THE 62nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 April 1999, at 10 a.m.

Chairperson: Ms. ANDERSON (Ireland)

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CLOSURE OF THE SESSION

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The meeting was called to order at 10.10 a.m.

DRAFT RESOLUTIONS UNDER AGENDA ITEM 6 (continued)

Draft resolution E/CN.4/1999/L.40/Rev.1 (Defamation of religions)

1. Mr. AKRAM (Pakistan) said that consultations held on the previous day between the sponsors of draft resolution E/CN.4/1999/L.40 and those of document E/CN.4/1999/L.90 had made it possible to evolve an agreed text, which had been issued under the symbol E/CN.4/1999/L.40/Rev.1. While the title of the draft was now inclusive of all religions, the text continued to reflect the concern of the countries of the Organization of the Islamic Conference at the fact that Islam was frequently and wrongly associated with human rights violations and terrorism and at the role of the media in inciting intolerance and discrimination against Islam. The delegations of the OIC countries had shown considerable flexibility by agreeing to adopt a non-exclusive approach to the issue.
2. The reason why they had proposed the draft under the agenda item on racism was that the phenomenon of intolerance against Islam concerned Muslims as a group because of what were presumed to be their religious beliefs. The States members of OIC looked forward to cooperating with all countries in promoting a better understanding of Islam, inter alia during the preparations for the World Conference against Racism. In order to meet the suggestion made by the Indian delegation on the previous day, his delegation wished to propose that paragraph 2 of the original draft with the addition of the words "and other religions" should be inserted after paragraph 3 of draft resolution E/CN.4/1999/L.40/Rev.1. His delegation hoped that the draft would be adopted unanimously.
3. Mr. SINGH (India) said that his delegation had not had time to examine in detail the new draft before the Commission, which differed substantially from the original version. All delegations and not only those of the European Union and the Organization of the Islamic Conference should be in a position to come to a well-considered decision on the new text. Deploring the lack of transparency which had surrounded the negotiations, and noting that the new draft did not fully take into account the three points his delegation had raised on the previous day, he said his delegation would prefer a decision on the issue to be deferred until the fifty-sixth session of the Commission.
4. Mr. AKRAM (Pakistan) said that the consultations which had taken place had been open to all delegations.
5. Mr. PADILLA MENENDEZ (Guatemala) welcomed the fact that, thanks to the initiative of the Ambassador of Sri Lanka and the cooperation of all concerned, the difficulties had been overcome. Guatemala was a country most of whose inhabitants were Roman Catholics, but almost all the world's great religions were practised there and the Constitution guaranteed freedom of conscience and religion for everyone. He entirely shared the OIC countries' concern at the negative stereotyping of Islam and agreed on the need to promote religious tolerance and dialogue among civilizations and cultures with a view to promoting international understanding and avoiding a "clash of

civilizations". But he also shared the concerns of those who felt that negative stereotypes, which were rooted in religious extremism, affected all religions. The new draft reconciled the concerns of all parties, and he hoped that it would be adopted by consensus.

6. Mr. LABBE (Chile) congratulated the delegations which had contributed to the success of the consultations. In his country, the principle of separation of Church and State was guaranteed and religious freedom was respected. The successive flows of immigrants who had entered the country had become harmoniously integrated in the national fabric, and their contributions, including in particular that of the Islamic community, had enriched the Chilean heritage. All forms of intolerance, especially religious, represented a threat to national peace and security and every State was called upon to join in combating the phenomenon. His delegation shared the OIC countries' alarm at serious instances of intolerance against Islam and wholeheartedly supported draft resolution E/CN.4/1999/L.40/Rev.1.

7. Mr. COMBA (Secretariat), pointing out that paragraph 5 of the draft invited the High Commissioner to consider the holding of seminars to promote a dialogue between cultures, said that since no provision to that end was included in the programme budget for 1998-1999 or the proposed programme budget for 2000-2001, such activities would be funded from extrabudgetary resources should any be made available for that purpose.

8. Draft resolution E/CN.4/1999/L.40/Rev.1, as orally amended, was adopted without a vote.

9. Mr. HÖYNCK (Germany), speaking on behalf of the States members of the European Union and of the co-sponsors of the draft amendments in document E/CN.4/1999/L.90, expressed satisfaction that a decision without a vote had finally become possible and thanked the OIC countries and other delegations for their cooperation in producing a consensus text. The last-minute agreement reached should not, however, hide the fact that a high degree of uncertainty remained as to the expediency of the Commission's continuing to deal with the issue in that way and in that context. Thorough discussions on that subject were called for, and he was pleased to hear that the OIC countries were favourable to the idea. The draft which had been adopted should not be allowed to remain a dead letter. All States should endeavour to ensure that no religion was invoked as a pretext for violating human rights or conducting terrorist activities. While joining the consensus on the draft, the member States of the European Union wished to make it clear that they did not attach any legal meaning to the term "defamation" as used in the title.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)
(E/CN.4/1999/2 and 109, E/CN.4/1998/CRP.4)

Question of Kosovo

10. Ms. ROBINSON (United Nations High Commissioner for Human Rights), reporting on the situation involving Kosovo, having recalled the origins and development of the conflict, said that some facts were beyond dispute; over half a million people had fled Kosovo into neighbouring countries; thousands of people were internally displaced inside Kosovo; numerous women and children

had reached refuge outside Kosovo separated from their menfolk, whose whereabouts were unknown and whose fate gave grounds to widespread anxiety. Moreover, tens of thousands of refugees had averred that they had been forced to flee by military and security personnel of the Federal Republic of Yugoslavia, while the Yugoslav Government, for its part, claimed that it was the NATO bombing that had caused people to flee. Refugees arriving in neighbouring countries had, in overwhelming numbers, complained that they had been stripped of all identity papers and car registration papers or plates, a fact which was widely interpreted as indicating an intention to prevent them from returning to their homes.

11. It was therefore difficult to avoid the conclusion that the expulsion of the refugees had been premeditated. Furthermore, from the reports of the deliberate destruction of the homes of Kosovar Albanians and the looting of their personal belongings it was also hard to avoid the conclusion of a pattern of ethnic cleansing carried out with cold-blooded determination. On the other hand, it was also undeniable that the NATO bombing had resulted in a large number of civilian casualties and that civilian installations had been targeted on the ground that they were or could be used for military purposes. She considered it imperative that those responsible for the bombing campaign should respect the principle of proportionality.

12. The situation gave rise to various issues of principle. First, there was the principle of justice. On the eve of the third millennium, the international community should recognize that those responsible for the ethnic cleansing in Kosovo had to be brought to justice. The Prosecutor of the International Criminal Tribunal for the Former Yugoslavia had made it clear that the Tribunal had jurisdiction over continuing events in the Federal Republic of Yugoslavia, including Kosovo. Under the Tribunal's statute, the Prosecutor was empowered to investigate war crimes committed by any of the parties to the conflict, be they the Serbian armed forces, the Kosovo Liberation Army or NATO. Secondly, there was the principle of human rights protection. The right of the refugees to return to their homes and to be compensated for the losses and damage they had suffered had to be vindicated. There was also the principle of proportionality, under which it was surely right to ask those carrying out the bombing to weigh the consequences of their campaign for civilians in the Federal Republic of Yugoslavia. The Security Council should have a say on whether a prolonged bombing campaign in which the targets were chosen at will was consistent with the principle of legality set forth in the Charter of the United Nations. Lastly, the conflict showed that warmaking had become the tool of peacemaking. That fact alone was enough to give the international community pause for thought.

13. The conflict was making victims on all sides, Serbs as well as Kosovars and people of other nationalities. It was therefore crucial and pressing that diplomatic efforts be stepped up to bring about a peaceful resolution respectful of human rights precepts. Unless diplomacy succeeded, Kosovo would be thoroughly cleansed of Albanians while the bombing of Serbs would continue indefinitely. Appealing for reason, she called on all sides to return to diplomacy and peacemaking. She also called for an immediate end to ethnic cleansing and exhorted the authorities of the Federal Republic of Yugoslavia to declare unequivocally that all refugees and displaced persons would be authorized to return safely to their homes.

14. Mr. WALZER (Deputy United Nations High Commissioner for Refugees) said that thousands of refugees from Kosovo were continuing to cross into the former Yugoslav Republic of Macedonia and Albania and that a further 63,000 displaced persons from Kosovo were now in Montenegro, bringing the number of refugees in the immediate region, without counting those who had found refuge further afield, to 600,000. Those figures showed that an alarming proportion of the ethnic Albanian population of Kosovo had been forced to leave their land and homes, sometimes in a brutal manner. Without an international presence in Kosovo it was impossible to know with accuracy the numbers of people displaced within the province itself. The situation of those people was particularly alarming since they were out of reach of humanitarian aid or protection.

15. Explaining that he had just spent a week in Albania and the former Yugoslav Republic of Macedonia, he said that he had been impressed by the magnitude of the humanitarian crisis in the region and of the task awaiting the international community. It was essential that the neighbouring countries should continue to keep their frontiers open to refugees from Kosovo; to refuse them asylum could be equivalent to exposing them to death. It was also of crucial importance that humanitarian workers should be allowed safe and effective access to the refugees.

16. While it was aware of the destabilizing effect which the Kosovo conflict was having on neighbouring States hosting large refugee populations, UNHCR nevertheless considered that wherever possible refugees should be located at a reasonable distance from border areas so as to discourage the militarization of the camps and the recruitment of refugees for military duties. It was equally important to upgrade the capacity of host countries to receive refugees. Overcrowding and poor sanitation were causing additional suffering to people who had already undergone terrible experiences. UNHCR had therefore requested logistical support from military contingents in specific key areas. Great importance was also attached to the question of refugee registration. Operations to that effect had already begun and it was hoped that they would not only support family tracing and reunification but also reduce the risk of statelessness and prepare the way for the eventual return of the refugees to their homes.

17. Another complex issue was that of humanitarian evacuations outside the region. UNHCR considered that such evacuations should remain an exceptional solution and should be undertaken in accordance with clear and consistent criteria. It was essential that they should be voluntary and based on the informed consent of the persons concerned. Family members should be kept together wherever possible and the programme should not in any way compromise traditional principles of refugee protection and asylum, including resettlement criteria and policies. UNHCR had developed contingency plans which could effectively respond to further influxes from Kosovo and meet their protection and assistance needs. The lack of immediately operational camps was the most serious constraint on the realization of those plans.

18. Human rights violations were at the core of the refugee crisis, one of the largest and most catastrophic that Europe had known since the end of the Second World War. UNHCR therefore fully endorsed the concerns expressed by the United Nations High Commissioner for Human Rights. The search for truth,

justice and accountability would be a crucial element of any process towards peace, reconstruction and reconciliation. UNHCR, for its part, would continue to fulfil its task of protecting the refugees and, in due course, helping them to return home.

DRAFT PROVISIONAL AGENDA FOR THE FIFTY-SIXTH SESSION OF THE COMMISSION
(agenda item 21 (a)) (E/CN.4/1999/L.1)

19. The CHAIRPERSON drew attention to the draft provisional agenda for the fifty-sixth session of the Commission (E/CN.4/1999/L.1), which contained the list of documents relating to each agenda item. If there were no objections, she would take it that the Commission wished to take note of the document.

20. It was so decided.

REPORT TO THE ECONOMIC AND SOCIAL COUNCIL ON THE FIFTY-FIFTH SESSION OF THE COMMISSION (agenda item 21 (b)) (E/CN.4/1999/L.10 and Addenda, E/CN.4/1999/L.11 and Addenda)

21. Mr. CHATTY (Tunisia), Rapporteur, introducing the draft report of the Commission on the work of its fifty-fifth session, said that it was composed of two parts. The first (E/CN.4/1999/L.11 and Add.1-7) was a compilation of the 82 resolutions and 13 decisions adopted by the Commission. The second (E/CN.4/1999/L.10 and Add.1-17) contained a description of the work of the Commission and, in particular, of the general debate and of the voting on resolutions and decisions under various agenda items. It also included the texts of four statements made by the Chairperson. In order to make the report more readable, the contents of the general debate were presented in the form of a synoptic table which would eventually appear as annex 3 to the report. For the present, the table was issued under the symbol E/CN.4/1999/Misc.4.

22. The Commission's report was essentially concerned with the technical aspects of the work of the session. For information about the contents of the debate reference should be made to the summary records of the meetings (E/CN.4/1999/SR.1-SR.62). Chapter I, containing draft resolutions and draft decisions recommended for adoption by the Economic and Social Council, and chapter II, containing resolutions and decisions adopted by the Commission, would be available for examination at the next session of the Council in July 1999. Lastly, it should be recalled that Commission members had a week in which to submit corrections to document E/CN.4/1999/L.10 and addenda and to draft annex 3 to the report.

23. The CHAIRPERSON said that, as at previous sessions, the draft report would be adopted ad referendum, it being understood that the definitive version would be prepared by the Rapporteur with the assistance of the Secretariat. If she heard no objection, she would take it that the Commission agreed to that procedure.

24. It was so decided.

CLOSURE OF THE SESSION

25. Ms. ROBINSON (United Nations High Commissioner for Human Rights) said that the results achieved during the session had dissipated what worries she might have had at the start. The international community had reacted vigorously to the appalling situation in Kosovo by adopting resolutions condemning massive violations of human rights, urgently sending human rights envoys to the area and deploying human rights monitors there. She had provided the Commission with four weekly reports on human rights violations in Kosovo. She would continue to monitor the situation, to gather and verify information and to report periodically to the Commission. In that connection, she reported that she would shortly be travelling to the region in order to make a first-hand appraisal of the human rights situation and to assess the coordination of monitoring activities. If the need arose, she would consult the Bureau about the possibility of holding an emergency session of the Commission.

26. The Commission had shown that when gross violations of human rights occurred, it could play its part in upholding justice and ensuring that those responsible for such violations did not go unpunished. The session had also been marked by a number of other noteworthy developments. For the first time in several years, the Commission had decided to take a country situation out of the confidential procedure and had made that situation the subject of its first resolution under the open procedure. She, for her part, had been very preoccupied by the situation in Sierra Leone and intended making a visit there in June 1999.

27. The Commission had also made important progress in preparing for the World Conference on Racism. It had continued to insist on the indivisible and interdependent relationship between civil and political rights and economic, social and cultural rights. She too was determined to play her part in pursuing an integrated approach to human rights, and in that spirit, working together with the independent expert on the right to development, had arranged to assemble at Geneva on 18 and 19 May a group of thinkers to advise on the most effective ways of promoting that right. The Commission's debate on children had demonstrated a resolve to ensure the universal implementation of the provisions of the Convention on the Rights of the Child.

28. The participants in the first Hague Peace Conference in 1899 had wanted to build a world in which suffering from war would be lessened. A hundred years later, despite the progress made in the codification and development of international law and the establishment of numerous courts and similar institutions to entrench the principles of legality and justice at the national and international levels, civilian populations, including women and children, were being increasingly targeted in conflicts. In that context, the work of the Commission's Special Rapporteurs and Working Groups, its debates on particular situations and the field presences of the Office of the High Commissioner took on special meaning.

29. The adoption of the Declaration on Human Rights Defenders had been one of the great achievements to mark the fiftieth anniversary of the Universal Declaration of Human Rights. For the time being, the best way in which all States could demonstrate the importance they attached to the Declaration was

by ensuring that members of non-governmental organizations (NGOs) who had come to bring certain situations to the Commission's attention would be able to return home and continue their work in safety.

30. The increasing participation of representatives of national human rights institutions in the work of the Commission was particularly encouraging as evidence of the growing awareness in different regions of the world of the benefits to be derived from partnership and cooperation in the human rights field. The Commission was increasingly taking on the characteristics of a global assembly of Governments, national institutions and NGOs. The adoption of a resolution on the development and enhancement of regional and subregional cooperation was particularly welcome. The current session had made it clear that international cooperation for capacity-building at the national level was a cornerstone of the human rights endeavour. Her Office shared that view and would spare no effort to fulfil the tasks assigned to it in that field. The importance it attached to the matter was demonstrated by the record number of technical cooperation projects it had initiated over the past year.

31. Lastly, she welcomed the adoption of the resolution on strengthening the Office of the High Commissioner and was also pleased by the consensus achieved on enhancing the effectiveness of the mechanisms of the Commission. It was to be hoped that the international community would continue to be guided by a shared sense of purpose and determination to contribute tangibly towards the promotion and protection of the rights of children, women and men across the globe.

32. The CHAIRPERSON said that, the fifty-fifth session of the Commission, like all other sessions, had been a difficult exercise, some members having to accept decisions with which they disagreed and others having to see no action taken on causes close to their hearts. Once again, the breadth and depth of human misery and the gap between standards and reality, between the need for action and the capacity to act, had been made evident to everyone.

33. The Commission's work on country situations had been particularly sensitive; the discussion on review of mechanisms had thrown into relief some sharply differing views about the direction its future work should take. On Kosovo, the Commission had faced up to its responsibilities by devoting a special debate to the question and by adopting three resolutions and hearing weekly updates on the situation from the High Commissioner on Human Rights. It was reassuring, especially to those concerned about the danger of fossilization of the Commission's work, to note that the resolutions adopted reflected evolving situations, be they positive or negative. On the question of review of mechanisms, consensus had been found in the form of an open-ended intersessional working group.

34. Statistics prepared by the Secretariat showed that 37 visiting dignitaries, most of them at ministerial level, had addressed the session – a fact which demonstrated the significance attached to the Commission – and that 82 resolutions had been adopted, including 58 by consensus. What mattered now was to put those resolutions into practice. The new agenda of the Commission had proved a success and substantial progress had been achieved in connection with a number of agenda items, in particular by the working group set up to formulate proposals for the World Conference on Racism. Among

the highlights of the session she also cited the address by the Secretary-General, the dialogue on the rights of the child, the panel on the rights of women and the input received from several regional and national human rights institutions.

35. The NGOs constituted the Commission's vital link with reality and with the countless victims of human rights violations around the world. She had had a number of meetings with NGO representatives, many of whom had travelled from afar at considerable expense. Several of them had expressed frustration at the end of the session and had raised questions concerning transparency, the tone of the debates, and the spirit of partnership within the Commission. She was convinced that if the voice of the NGOs was to continue to be heard loud and clear in the Commission, the question of time management would have to be reviewed. In particular, the small minority of NGOs who made essentially the same speech under a wide range of agenda items had to realize that such an approach was deeply unfair to other NGOs. Issues of that kind should be looked at as part of a constructive dialogue with all NGO representatives.

36. The Special Rapporteurs and independent experts were doing an immensely important service for the international community. The Commission, as the body which had appointed them, was called upon to stand up for their integrity if it was challenged and for their safety whenever it was threatened, and to seek a solution to the mismatch between the importance of their task and the resources available to support them. Their participation in the work could certainly bear improvement; with a few exceptions, they had made only fleeting visits to the Commission. It was to be hoped that the ongoing work on review of mechanisms would improve the quality of dialogue with the rapporteurs.

37. Turning to the Governments, she said that many delegations deserved to be saluted for their untiring efforts to establish a genuine dialogue. For her own part, despite the doubts that had sometimes assailed her, she had often been encouraged in the course of the session by a sense of common purpose built on universal standards of protection of human rights.

38. Among those who had contributed so much to the success of the session, she wished particularly to thank the members of the Bureau, the High Commissioner and Deputy High Commissioner for Human Rights, all the staff of the High Commissioner's Office, the Conference Services and the press. In view of the resource-starved condition of many human rights activities, she had decided not to offer the traditional reception by the Chair and, instead, to contribute the 30,000 Swiss francs allocated by her authorities for that purpose to the United Nations Trust Fund for the Implementation of the Convention on the Rights of the Child. The contribution would appear as a donation in the name of all participants in the session.

39. In conclusion, recalling that in her opening statement she had expressed the hope that the Commission would "take responsibility", she said that in many respects she believed it had done so in adopting many resolutions, in finding a compromise outcome on review of mechanisms and in trying to shape a response to outside developments taking place during the session. In other respects, the answer was more measured. Thus, she still felt the lack of a convincing answer to charges of selectivity on the part of the Commission. It

was necessary to make sure that the moral outrage provoked by the Kosovo crisis did not become blunted when other conflicts arose in other parts of the world. Neither should the Commission forget the disappointment felt by those who, believing in the justice of their cause, felt that the Commission had failed them. Be that as it might, and notwithstanding all human and institutional shortcomings, it would be a mistake to minimize the work done during the past six weeks and to underrate the collective impact of the Commission's debates and resolutions, for every step on the human rights road, however modest, was important. For her part, she felt truly privileged to have participated in that worthy endeavour.

40. After the customary exchange of courtesies, the CHAIRPERSON declared the fifty-fifth session of the Commission on Human Rights closed.

The meeting rose at 12.10 p.m.