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COMMISSION ON HUMAN RIGHTS

Forty-fifth session

SUMMARY RECORD OF THE FIRST PART\* OF THE 49th MEETING

Held at the Palais des Nations, Geneva,  
on Friday, 3 March 1989, at 3 p.m.

Chairman: Mr. BOSSUYT (Belgium)

later: Mr. HELLER (Mexico)

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\* The summary record of the second part of the meeting appears as document E/CN.4/1989/SR.49/Add.1.

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The meeting was called to order at 3.15 p.m.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTIETH SESSION (agenda item 19) (continued)  
(E/CN.4/1989/3-E/CN.4/Sub.2/1988/45)

1. Dr. MANN (World Health Organization), referring to decision 1988/111 of the Sub-Commission, said that, nearly eight years after the first recognition of AIDS, the global scope and importance and the broad social dimensions of the world-wide epidemic were generally acknowledged and appreciated.
2. By 1 March 1989, a total of 141,894 cases of AIDS had been officially reported to the World Health Organization by 145 countries. It was estimated, however, that 375,000 cases had actually occurred between the beginning of the pandemic in the mid-1970s and the end of 1988. An estimated 5-10 million people were affected with HIV, the virus causing AIDS. Current evidence suggested that within 10 years of being infected, 50 per cent would develop the disease. It was projected, therefore, that the total number of persons suffering from AIDS would increase to over 1.1 million by the end of 1991. The 700,000 new cases expected in the period 1989-1991 would come almost exclusively from people infected before 1989.
3. Current scientific consensus indicated that a vaccine would not become available for general use for at least five more years. Treatment was progressing more rapidly, however, and the one currently approved drug, AZT (zidovudine), had been shown to prolong life. Nevertheless, it had important side-effects and was extremely expensive, while its long-term effectiveness was as yet unknown.
4. Rapid progress had also been made in the mobilization of health and social resources to prevent and control AIDS. Virtually every country had responded to the problems of HIV and AIDS, at national level, whilst technical and financial support and co-operation had been provided to enable them to develop their own strong and comprehensive AIDS programmes.
5. His Organization's Global AIDS Strategy provided the conceptual framework for national and international efforts. It aimed to prevent HIV infection, to reduce the personal and social impact of HIV infection, and to unite national and international efforts. The detailed guidance it had developed with regard to the methods and actions required to achieve those objectives was based on an international consensus among biomedical and social scientists, educators and public-health experts.
6. Central to the effectiveness of the Strategy was the need to protect the human rights and dignity of HIV-infected people and those with AIDS. The public-health rationale for that policy was quite pragmatic. HIV did not spread randomly or casually. It spread only through sexual intercourse, through the sharing of contaminated needles, or from infected mother to infant. If those already infected or likely to be infected were stigmatized or discriminated against, they would avoid detection and contact with health and social services. The risk of HIV transmission would be increased and efforts at prevention undermined. Prevention was based, first and foremost, upon education and support for behavioural change.

7. Resolution 41.24 of the forty-first World Health Assembly in 1988 had emphasized that "respect for the human rights and dignity of HIV-infected people and people with AIDS, and of members of population groups, [was] vital to the success of national AIDS prevention and control programmes and of the Global Strategy". There was no conflict between respect for human rights and strong public-health actions to protect the community against AIDS, but stigmatization and discrimination were potential threats to public health.

QUESTION OF HUMAN RIGHTS IN CHILE (agenda item 5) (continued) (E/CN.4/1989/7 and 72; E/CN.4/1989/NGO/9, 20, 29, 45, 58 and 60; A/43/624 and Corr.1)

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, (agenda item 12) (continued) (E/CN.4/1989/23-27, 58, 64 and 71; E/CN.4/1989/NGO/1, 5-7, 10, 31, 47, 54, 57, 61, 62 and 66; A/43/624 and Corr.1, 630, 705, 736, 742 and 743) INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS (continued) (E/CN.4/1989/28)

8. Mr. HELLER (Mexico) said that international détente did not automatically lead to improvements in human rights. The current world economic crisis interfered with many countries' efforts to democratize and modernize their societies, threatened their political stability and seriously jeopardized the full enjoyment of human rights and fundamental freedoms.

9. In past years, his delegation had observed with concern that the increasing politicization of the Commission's work had been accompanied by a tendency to concentrate on the human rights situation in Latin America. Recently, however, a new trend towards greater geographical diversification had emerged. Diversification would undoubtedly be healthy as long as the Commission did not make the mistake of considering human rights violations as a disease of the developing world and of certain "out-dated" political systems. It should be recalled that countries with developed economic, juridical and political systems continued to violate the basic rights of sectors of their populations and sometimes failed to observe the humanitarian principles contained in their legislation. All too often, moreover, the weapons used to violate human rights in developing countries were produced by industrial countries.

10. The observance of human rights in Central America was closely linked with the peaceful solution of conflicts in the region. The Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua had demonstrated their political will by their recent ratification at Costa del Sol, El Salvador, of the Esquipulas II Agreement of 7 August 1987, which provided the basis for a stable and lasting peace in Central America. In order to fulfil their commitments, those countries required the international community's full support as well as its respect for the Central American peoples' independence and right to self-determination.

11. The report on the situation of human rights in El Salvador (E/CN.4/1989/23) made it clear that, despite the Salvadorian Government's efforts, serious violations of human rights and fundamental freedoms still persisted in that country. Nevertheless, there had been encouraging

developments in the search for a solution to the armed conflict in El Salvador. A high-level meeting of representatives of Salvadorian political parties and the Farabundo Martí National Liberation Front (FLMN) had been held on 23 January 1989 in Mexico to consider the FLMN peace proposal. His Government hoped that the results of the talks and the counter-proposal of the Salvadorian Government of 26 February 1989 would result in a negotiated solution.

12. Despite the recent progress in finding solutions to conflicts, the human rights situation in diverse parts of the world remained disconcerting. His Government supported the right of the Afghan people to self-determination under the Geneva Agreements of 14 April 1988, and was firmly convinced that only a negotiated political solution, with the participation of all the parties concerned, could end the armed conflict.

13. Reports of human rights violations in Iran in the past months continued to be a cause for concern, and his Government supported the General Assembly's appeal to the Government of that country to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the International Covenant on Civil and Political Rights.

14. His delegation was deeply distressed at the grave situation of the Cypriot people, whose fundamental rights were being violated as a result of the foreign occupation of part of Cyprus. It hoped that the talks being held under the auspices of the Secretary-General would lead to a just and final solution. Respect for the independence, sovereignty and territorial integrity of Cyprus was an essential requirement for the restoration of human rights in that country.

15. Mr. TABIBI (World Muslim Congress) said that, as a result of the Soviet invasion, one third of Afghanistan's population had taken refuge in the neighbouring countries of Pakistan and Iran, and 1.5 million Afghans had been killed or maimed defending their freedom. The international community should make every effort to assist Afghanistan in its reconstruction efforts in the wake of an unjust and devastating war.

16. The Commission, the General Assembly, the Security Council and the entire international community had long discussed the plight of the Palestinians under Israel's cruel occupation. His delegation deplored the fact that Israel continued to reject the convening of an international peace conference on the Middle East.

17. At previous sessions of the Commission, the World Muslim Congress had condemned the coercive policy of assimilation which Bulgaria imposed on its Turkish-Muslim minority. However, his delegation welcomed the signing of the Turkish-Bulgarian protocol of 23 February 1988, and hoped that it would help solve that grave humanitarian problem. Unfortunately, no measures had yet been taken to restore the legitimate cultural and religious rights of Muslims in Bulgaria. On the contrary, practices aimed at the annihilation of their religious and cultural identity were continuing. The Commission should appeal to the Bulgarian authorities to restore all religious and cultural rights to its Turkish-Muslim minority.

18. Mr. GALLARDO (World Federation of Democratic Youth) said that it was common knowledge that, since 1973, violations of human rights and fundamental freedoms and the widespread use of repression were part and parcel of the Chilean régime. In 1988, various non-governmental organizations had published figures showing that human rights violations in Chile had continued unabated. The brutal repression following the announcement of the results of the plebiscite of 5 October 1988 had shocked observers of many nationalities who had been present in the country at the time.

19. According to information provided by the Commission for the Defence of Youth Rights (CODEJU) since 5 October 1988, the youth of Chile had been subjected to various forms of repression: 1,136 minors had been detained or kidnapped, 292 threatened, 36 tortured, 20 shot and 13 murdered. Between 1984 and 1988, 89 minors under the age of 15 had been detained or kidnapped, 7 tortured, 74 threatened and 7 murdered. In November 1988, the Director of CODEJU, José-Antonio Sabat, had received anonymous telephone threats. Many other young people, in particular students committed to the protection of human rights in Chile, had been subjected to unjustifiable acts of violence, repression and terror.

20. The Chilean régime's programme for the country's transition to democracy did not contain any provisions regarding respect for human rights, and one of the problems which the Chilean people would have to face in the future was that of impunity. The youth of Chile was aware that it would be difficult to achieve genuine reconciliation among Chileans if those responsible for the suffering of so many people were not justly punished.

21. His organization was particularly concerned about the rights of hundreds of political prisoners, administered by an inept judicial system, which should urgently be made democratic and independent. The armed forces, for their part, should concentrate exclusively on defence, while the future democratic Government should seek to deal with issues involving the rights of the indigenous population, and others seriously affected by the anti-popularist policies of the Pinochet régime.

22. Although some progress had been made under the dictatorship, credit was due mainly to the pressure applied by the international community and to the support given to the Chilean people by other peoples of the world. The mandate of the Special Rapporteur should be renewed, and the situation in Chile kept under review as a matter of priority.

23. Mrs. AHIABA (Indian Council of South America) said that, apart from Uruguay, every South American country had an indigenous population. In Argentina, there were 12 indigenous peoples, in Chile 4, in Bolivia 5, in Paraguay 17, in Peru 64, in Ecuador 11, in Colombia 75, in Venezuela 48, in British Guyana 8, in Suriname 3, in French Guyana 2 and in Brazil 175. In Ecuador, Peru and Bolivia, indigenous peoples accounted for the majority of the population.

24. Regrettably, the governing elites of those countries took no account of the thousand-year-old culture of their indigenous populations, and refused to recognize their human rights, in particular the right to freedom and self-determination. Under Colombian legislation, Indians were considered to be minors. The Governments of Chile and Venezuela had taken steps to integrate Indians by force with the rest of the population.

25. The Indians of South America continued to be "cannon fodder" in illegal wars in which indigenous peoples fought against invaders who had come to take their land. In Peru, for example, the Indians were victims of a war between the guerrillas of the Sendero luminoso (Shining Path) and the Government Armed Forces.

26. The indifference of the ruling class, politicians, churchmen, scientists and others to the various indigenous peoples and cultures of South America had led to violence and chaos. Indians were part of the economy, armed forces and police but were not given the opportunity to participate directly in the development of their regions and were excluded from politics.

27. Mr. KIRONGOZI (Observer for Zaire), speaking in exercise of the right of reply, referred to statements made with regard to the events that had taken place at Lubumbashi. He wished to point out that the Department of Citizens' Rights and Freedoms had conducted investigations, and would be calling for the punishment of all those who had broken the law or acted in a manner inconsistent with the regulations and procedures in force. The events in question were similar to many others occurring elsewhere, especially in Europe and America, in connection with movements involving workers, students and even doctors. He emphasized that human rights and freedoms would continue to be guaranteed and defended in Zaire, particularly by the Department in question.

28. Mr. CHEA URRUELA (Observer for Guatemala), speaking in exercise of the right of reply, said he was satisfied with the progress made with regard to human rights in Guatemala, and with the efforts made by the authorities to throw light on cases of disappearance. Some non-governmental organizations continued, however, to make irresponsible, unfounded allegations. For example, the Government had been said to be responsible for the disappearance and death of Enrique Tzoc García whereas, according to a local newspaper, a member of the armed forces had been accused of his murder. With regard to the allegations concerning a trade in children, the newspaper Le Monde had indicated that grave errors of interpretation had been made, and that investigations had shown the allegations to be unfounded. His delegation intended to circulate to the members of the Commission a report answering the other allegations that had been made before the Commission.

29. With regard to missing persons, government institutions had investigated all reports of disappearance made in 1988. In over half of those cases, the missing person had returned home safe and sound, while 16 per cent of the reports had been found to be untrue. As for the remaining cases, it was hoped that investigations would be completed by the end of March. The results of the investigation carried out so far had been presented to the Commission as an official document. Not only had details of the missing person and the circumstances in which he or she had disappeared been provided, but details had also been given of those who had returned home. The 848 cases of disappearance, reported by the Inter-American Commission on Human Rights as having occurred between January and June 1988, had been included in the investigation.

30. While his Government itself had made serious efforts to honour its commitments in that respect, non-governmental organizations rarely reported cases to the appropriate courts, and hardly ever provided sufficient information to enable cases to be resolved. Occasionally disappearances had

probable political connections, but those cases resulted from action by anti-democratic individuals discontented with the progress made by the Government in consolidating democracy in Guatemala. In that connection, he repeated his Government's invitation to the Working Group on Enforced or Involuntary Disappearances to pay a second visit to Guatemala to observe the progress that had been made.

31. Much had been done by his Government to increase the resources of those monitoring human rights, and the powers of the authorities responsible for investigating cases of disappearance. Politically-motivated disappearances had become a thing of the past, as Guatemala made slow - but encouraging progress towards the full enjoyment of human rights and fundamental freedoms by all its citizens.

32. Mr. OTHMAN (Observer for Malaysia), speaking in exercise of the right of reply, referred to the allegations made by the representative of Survival International. Whilst appreciating her concern for the rights and welfare of some of the tribal communities of the State of Sarawak, he wished to correct a misinterpretation of conditions there and in Malaysia in general.

33. The rights of Malaysians were defined in the Federal Constitution and were protected. If tribal people felt repressed, they could make representations to their Members of Parliament in both Federal and State Governments, or else report to the police. The rule of law prevailed even in the jungles of Malaysia but, at the instigation of foreigners, some members of tribal communities in Sarawak had taken the law into their own hands and resorted to the use of force.

34. With regard to the possible harm arising from deforestation, he said that, since 1970, his Government had initiated forest replanting programmes and was considering the possibility of reserving some parts of the forests for the tribes. That appeared, to be a stop-gap solution, however, since tribal communities could not live in isolation, outside the mainstream of social and economic development. They too had a right to development and to a better standard of living. The authorities were fully aware that development needs were not always consistent with the culture of the peoples concerned, and attempted, therefore, to promote social and economic development with due respect for that culture. Malaysia was a multi-racial and multi-religious society, whose stability depended on respect for the cultures of others.

35. Mr. TIRADO MEJIA (Colombia) said that there seemed to be general agreement in the reports presented to and statements made in the Commission that the human rights situation in his country was not only highly complex, but conditioned by violent activities of various origins. The figures presented with regard to the victims of violence varied considerably and no breakdown was provided according to context, in other words, as between ordinary crime, drug trafficking, terrorism or subversion. Pinpointing of strict human rights abuses was required if his Government was to continue taking corrective measures.

36. One of the "poor democracies", Colombia had a democratically elected, pluralistic Government which was faced not only with the problems common to Latin America as a whole, but also with the violent manifestations of drug and arms trafficking, and terrorist attacks. To strengthen the state of law, and

to extend political, economic and social democracy, the Government had engaged in consultations at all levels seeking a political solution. Its policy of peace and reconciliation had resulted in progress and been supported by the most representative sectors of society.

37. It could not, however, disregard its constitutional obligations or the need to punish the violent, criminal activities of the "dirty war" waged by both the extreme left and the extreme right against the State and the Colombian people. Nevertheless, violence could not be answered by violence, and the Government condemned unlawful activity on the part of government agents, which could result in violations of human rights. The President of the Republic had recently ordered an investigation into possible links between officers of the armed forces and the criminal, so-called paramilitary groups.

38. Other investigations had yielded results. In the case of two massacres, at Hacienda Honduras and Mejor Esquina, respectively, detention orders had been issued. In connection with the Segovia massacre, detention orders had been issued in respect of three army officials, two police officers and four civilians. Furthermore, following a decision by the Supreme Court, two army officers were to be tried under the civilian criminal system for terrorist offences, while others would be tried in the military courts on charges of cowardice for having failed in their duty to defend the population. With regard to the massacre of State officials, judges and officers of the judicial police, the persons accused had been detained.

39. In a country where the distinction between political and ordinary crime was often blurred, it was difficult to make a clear definition of judicial competence. The Government and democratic institutions had, however, made notable progress in that respect. The jurisprudence of the Supreme Court had developed considerably, and it had been decided that the military courts could not try civilians, while civilian courts could try military personnel who had acted unlawfully against the civilian population.

40. While endeavouring to re-establish peace and reinforce the judicial system, the Government had initiated programmes to protect and promote human rights. Both education and information were required to eradicate the spirit of violence manifest in many aspects of Colombian life.

41. Personeros municipales ("municipal officers") had been made responsible for co-ordinating the system of defence, protection and promotion of human rights at the municipal level. A training programme had been initiated for such officers, with instruction on national and international legislation concerning human rights, and on means of preventing and penalizing abuses. It was intended that they should have the same functions, for example, as an ombudsman in other countries. Furthermore, in accordance with a draft law currently before Congress which provided the legal framework for his tasks, the personero municipal would be legally entitled to monitor those responsible for detentions or other actions likely to involve infringements of human rights.

42. Such efforts at the national level were the outcome of a policy initiated by the President of the Republic with a view to consolidating the state of law and reinforcing the bases of democratic, civilian life. In the same spirit, his country accepted the co-operation of international bodies concerned with the situation there. Visits had already been made by the Special Rapporteur

on questions relevant to torture, and by the Working Group on Enforced or Involuntary Disappearances. The Government had also invited the Special Rapporteur on summary or arbitrary executions to visit the country to make first-hand observations.

43. Mr. Heller (Mexico) took the Chair.

44. Mr. MARKIDES (Cyprus) said that the situation in his country remained unchanged, a sad commentary on the ineffectiveness of regional and global mechanisms for the protection of human rights. Roughly 82 per cent of the population of the occupied territory had become refugees in their own land, and their cultural heritage was being systematically destroyed.

45. His Government was doing its utmost to promote a peaceful and just settlement, and fully supported the Secretary-General's good offices to that end. The chief obstacle was the non-acceptance, by the other party, of even the minimum standards of human rights - a matter on which the Commission should remain vigilant. His delegation had noted with interest the statement by the Minister for Foreign Affairs of Spain, speaking on behalf of the member countries of the European Community, to the effect that the latter was monitoring the human rights situation in Cyprus and wished to see it resolved.

46. To assert that political solutions were the only answer to questions of human rights violations would be tantamount to denying the Commission's raison d'être. The rules of international law, customary and conventional, deemed the obligation to respect human rights paramount. Suppression of human rights, therefore, should not be used as a bargaining counter for a political settlement. The Commission should continue to focus on the human rights situation in Cyprus from an exclusively humanitarian standpoint; geopolitical and other such considerations were alien to its objectives.

47. In that regard, the European Commission of Human Rights had found Turkey to be responsible for a series of gross violations during and after its 1974 invasion of Cyprus. Unfortunately, the violations had continued, perpetuating a forced separation of peoples, including redistribution of seized Greek Cypriot land under spurious enactments, the holding of abducted persons and the continued displacement of thousands, at a time of no military hostilities.

48. The most alarming aspect was the systematic influx of illegal settlers from Turkey, currently some 65,000 in number who, combined with the army of 35,000, outnumbered the Turkish Cypriot community, thus violating the latter's rights also, as could be seen from its reaction to the situation. Such an attempt at demographic restructuring had been disapproved by the Secretary-General as well as the Eighth Conference of Heads of State or Government of Non-Aligned Countries.

49. Another aspect of the continued human rights violations was the case of enclaved persons whose numbers had been steadily reduced; as noted in the report by the Secretary-General (E/CN.4/1989/28), only 639 enclaved persons had been living in the occupied part of Cyprus at the end of November 1988. All Greek Cypriot refugees had been deprived of their homes, possessions and livelihood. In desiring to return home, the refugees were only claiming the most elementary right accorded them under international conventions relating to time of war and occupation.

50. One of the most tragic aspects was the situation of missing persons, a subject on which his delegation had already spoken in detail under agenda item 10. His Government continued to call for the effective functioning of the Committee on Missing Persons in Cyprus, and it would continue to co-operate with a view to solving that purely humanitarian issue as soon as possible.

51. It was important to achieve a lasting solution which would safeguard the independence, sovereignty, territorial integrity and non-aligned status of Cyprus. United Nations resolutions on the subject, particularly Security Council resolutions 541 (1983) and 550 (1984), including the Commission's resolutions, should be implemented. His delegation thanked the Commission for its continued support and sympathy.

52. Mr. SHARMA (India) said that the Secretary-General's report (E/CN.4/1989/28) showed that the situation in Varosha was unchanged and the condition of the Cypriot people had not improved. There had been some welcome progress of late, including resumption of the dialogue between the two Cypriot communities under the Secretary-General's auspices. His delegation sincerely hoped that the statesmanship and good will which had made that dialogue possible in the first place would lead to a successful conclusion.

53. His Government fully endorsed the support expressed by the ministers for foreign affairs of the non-aligned countries, at their meeting at Nicosia about six months previously, for the independence, sovereignty, territorial integrity, unity and non-aligned status of Cyprus. The ministers had welcomed the Secretary-General's efforts in pursuing his good-offices mission and the decision of the parties to resume intercommunal talks at a high level; they had stressed the urgent need for a voluntary return of refugees to their homes in safety, respect for all Cypriots' human rights and fundamental freedoms, and a speedy accounting for missing persons.

54. Only the unity, sovereignty and independence of Cyprus would enable the human rights problem to be solved. The various interrelated issues were an integral part of the current intercommunal dialogue.

55. Mr. ŠUC (Yugoslavia) said that the final document of the Conference of ministers of non-aligned countries, in which Yugoslavia had taken part, had called for a constructive dialogue and the immediate withdrawal of occupation forces and settlers as an essential basis for a solution of the Cyprus problem; the ministers had welcomed the proposal made by the President of Cyprus for demilitarization, and had stressed the urgent need for the voluntary return of refugees, respect for the human rights and fundamental freedoms of all Cypriots and the speedy tracing of and accounting for those missing.

56. Although the human rights situation in Cyprus had not improved over the past year, there had been significant developments which might help to reach a just and lasting solution of the problem. His delegation welcomed the Secretary-General's good-offices mission and supported the continuation of direct and constructive dialogue, under his auspices, which should be conducted on the basis of the high-level agreements of 1977 and 1979 and in accordance with the principles and resolutions of the United Nations and the declarations of the non-aligned movement. It hoped that the

Secretary-General's efforts to achieve a negotiated settlement of all aspects of the Cyprus problem by 1 June 1989 would be successful and that all the parties concerned would co-operate with him fully to that end.

57. His delegation reiterated its support for a political solution based on direct dialogue between the two communities, the immediate withdrawal of all occupation forces and settlers, and the voluntary repatriation of refugees, in order to restore human rights throughout the island and reinforce peace and security in the eastern Mediterranean.

58. Mr. VASSILENKO (Ukrainian Soviet Socialist Republic) said that the situation in Cyprus was a result of flagrant interference by outside forces in the internal affairs of Cyprus, the artificial division of a formerly unified State and the denial of its peoples' freedom of choice. Despite the efforts of United Nations forces to maintain peace in Cyprus and carry out humanitarian tasks, the situation, as could be seen from the Secretary-General's report (E/CN.4/1989/28), remained far from satisfactory.

59. Only political and legal measures could restore the human rights of the Cypriot people; international instruments set forth an ample range of measures for that purpose and could be used, given the good will of both parties. The most effective ways to uphold and safeguard human rights and bring about stability in the region would be: firstly, recognition of Cyprus' status as a unified, sovereign, non-aligned State; secondly, non-interference of any kind in Cyprus' internal affairs; thirdly, the withdrawal of all foreign occupation forces; fourthly, demilitarization of the island, as called for by the legitimate Government; and lastly, and most importantly, the deciding by Cypriots themselves of all matters relating to the structure of the Cypriot State.

60. The talks between the two sides, under the Secretary-General's auspices, were planned to reach a conclusion by 1 June 1989. His delegation welcomed the efforts aimed at a political settlement and called on all countries to show their support. One major step could be the convening of a conference, under United Nations auspices, to establish international guarantees for the protection of Cyprus against any interference from outside and for the restoration and respect of all the Cypriot peoples' human rights.

61. Mr. RODRIGO (Sri Lanka) said that his delegation welcomed the further round of talks being held under the Secretary-General's auspices. Such talks underlined the most important aspect, namely, that it was an internal matter between two national communities and should be kept free from geopolitical and other extraneous issues.

62. His Government had repeatedly called for the withdrawal of foreign troops from the north of Cyprus and an end to the division of the island and to the colonization and other attempts at demographic restructuring which prolonged and heightened the suffering. The views voiced by the world community for many years, including resolutions adopted by the General Assembly, the Security Council and the Commission, all indicated a suitable basis for an eventual settlement of the problem.

63. Sri Lanka, as a non-aligned country, had always voiced its support for the people of Cyprus, in a spirit not merely of solidarity but of common allegiance to certain principles, including respect for a State's sovereignty,

unity and territorial integrity and rejection of foreign interference and the use of force. The world community should make every effort to encourage the current talks, which should cover all aspects of the situation, including the plight of refugees and the accounting for missing persons.

64. His delegation also strongly opposed any measures aimed at promoting secession and called for the restoration of the Cypriots' human rights, including freedom of movement and settlement and the right to property. The relevant United Nations resolutions would provide the best blueprint for a settlement which safeguarded the human rights of all Cypriot citizens.

65. Miss BOJKOVA (Bulgaria) said that her Government, which continued to be gravely concerned about the situation in Cyprus, welcomed the Secretary-General's renewed efforts to resolve the situation and commended the Government of Cyprus, which was doing its utmost to support the Secretary-General's good-offices mission. The situation remained critical, however. Turkey still refused to recognize the world community's calls and the norms set forth in relevant international instruments; it continued to allow colonial settlement in the occupied part of the island and to leave unanswered the calls for information about the fate of missing persons.

66. Her delegation attached particular importance to efforts aimed at the solution based on international law and human rights standards, including the withdrawal of foreign occupation forces and settlers. It hoped that the new, encouraging international climate would lead to a successful solution in which respect for the Cypriots' human rights was fully restored; that could best be achieved by establishing international guarantees, precluding foreign interference, including the threat or use of force, and convening an international conference.

67. Mr. BEZABIH (Ethiopia) said that the United Nations, particularly the Security Council and the General Assembly, had been seized of the question of Cyprus for over a quarter of a century. Despite its praiseworthy efforts, however, the situation remained disappointing. His Government, which had consistently supported the decisions and resolutions adopted by the United Nations and the non-aligned movement, considered that, unless a State's sovereignty and territorial integrity were guaranteed, its people could not fully exercise its inalienable freedoms and rights as a democratic society. It endorsed Security Council resolution 541 (1983), and rejected any attempt to undermine Cyprus' sovereignty, unity and non-aligned status.

68. The time had come to exert every effort towards speedy implementation of all relevant United Nations decisions in order to end the sufferings of the people of Cyprus. His delegation reaffirmed its strong support for the Secretary-General's good-offices mission to that end.

69. Mr. MARTINEZ (Cuba) said that the situation in Cyprus, which had been an item on the Commission's agenda for so many years, had sadly failed to improve during that time. The root of the problem was clear: as in the case of Palestine, it was foreign interference and military occupation. While military occupation prevailed, no amount of discussion, in the Commission or any other forum, could resolve such situations, in which peoples were prevented from exercising their human rights and sovereignty in their own territories.

70. Despite decisions adopted annually in the United Nations and other international forums, the situation in Cyprus persisted. All those decisions had stressed that any solution must involve the restoration of the sovereignty, territorial integrity, unity and non-aligned status of Cyprus.

71. His delegation hoped that the current talks between the two parties, under the Secretary-General's auspices, could lead to a negotiated peaceful solution and the genuine restoration of the Cypriots' human rights, so that the Commission, at its next session, would no longer have that issue on its agenda.

72. Mr. ZAMIR (Bangladesh) said, with reference to the statement made by the Commission of the Churches on International Affairs concerning steps taken by his Government in respect of its tribal population, that in keeping with the declared commitment and assurance of his President, those measures were the result of sincere efforts on the part of the Government to ensure overall development of the tribal population living in the Hill Districts.

73. On 28 February 1989, the Bangladesh Parliament had passed laws constituting Local Government Councils in the Hill Districts, made up of elected representatives of the tribal people with power to manage their own affairs and preserve their socio-cultural heritage and separate identity. The legislation was designed to help the tribal people of the Districts to improve further their quality of life in keeping with their cultural and social traditions. It would also enable them to take necessary actions for their total welfare. They would constitute their own Hill District and Local Government Councils on the basis of direct elections. Only persons residing permanently in a Hill District were eligible to vote, a departure from the situation existing elsewhere in Bangladesh.

74. Each of the Hill District Councils, freely and democratically elected, would at all times have a tribal person as its chairman, and executive head. The Deputy Commissioner would henceforth act only as the ex officio Secretary of the District Council and help to execute decisions taken by it.

75. In keeping with the Government's pledge, the legislation would permit the Councils to levy taxes and raise tolls locally within the jurisdiction of the District. The District Council would also be responsible for the maintenance of law and order within the District and would, in that connection, recruit a District Police Force from among the permanently resident population. It would also have the right to take disciplinary action against such appointees. The District Council would also initiate resettlement and rehabilitation of landless tribes within the District.

76. In accordance with its declared intention to help in the overall socio-economic growth of the tribal population, the legislation would enable the District Councils to formulate their own annual budget and their own priority of development projects.

77. Mr. INGLES (Philippines) said that, in practice, some delegations and non-governmental organizations bypassed the Sub-Commission on Prevention of Discrimination and Protection of Minorities and went directly to the Commission to complain about certain Governments in public session, which was

a violation of the confidentiality rule required by Economic and Social Council resolution 1503 (XLVIII) and a breach of good faith on the part of the non-governmental organizations which had been allowed to avail themselves of the procedure established by that resolution.

78. In that connection, he referred to the complaint made by the International Federation of Rural Adult Catholic Movements (FIMARC) against the Philippines on 24 February 1988, under the agenda item concerned with the questions of the human rights of all persons subjected to any form of detention or imprisonment. The FIMARC representative had, in reality been a member of the Philippine Alliance of Human Rights Advocates (PAHRA) but since PAHRA was not in consultative status with the Economic and Social Council, the representative had appeared under the auspices of FIMARC.

79. In effect, the PAHRA representative had repeated the allegations previously made in the complaint, dated 25 January 1988, sent to the Secretary-General and considered by the Sub-Commission, together with the written reply of the Philippine Government. The Sub-Commission had decided, without a vote, not to transmit it to the Commission on Human Rights.

80. Nevertheless, PAHRA/FIMARC had been able to make the same charges in public session of the Commission on 24 February 1988 to the prejudice of his Government. That was a circumvention, if not a mockery, of the procedure established by Economic and Social Council resolution 1503 (XLVIII). The same was true of the statement of another PAHRA representative who had spoken, on 3 March 1988, under the auspices of the World Alliance of Reformed Churches.

81. It would seem that the same tactics were being used in the Commission during the current year. Representatives of PAHRA were once again listed as members of the delegations of two other non-governmental organizations. The PAHRA representative who had spoken the previous year as representative of FIMARC was currently listed as a member of the delegation of the Commission of the Churches on International Affairs, notwithstanding the recent announcement by the Acting Chairman of the National Commission on Human Rights that non-governmental human rights organizations in the Philippines, including PAHRA, had agreed to co-operate with the National Commission. His delegation deplored the fact that certain non-governmental organizations had lent themselves, whether unwittingly or otherwise, as tools to bypass the procedure established by Economic and Social Council resolution 1503 (XLVIII).

82. As for the assertion that an alternative public procedure was provided for in Economic and Social Council resolution 1235 (XLII), the question arose whether that resolution had not been superseded by Economic and Social Council resolution 1503 (XLVIII) because they dealt with the same subject, namely "a consistent pattern of gross violations of human rights". Quite apart from that substantive question, however, Economic and Social Council resolution 1235 (XLII) expressly stipulated that it was "without prejudice to the functions and powers of organs already in existence or which may be established within the framework of measures of implementation included in international covenants and conventions on the protection of human rights and fundamental freedoms". It was therefore clear that that procedure adopted by the Economic and Social Council was a temporary measure prior to and pending the entry into force of the International Covenants on Human Rights, which were intended to embody the rights enumerated in the Universal Declaration of Human Rights, together with an implementing mechanism, in a binding legal instrument.

83. It was obvious that a State not a party to the International Covenants on Human Rights could not avail itself of Economic and Social Council resolutions 1235 (XLII) and 1503 (XLVIII) to condemn a State party for violation of the said Covenants. The Covenants established an orderly procedure to deal with such cases. Any attempt by a State which was not a party to the International Covenants to judge a State party's respect for human rights outside the framework of those Covenants would be ultra vires and therefore null and void.

84. In its statement on 2 March 1989, the Commission of the Churches on International Affairs had repeated its statement of the previous year concerning alleged violations of human rights such as torture, arbitrary arrest, incommunicado detention, involuntary disappearances and summary execution, allegations that he himself had rebutted on 22 February and 3 March 1988. The current status of cases in the Philippines was that the Philippine Commission on Human Rights had received 2,377 complaints of human rights violations, up to the end of 1988, most of which were alleged to have occurred before the 1986 revolution. Of those cases, 212 had been finally resolved and 102 had already been set for final review and resolution by the Philippine Commission on Human Rights. The resolution of 176 cases in 1988 was a 500 per cent improvement on the total of cases resolved in 1986.

85. The Commission of the Churches had also asserted that the perpetrators of the alleged violations were invariably members of military units or paramilitary groups. In fact, up to 31 December 1988 a total of 1,125 cases had been filed against military and police personnel, 407 of which had occurred during the period of dictatorship. A total of 57 cases had been closed or terminated on various grounds. While the Philippine Constitution prohibited all violations of human rights by whomsoever committed, it was strange that the Commission of the Churches had not touched upon the alleged human rights violations committed by the insurgents CPP/NPA, 395 cases of which had been filed with the Philippine Commission on Human Rights by the end of 1988. A further 218 cases had been filed against members of the CPP/NPA before the civil courts.

86. The Commission of the Churches had also expressed concern that the Philippine counter-insurgency strategy remained unchanged and continued to result in widespread human rights violations. It was to be hoped that its concern applied also to the human rights violations by the insurgents which, by the end of 1988, had involved 3,255 violent activities, resulting in the death of 814 military personnel and 889 civilians.

87. The Commission of the Churches had also alleged indiscriminate attacks against tribal communities though without citing any specific cases. Before launching aerial operations in a given area of Mindanao, where there were verified concentrations of the New People's Army, the military forces warned the civilian population and tribal communities to keep away from the area. Displacement of civilians was inevitable in such circumstances, but there was no violation of their human rights as there would have been had they been forced to stay in the combat areas.

88. Lastly, with regard to the allegations concerning the so-called paramilitary units, he assumed that the Commission of the Churches acknowledged the reality of the threat to the human rights, security and integrity of the Philippine people posed by the CPP/NPA insurgency. The

counter-insurgency programme of his Government was designed not only to tackle the armed threats but also to strike at the root causes of the insurgency, which were poverty and economic and social inequality.

89. In accordance with its Constitution, the Philippines had a multi-tiered defence system composed of the Armed Forces of the Philippines, the Philippines Constabulary, the Integrated National Police, the Citizens' Armed Force Geographical Units (CAFGU) and the Civilian Volunteers' Organization (CVOs). Most of the CAFGU consisted of reservists in the inactive status. The rest, called CAFGU active auxiliary, were integrated into the Armed Forces of the Philippines. Hence they were not paramilitary reservists as alleged, but reservists who had basic military training and were subject to military law, rules and regulations.

90. On the other hand, the Civilian Volunteers' Organization consisted of committed citizens who had organized themselves on the basis of the constitutional guarantee of the right to form associations for the purpose of protecting their interests. They did not bear arms and had no military functions. They helped in the provision of urgently needed social services in the communities as part of the Government's total approach to countering insurgency.

91. Any allegations of violations of human rights by anyone in the Philippines was investigated by his Government. In that connection, he recalled that a member of the Philippine Commission on Human Rights had spoken in the Commission on Human Rights at a previous meeting to refute allegations that no military men had been arrested or convicted of human rights violations; by giving the names of officers, non-commissioned officers and enlisted men who had already been convicted or were facing trial in military or civilian courts. He had also corrected exaggerated reporting by certain non-governmental organizations by citing names of persons who had reappeared after they had been reported as having disappeared or having been killed.

92. He appealed to those who were unsatisfied with the human rights situation in the Philippines not to indulge in generalities but to exhaust the local remedies available in the Philippine Commission on Human Rights and the judicial and administrative courts. If they were still not satisfied after the exhaustion of such remedies, such critics should bring the matter to the attention of the Human Rights Committee, which alone was competent to judge violations of the International Covenant on Civil and Political Rights. The Commission on Human Rights should not be involved where the Governments against which complaints were brought were parties covered by international human rights instruments which had their own implementing mechanisms.

93. Mr. Bossuyt (Belgium) resumed the Chair.

94. Mr. GALLEGOS (Observer for El Salvador) said, with regard to the report on the situation of human rights in El Salvador prepared by the Special Representative (E/CN.4/1989/23), that his delegation wished to inform the Commission of recent steps taken by his Government in that area. On 20 March 1988, elections had been held for the Municipal Councils and the Legislative Assembly. Those elections, their results and the political parties which had taken part in them demonstrated the importance of democracy as an authentic and legitimate system of government, where there was ideological pluralism, the popular will was respected, and violence was rejected as a means of achieving political goals.

95. Unfortunately, the FMLN-FDR had not respected the electoral results and had engaged in military actions including abductions, murder and threats to mayors, which had led the Special Representative to make the statement that the mayors could not be regarded as military targets, and even if they were informers for the armed forces, the principle set out in article 3 common to the 1949 Geneva Conventions and incorporated in the 1977 Protocols would apply, namely, that it was prohibited to pass sentences and carry out executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which were recognized as indispensable by civilized peoples.

96. Therefore, in addition to recommending to FMLN and the guerrilla organizations that they refrain from planting contact mines in a manner incompatible with the norms of international humanitarian law applicable to the internal conflict in El Salvador, the Special Representative also recommended that they refrain from the practice of ajusticiamientos including summary executions and intimidation of mayors, and from "indiscriminate" urban terrorist acts.

97. Referring to the recommendation contained in paragraph 108 (d) of the report, he said that his Government had, on 28 June 1988, requested the Centre for Human Rights to provide support, advice and assistance and had included in its request a plan of action for 1988, prepared by the Salvadorian Human Rights Commission and entitled "Promotion of Human Rights Project".

98. Since it had not received any reply after several months had lapsed, it had submitted a note dated 25 January 1989 to the Centre reiterating its request for technical assistance in the field of human rights. To date, his Government had received no reply. It continued to hope that it would receive that technical assistance which was so vital for the improvement of the human rights situation in El Salvador.

99. The proposal of the FMLN to transform the elections into a contribution to peace had given rise to a series of consultations and a counterproposal by the Government. On 26 February 1989 President Duarte had submitted his peace proposal as an expression of the sovereign will of the Salvadorian people, which would make it possible to dispose of the problem caused by the FMLN proposal and thus resolve satisfactorily the apparent contradiction between peace and the Constitution.

100. The proposal provided, inter alia, that the Government of El Salvador and FMLN should each unilaterally decree a cessation of hostilities from 28 February until 1 June 1989. Next it called upon the FMLN to initiate peace talks in Guatemala with a view to the final cessation of the armed struggle, the formal incorporation of FMLN into the country's political and civil life, and the recognition of the Armed Forces of El Salvador as the only armed forces of the country. Thirdly, notwithstanding the terms of the FMLN proposal, President Duarte pledged himself to seek ways to promote a peaceful solution which would be in accordance with the country's legal and constitutional structure. Fourthly, he requested the Central American Presidents to make the necessary efforts for the implementation of the Peace Plan. Lastly, he appealed to international solidarity for the provision of the necessary aid to give concrete form to that peace effort, which would require for its implementation the co-ordination and co-operation of the State's supreme bodies, political parties and the Salvadorian people.

101. As an immediate consequence of the President's peace proposal, the Armed Forces of El Salvador had unilaterally decreed a cease-fire, to take effect from 1 March 1989 to 1 June 1989. President Duarte's proposal had given rise to many and varied reactions. At the international level, some countries and the European Economic Community had supported the Salvadorian initiative and urged the FMLN to cease the killings and to follow the example of the Government of El Salvador, since that represented the most significant opportunity for peace in the country.

102. At the internal level, most political parties had, on the whole, supported the President's proposal. The FMLN had responded by proposing a meeting at San Salvador on 4 and 5 March 1989 for the purpose of reaching effective agreements, adding that it approved the idea of a plebiscite, that it supported the mechanism for the co-ordination of the free powers and that it was prepared to declare a unilateral cease-fire.

103. In conclusion, he appealed to the international community for its firm support and said that he had wished to bring the latest events to the attention of the Commission so that all States and the non-governmental organizations represented in the Commission would be aware of the initiatives taken by his Government in the search for a peaceful solution to the armed conflict which had been devastating his country for nine years.

The summary record of the second part of the meeting appears  
as document E/CN.4/1989/SR.49/Add.1.