



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1990/SR.46
9 May 1990

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Forty-sixth session

SUMMARY RECORD OF THE FIRST PART* OF THE 46th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 1 March 1990, at 3.30 p.m.

<u>Chairman:</u>	Mrs. QUISUMBING	(Philippines)
later:	Mr. DITCHEV	(Bulgaria)

CONTENTS

Statement by Mr. Adamishin, Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics

* The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.46/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

Further promotion and encouragement of human rights and fundamental freedoms, including the question of the programme and methods of work of the Commission:

- (a) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms;
- (b) National institutions for the promotion and protection of human rights;
- (c) Co-ordinating role of the Centre for Human Rights within the United Nations bodies and machinery dealing with the promotion and protection of human rights (continued)

Human rights and scientific and technological developments (continued)

Statement made by the representative of Yugoslavia in exercise of the right of reply

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its forty-first session

The meeting was called to order at 4.05 p.m.

STATEMENT BY MR. ADAMISHIN, DEPUTY MINISTER FOR FOREIGN AFFAIRS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

1. The CHAIRMAN introducing Mr. Adamishin, said that he was the official in the Soviet Ministry for Foreign Affairs responsible for European matters and questions relating to human rights. He had a degree in economics and a doctorate in history and was also the author of a number of works on various aspects of international relations. During his service as official in charge of African matters within the Ministry for Foreign Affairs, he had taken part in the negotiations concerning southern Africa. He had also participated in many diplomatic conferences on various issues in the field of international relations.
2. Mr. ADAMISHIN (Deputy Minister for Foreign Affairs of the Union of Soviet Socialist Republics) said that the stunning changes that had swept across the world, and Europe in particular, could be interpreted in a variety of ways, but there was no denying that they represented a real breakthrough in democracy. However, it was not only things old that were being jettisoned; a vigorous search was under way for new patterns of social life.
3. The Soviet Union welcomed that kind of democratic revolution without reserve, for it had initiated the current changes. In the USSR, democratization was not only an effect, but also a modus operandi, of perestroika. It was not a time-serving twist of policy, but a long-term strategy pursued by the USSR both in its domestic and international affairs.
4. The Soviet Union sought to build, without discarding the imperishable socialist ideals of equality, liberty and social justice, a society centred on the rights, interests and conscious responsibility of the individual. Such a society could not be built when one political party enjoyed a monopoly on power, or without introducing a full complement of modes of ownership, according real rights to each individual and to teams of workers, associations, constituent republics, national entities and ethnic minorities, and establishing a State based exclusively on the rule of law. The reforms being carried out in the USSR with perseverance, yet with great difficulty, were intended to achieve those goals. The most crucial progress made so far, without which it would have been impossible to move ahead at all, had been releasing the people from intellectual and political bondage, but the massive energy released as a result had not always been put to constructive use.
5. Bodies wielding supreme power on the basis of new principles had been formed: at present, all government institutions were undergoing structural reform, power was being transferred to the Soviets and the Soviet federation was being overhauled.
6. Economic reform had proved to be a much more formidable task than had been expected, but a solid legal foundation was being laid for it. The law on ownership and the fundamental principles of land legislation, under which peasants would enjoy the right to land tenure and inheritance, had gone through on first reading.

7. In the area of human rights, laws governing exit and entry procedures in the USSR and on freedom of conscience and religious association, as well as other legislative acts, all designed to conform to the highest international standards, were in the offing.

8. The new law on the status of judges that had entered into force on 1 December 1989 was intended to secure real immunity from pressure for the Judiciary. The Supreme Soviet had declared an amnesty for ex-servicemen who had committed crimes or offences during their tour of duty in Afghanistan - over a year had passed since the last Soviet soldier had left that country. The so-called political articles had been dropped from the Soviet Penal Code, and individuals who had been sentenced under those articles had been released. The Soviet Union thus no longer had any qualms about consideration by the Commission of the issue of political prisoners in Soviet territory.

9. In the area of psychiatric treatment, the Soviet Union had contributed to the elaboration by the United Nations of a draft body of guidelines, principles and guarantees for the protection of mentally-ill persons. Such norms were either already contained in Soviet legislation or were being enacted now.

10. The difficult and sometimes tragic occurrences that accompanied perestroika should not obscure the fact that the prevailing movement in the Soviet Union now was the reaffirmation of democracy.

11. The Soviet Union realized the full measure of its responsibility and of the consequences for itself - and not only for itself - that attended the success or failure of the enormous enterprise it had undertaken. He himself was firmly convinced that his country would be able to overcome the difficulties.

12. Perhaps mankind was now witnessing the birth of a new civilization, not founded on violence and reaching the highest human standards. The member countries of the international community shared common ideals, after all, and had formulated, for the purpose of defending human rights and freedoms, certain economic, political and cultural standards that were in no way abstract.

13. Those universal standards had been codified in the Universal Declaration of Human Rights and other human rights instruments, a great many of which had already been incorporated in the Soviet Constitution.

14. In that connection, the Soviet Union called upon States that had not yet done so to accede to the International Covenants on Human Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child, so that the standards incorporated in those instruments might become truly universal.

15. The international community was aware of the urgent need to consider all international problems, from disarmament to ecology, from the standpoint of respect for human rights and for the right to free choice of all peoples.

16. Specifically, the building of a common European home required the unswerving implementation of existing international legal rules - from the basic post-war agreements to the Helsinki Final Act.

17. In order for human rights to be respected, they must first of all be made known, and the basic human rights documents should therefore be made available to all. Over 40 million copies of the Universal Declaration of Human Rights had been printed in the Soviet Union in 1989.

18. His country was co-operating fruitfully with the Centre for Human Rights in a number of areas: for example, two seminars had been organized in Moscow with the assistance of Mr. Martenson. The Soviet Union called upon other countries to follow its example in hosting such meetings.

19. While the Soviet Union was open to co-operation, advice and criticism, it would not tolerate claims by anyone to hold a monopoly on truth or anyone talking down to it. In that connection, his delegation warmly welcomed the notes of self-criticism introduced into their statements by a number of delegations, including the representative of the European Community. It would be presumptuous to claim that democracy was inherent in any one social system, or that freedom of expression, of assembly and of conscience, free elections, parliaments and the separation of powers - those primary achievements of world history - had been authored by the Western political system alone. That system had also given birth to nazism and fascism.

20. On the other hand, socialism had emerged, not on the sidelines, but in the mainstream along with other social systems. Mankind had a duty to turn to advantage the great discoveries made by civilization over thousands of years. The Soviet Union, for its part, had recognized that new principles regarding social justice, collective rights, self-government and true power of the people could be proposed only for the purpose of furthering human rights - not to detract from them.

21. The Soviet Union supported the Commission's efforts to combat gross and massive human rights violations in the occupied Arab territories and in southern Africa.

22. The economic and cultural context, and in particular, the local traditions, of a given civil society must be taken into account in human rights efforts. One must refrain from using pressure: in some cases, the main criterion to be applied was whether a given State was truly moving towards respect for human rights. In that connection, he wished to confirm that the Soviet Union would sign the Optional Protocol to the International Covenant on Civil and Political Rights soon - certainly before the Commission's next session.

23. Ways of instituting confidence-building measures should be considered, not only in the military field, but in human rights activities as well. Such measures might include mutual access to the mass media, exchanges of delegations during elections and referendums, invitations for non-governmental organizations to attend public court hearings when there was reason to believe the accused might not get a fair trial and invitations to special rapporteurs of the Commission on Human Rights responsible for studying the on-site evolution of various situations.

24. The work of the Commission on Human Rights had long been a mirror reflection of the ideological rivalry between East and West and had served as an arena for mutual accusations and recriminations. Fortunately, the Commission had put an end to such confrontations, which had now given way to

civilized dialogue. The storm of democratic renewal was sweeping away brick walls and iron curtains and bringing dynamism and hope to liberated peoples. Everything must be done to prevent the storm from becoming a hurricane of violence, suffering and destruction.

25. The construction of a common European home, the proposal for a European legal space, the upcoming meetings in Copenhagen and Moscow and the summits among European countries, the United States and Canada scheduled for 1990 and 1992 combined to open up brand new prospects for human rights. The structural pillars of civilization embodied in the principles and rules of international law, that common patrimony of mankind, must be reinforced.

FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION:

- (a) ALTERNATIVE APPROACHES AND WAYS AND MEANS WITHIN THE UNITED NATIONS SYSTEM FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS;
- (b) NATIONAL INSTITUTIONS FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS;
- (c) CO-ORDINATING ROLE OF THE CENTRE FOR HUMAN RIGHTS WITHIN THE UNITED NATIONS BODIES AND MACHINERY DEALING WITH THE PROMOTION AND PROTECTION OF HUMAN RIGHTS (agenda item 11) (*continued*) (E/CN.4/1990/18 and Add.1, 19, 20, 49, 54, 65 and 79; E/CN.4/1990/NGO/2 and 39; A/44/660 and Add.1; and E/AC.51/1989/2)

26. The CHAIRMAN invited Mr. Paul Bouchet, Chairman of the French National Human Rights Advisory Committee and member of the Council of State, the country's highest administrative organ, to make a statement under agenda item 11 (b).

27. Mr. BOUCHET (France) said that national institutions had an extremely important role to play in promoting true respect for human rights: even in democratic countries, constant vigilance was required in that area.

28. At the end of the Second World War, an Advisory Committee on the Codification of International Law and the Defence of the Rights and Duties of States and of Human Rights had been set up in France by a decree of 17 March 1947. The Committee had been chaired by René Cassin and had participated actively in drafting the Universal Declaration of Human Rights. As the years went by, however, it had gradually become necessary to enhance the Committee's legal competence, expand its membership and strengthen its sphere of action. The bicentenary of the French Revolution in 1989 had provided the opportunity to reorganize the Committee, which had become the National Human Rights Advisory Committee.

29. Since 1984, the Committee had been authorized to advise the Prime Minister, on a consultative basis, on all human rights issues both domestic and international, but it had been able to do so only on official request. That limitation having been removed by legislative act of 31 January 1989, it now enjoyed the freedom to act without external instructions, de facto as well as de jure, that enabled it to carry out its mission to the full. Its membership had been expanded on several

occasions, particularly in 1989, when the number had been increased to 67, 11 representing the relevant Ministries and having advisory status. The remaining 56 members represented non-governmental organizations, trade unions and religious groups and comprised experts on human rights and parliamentary matters: they had the right to take part in debate. Such a composition was a much more satisfactory manner of providing for the sociological as well as ideological pluralism that the Committee's task seemed to require. Finally, the Committee's operating procedures had been reinforced in a number of ways. It was now directly responsible to the Prime Minister, and submitted its opinions to him without intermediaries. It had regular contacts with the various Ministries through the 11 representatives appointed for that purpose to serve on it. The two members who represented Parliament guaranteed the Committee's liaison with the legislative branch and submitted an annual report to the National Assembly on the Committee's activities. The Committee was also able to formulate opinions during the drafting of laws and legislative acts in the Council of State, for its Chairman and three of its members were also members of the Council. Finally, the Committee's views were published in the press so that public opinion was duly informed.

30. The Committee was empowered to take action when and where necessary, in response to given situations, but its activities were generally planned in an annual programme specifying the priority objectives to be pursued by four study groups, three for domestic affairs and a fourth for international matters. The work of the three groups that concentrated on domestic affairs revolved around priorities that reflected the three main factors identified in the preamble to the 1789 Declaration of the Rights of Man and Citizen as being the sole cause of public misfortune and the corruption of Government, namely failure to be aware of, observe and respect human rights. Every year the rights that were least well known, least well observed and least respected in France were identified. For 1990, the priority areas to be studied by each of the groups were: (i) availability of legal recourse, a topic under which a report submitted to the Minister for Justice by the Committee on Criminal Justice and Human Rights, which was responsible for overseeing the entire criminal justice system, would be considered; (ii) efforts to prevent economic and social exclusion, particularly of foreigners, members of the military and criminal offenders; (iii) efforts to prevent discrimination, particularly racist discrimination. The group responsible for the third topic prepared an annual assessment of racism in France: the report for 1990 would soon be submitted to the Prime Minister. In the past six months, the Committee had had occasion to give its views on three pieces of draft legislation relating to highly complex matters, namely a preliminary draft law on biology and human rights (opinion dated 29 September 1989), a draft law on the rights and protection of individuals hospitalized on account of mental illness, and on the conditions of their hospitalization (opinion dated 7 December 1989), and a draft law on the protection of persons suffering from illnesses, including AIDS, and of the disabled, against discrimination in daily life, employment and housing (opinion dated 8 February 1990).

31. The group that specialized in international affairs was currently working on a draft opinion on the implementation and progressive development of international humanitarian law, with special reference to the newly defined duty to give humanitarian assistance and the problems posed thereto by Protocols I and II to the Geneva Conventions; the participation of non-governmental organizations in the Conference on the Human Dimension of the

Conference on Security and Co-operation in Europe; and the organization of a seminar on the role of computer technology in the promotion and protection of human rights.

32. The fact that the Committee had an advisory role obviously did not prevent it from intervening in the individual cases that came up before it.

33. In conclusion, he said that France welcomed the opportunity presented by the current session for an exchange of information among all those concerned with the creation or development of national human rights committees. It hoped that the exchange might be continued and broadened, for it constituted an effective tool in the common efforts to protect and promote the fundamental rights of the human person.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 24)
(continued) (E/CN.4/1990/29-31, 53 and Add.1-4 and 72; E/CN.4/1990/NGO/29)

34. Mr. WHITAKER SALLES (Brazil) said that today, 15 years after the adoption by the General Assembly in 1975 of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind - an initiative that Brazil had supported - the need to examine the dangers and threats that might be intermingled with scientific and technological progress had only deepened. Technological progress obviously had been, and would continue to be, a major factor in the transformation of society. It was evident, however, that it could have an adverse impact on human rights, an impact of which the international community had been aware ever since the Proclamation of Tehran in 1968.

35. His delegation had always taken an interest in and expressed its firm support for the work done by the United Nations system in the area of relations between human rights and scientific and technological progress. It had fervently hoped that the United Nations University would continue to study the positive and negative effects of technological progress on human rights and fundamental freedoms, in conformity with Commission resolution 1988/59. It accordingly regretted the fact that the research phase of the project had been delayed and that the final report on the topic was not expected to be ready before February 1991, as was stated in paragraph 3 of document E/CN.4/1990/29. His delegation had always been concerned over possible infringements of the privacy of individuals that might result from technological progress, especially in the field of electronics. It therefore welcomed the fact that the Commission had before it the revised version of the guidelines for the regulation of computerized personal data files prepared by the Special Rapporteur, Mr. Louis Joinet (E/CN.4/1990/72), which took into account, inter alia, the comments and suggestions submitted by some Governments.

36. His delegation had also followed with interest the Commission's work in the field of psychiatry, and in particular, its standard-setting activities for the protection of the rights of the mentally ill. It took note with appreciation of the report of the Working Group on the draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care (E/CN.4/1990/31). It welcomed in particular the progress made by the Working Group at its first session, which offered good prospects for the completion of a consensus text that could be of universal value in the field of mental health care.

37. It was impossible to deny the crucial importance of science and technology in creating the conditions for rapid and sustained social and economic development, particularly in the developing countries, or to contend that such development was not essential to the effective realization of the human rights, including the economic and social rights, of the peoples of developing countries. That principle had in fact been incorporated in the Declaration on Social Progress and Development in 1969 and, in 1975, in article 5 of the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind.

38. The scientific revolutions that had occurred had not only totally reshaped the role of man in the cosmos but had actually given him the power to destroy his heritage and even his race. Man's view of himself and of his relations to his surroundings and his fellow man had been dramatically altered, and society was confronted with new problems whose human rights aspects were not very well understood. Indeed, events that did not at first seem to be relevant to human rights were increasingly being seen to have a direct effect on the enjoyment and exercise of those rights: for example, progress in biomedical technology and genetic engineering could give rise to serious abuses that might have an adverse effect on the basic rights of the human person.

39. The United Nations could play a crucial role, and the Commission on Human Rights in particular would have many challenges ahead of it in the immediate future. No matter how fast it moved, however, it would be hard pressed to match the pace of the breakthroughs taking place every day in science and technology.

40. Mr. Ditchev (Bulgaria) Vice-Chairman took the Chair.

41. Mr. BARSH (Four Directions Council) said that at its most recent session, the General Assembly had approved proposals for a United Nations Conference on Environment and Development, to be convened in Brazil in June 1992, but the question of human rights did not figure in the plans for the Conference. That was regrettable. Human rights and the environment were interrelated, firstly, because environmental degradation could directly affect the rights to life, health and an adequate standard of living; second, because by destroying the resources needed for development, environmental degradation could place limits on the realization of all human rights; and third, because violations of human rights often led to the destruction of the environment.

42. The first two points were fairly obvious. The third was somewhat less apparent, yet leaving aside the effects of war and violence, one could easily see that people living in conditions of gross inequality, extreme poverty and repression tended to use up their environment quickly: they often had little other choice. For example, the destruction of rain forests was the work not merely of transnationals but also of small-scale farmers who had been displaced by industrialization. They exhausted their land before selling out to cattle ranchers who could operate on relatively poor soils. Exactly the same process had resulted in the formation of the "Dust Bowl" in the United States a century ago.

43. When development slowed or stalled, competition among various groups in society intensified, encouraging migration toward frontier areas and accelerating the use of natural resources. The Four Directions Council was

sensitive to the particularly disturbing situation of indigenous peoples caught up in that process because they had lost most of their original land. In recent years, one witnessed the increasing disposal of their natural resources, accompanied by growing income differences which, in a vicious circle, accelerated the process, since a small élite encouraged the intensive exploitation of resources in order to appease community discontent. In general terms, people tended to conserve their environment when they felt secure, when they believed they enjoyed a fair share of economic benefits and that they participated fully in economic decisions.

44. Ms. GAER (International League for Human Rights) said that her organization would urge that, in addition to the topics long addressed by the Sub-Commission and the Commission in the agenda item under consideration, due consideration should be given to a number of others: AIDS and human rights, the use of forensic techniques to improve the investigation of disappearances and executions, protection against waste dumping, and the use of technology and women's control of their reproductive capacity.

45. The Commission had long addressed the current agenda item without much coherence or sense of priorities. Her organization deeply regretted that the study of the effects of scientific and technological progress on human rights, which the United Nations University was to have carried out, had not been completed in time for the current session, and that the preliminary study submitted two years ago had been extremely sketchy.

46. The misuse of television, video and fax technology was illustrated in a report by the International League for Human Rights and the Ad Hoc Study Group on Human Rights in China entitled "Massacre in Beijing". The report indicated that the Chinese authorities had intercepted video tape materials being transmitted by satellite to ABC Television in the United States. The Chinese authorities had televised a segment in order to accuse Mr. Xiao Bin of spreading false rumours about the clean-up of Tianenmen Square; viewers had been invited to look for Mr. Xiao Bin and to turn him in to the police. A few days later, he had been shown on the evening news programme in police custody, and he had subsequently been sentenced to 10 years' imprisonment for his "crime". In China, the receipt of documents transmitted through fax machines had been prohibited. Letters transmitted by fax from abroad, especially from Hong Kong, were carefully monitored by the authorities, in clear violation of article 12 of the Universal Declaration.

47. Asia Watch, a New York-based human rights organization, had reported in detail on those and other abuses committed with the use of modern data and surveillance technology. The Commission should make a public statement deploring such abuses and subject violations of human rights committed through modern science and technology to a serious review.

48. Mr. EYA-NCHAMA (International Movement for Fraternal Union among Races and Peoples) described the biotechnological techniques used to determine the family relations of children at the request of the "Grandmothers of the Plaza de Mayo", an Argentinian association that formed part of his organization. After lengthy research, Dr. Fred Allen of the Blood Centre of New York, together with the American Association for the Advancement of Science of Washington, D.C., had developed a method for using blood analyses in tracing family ties that was 99.9 per cent reliable.

49. Dr. Mary Claire King and Dr. Christian Orrego of the University of California at Berkeley had greatly contributed to the research, which had led to the identification of a so-called "grandparenthood" index based on analysis of blood groups, rhesus factors, tissue compatibility, erythrocytic isoenzymes and plasma proteins. The "Grandmothers of the Plaza de Mayo" had also collaborated with a geneticist, who had informed them about a method based on "genetic finger printing" that made it possible accurately to determine whether there were biological links between individuals whose family ties had been challenged. Carlos Durand Hospital at Buenos Aires had a laboratory that carried out haemogenetic analyses for the "Grandmothers of the Plaza de Mayo".

50. In the legal arena, the "Grandmothers of the Plaza de Mayo" had worked for the elaboration of draft legislation on a national genetic data bank for the members of families of disappeared children. In 1987, the draft had become Act No. 23511, having been approved by all the political parties represented within the Argentinian Parliament. Its main provisions concerned the establishment, within the immunology department at Carlos Durand Hospital, of a genetic data bank that would furnish information free of charge; the analysis of genetic markers, blood groups, tissue compatibility, serum proteins and erythrocytic enzymes in each case; the preservation of a blood sample from each family to be used in future analyses; the obligation of each judge to have studies of genetic markers done whenever there was any doubt about family relations; and the development of operational and identification standards for analyses performed at the national genetic data bank, elsewhere in the country or abroad. Given the current life expectancy in Argentina, the national genetic data bank would remain in operation at least through the year 2050.

51. The painful events that had occurred in Argentina from 1976 to 1983 had thus engendered great progress in the field of science and technology, which should, in its turn, further the defence of human rights. He called on the Argentinian Government to support the continuation of that kind of research, and on the entire international community to draw on the Argentinian experience in resolving cases of enforced disappearance.

52. Mr. NDIAYE (Senegal) noted that in its resolution 1986/9, adopted at its forty-second session, the Commission had invited the United Nations University, in co-operation with other interested academic and research institutes, to study both the positive and the negative impact of scientific and technological developments on human rights. To that end, a co-ordinating committee had been established to submit a report to the Commission. Pending the committee's conclusions, his delegation wished to stress the importance of the issue, particularly for the developing countries.

53. Toxic waste was a most urgent problem for those countries; the Commission had already adopted a resolution on that question at its preceding session. He also wished to mention the proliferation in Africa of medications, which young people often used as drugs, that were potentially harmful and were sold after their expiry date. The Commission and the Centre for Human Rights should turn their immediate attention to the issue of genetic and biological manipulation, which could gravely affect human nature and behaviour. The committee responsible for examining the question should continue its efforts. From the standpoint of the developing countries, he said that malnutrition, famine in desert and Sahel countries and planned parenthood and abortion were extremely important matters. There was a close interrelationship between

scientific and technological progress and the right to information, including on environmental matters, the transfer of technology, and its impact on all human rights, from the first to the third generation.

54. The Brandt report pointed out that only 1 per cent of scientific capability was devoted to the problems of development. States, intergovernmental and non-governmental organizations must be urged to devote still more attention to the problems of hunger, malnutrition, poverty and environmental degradation so as to contribute to the promotion of human rights.

55. Mr. VASSILENKO (Ukrainian Soviet Socialist Republic) said it was regrettable that only two meetings, held at the end of the session at that, should be devoted to such fundamental issues as those in item 14 - all the more so as that item appeared on the agenda only every other year.

56. The Commission had been discussing the effects of scientific and technological progress on human rights since its twenty-seventh session, but the link between environmental degradation and human rights had far too often been overlooked.

57. The Sub-Commission, in its resolution 1985/7, had drawn attention to the dangers represented by harmful technologies, however, and it had subsequently adopted resolutions 1988/26 and 1989/12 on toxic waste. In 1989, it had decided to entrust Mrs. Ksentini with the task of conducting a study on environmental problems and their effect on human rights. The threats to human rights arising from growing environmental degradation had been considered at an ecological forum held in January 1990 at Moscow. The question of environmental security was also being studied by the Supreme Soviet of the Ukrainian Soviet Socialist Republic.

58. Human rights such as the right to health, and even the right to life, were affected by ecological change. The phenomenon was becoming increasingly significant, for while in the past the ecological balance had been jeopardized only intermittently, without any real effect on human rights, technological progress had now changed the situation. Legal protection measures against such threats therefore needed to be devised without delay, in the interests of individuals as well as of societies. Legal standards on ecology should be incorporated among the international human rights standards referred to in General Assembly resolution 41/120.

59. In his delegation's view, discussions on the subject within the United Nations, and particularly within the Commission, should focus on the ecological rights of man, which should be placed on the same footing as other human rights. The Commission and the Sub-Commission must take rapid action, and his delegation would therefore submit a draft resolution prepared in consultation with other members of the Commission and with non-governmental organizations.

60. Mrs. MARKHUS (Observer for the Libyan Arab Jamahiriya) said that scientific and technological progress undeniably opened up new prospects for the advancement of civilization and the enhancement of the living standards of peoples. The international community must therefore strive to consolidate peace and eliminate sources of tension, for only in an atmosphere of peace could scientific and technological achievements truly benefit human beings.

61. Her delegation wished to refer to the comments of the Libyan Government, contained in the report of the Secretary-General in document E/CN.4/1990/30, concerning the implementation of the Commission's resolution 1988/60. Those comments emphasized the great importance of taking practical steps to achieve disarmament, of using for the socio-economic development of third world countries the financial resources that would thereby be released, of directing man's creative abilities towards scientific research to benefit mankind, and of rechannelling the resources used by developed countries for the production of nuclear and other weapons of mass destruction to support socio-economic development throughout the world, and particularly in the countries that were suffering continuing acute economic crises due to their indebtedness.

62. The transfer of skills and exchange of views among countries were also indispensable to development. It was therefore deplorable that the United States should have imposed an embargo on the transfer of skills and the sale of industrial equipment to certain countries, including the Libyan Arab Jamahiriya, which American technicians were not even allowed to visit. Such measures were totally at variance with the objectives of peace and development.

63. Mr. OGOURTSOV (Observer for the Byelorussian Soviet Socialist Republic) said the twentieth century had seen an unprecedented amount of intellectual ferment that had nevertheless been accompanied by a broadening of the gap between the rich and the impoverished. Technological progress should make it possible to meet all of mankind's needs, yet the prospects it held out by no means benefited all human beings, far too many of whom continued to experience poverty and hunger. In most countries, the scientific revolution had either not begun, or the population had not yet experienced its benefits.

64. Science and technology were sometimes instruments of death; not only had technological progress failed to solve all existing problems, it had often brought on destruction. It was therefore important to ensure that science was used to protect the human being from unwholesome applications of scientific discoveries, especially those whose misuse might undermine the dignity and integrity of man.

65. His delegation believed that fruitful international co-operation by which scientific and technological progress could be used to benefit mankind was a priority for all. Through such co-operation, the material and intellectual potential of the entire world could be mobilized to further the interests of mankind and of all individuals.

66. Mr. BARKER (Observer for Australia) said that his delegation had participated actively in the Working Group on the draft body of principles and guarantees for the protection of mentally-ill persons; it believed the text was of key importance for the protection of a very vulnerable group of people in all countries of the world. The text would also be important as a means of preventing the abuse of psychiatry, an insidious form of human rights violation of which the international community had seen flagrant examples in the past.

67. His delegation thought it particularly important that the Group should complete its work as soon as possible. Significant progress had already been made in the two-week session in 1990, and the continuation of the drafting exercise should not be held up until the Commission's forty-seventh session. The Working Group should meet within six months, at the latest, of the end of

the current session, in order to undertake a technical review of the draft in time for it to be considered and adopted at the Commission's forty-seventh session.

68. Mr. ORLEY (World Health Organization) congratulated the Chairman-Rapporteur of the Working Group on the draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care. The World Health Organization would continue to take an active part in its activities: it would like to see the Working Group resume its activities in a relatively short time, certainly before 1991. It welcomed the proposal that the resources, including financial ones, required to enable the Group to meet and complete its task in good time be made available to it.

69. Mr. WADLOW (International Fellowship of Reconciliation) said that the notion of ecological or environmental rights had already been enshrined in various international instruments that recognized the right to a sound, satisfactory and healthy environment. The relationship between human and environmental rights was developed fully in the report of the Brundtland Commission, Our Common Future, and the Commission on Human Rights had acknowledged that relationship in its work on the right to development and on indigenous peoples. Resolution 1982/12 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, entitled "Movement and dumping of toxic and dangerous products and wastes", also dealt with the relationship.

70. The Commission could make an important contribution to promoting the concept of environmental rights by becoming involved in the preparations for the United Nations Conference on Environment and Development, to be held under United Nations auspices in 1992. The preparatory committee would soon be holding its first meeting at United Nations Headquarters in New York. His organization recommended that, in addition to the note to be prepared by an expert from the Sub-Commission on the topic of "Human rights and the environment", the Commission should, for example, request from the Secretary-General an analytical report on the relationship between human rights and the right to a sound, satisfactory and healthy environment, taking into account views and information submitted by Governments, specialized agencies, United Nations bodies, regional intergovernmental organizations and non-governmental organizations. The analytical report should take as its starting-point the fact that mankind was a part of nature and that life depended on the uninterrupted functioning of natural systems. An understanding of the interdependence and value of all aspects of existence was intrinsic, not only to modern ecological theory, but also to the traditional world views of indigenous peoples as well as of Buddhism, Taoism and Vedanta. The analytical report should move towards a description of individual rights and responsibilities, drawing on those principles, which better reflected the real state of the world. The principle of the interdependence and indivisibility of human rights and fundamental freedoms, set out in General Assembly resolution 37/199, should also be taken into account.

71. It would be useful to study the implications of the precautionary principle, namely that any planned activity or substance whose production was envisaged must be submitted to tests to ensure that it would in no way harm the environment.

72. The ecological problems facing the entire planet were so urgent that they had to be tackled at all possible levels and in all possible ways: the whole human community must be engaged in exercising ecological responsibility. An understanding of ecological rights as human rights could help to focus that responsibility and to lay the ground for more comprehensive international instruments.

73. Indigenous peoples would benefit quickly from the recognition of ecological rights. It was to be hoped that the Working Group on Indigenous Populations could make a positive contribution to the 1992 Conference. The world views and life experience of indigenous peoples would be of great benefit to a forum which, in his organization's view, could help to promote the right to development and to make ecological rights central to the efforts of the international community.

74. The Chairman resumed the Chair.

75. Mr. SIMMONS (International Indian Treaty Council) said that land had always been the issue central to North American politics and economics. Those who controlled the land controlled the resources it held, and that gave them a wide range of powers. The situation was universal but was especially acute on the American continent, where the apparatus of power relied more heavily than elsewhere on the economy.

76. The Indian reservations of North America constituted a small portion of the total land territory; however, one third of all the low sulphur coal, one fifth of known oil and natural gas reserves, more than one half of the uranium deposits and substantial amounts of other minerals were found on such reservations in the western United States. A comparable if somewhat less pronounced situation prevailed in Canada.

77. The demand for raw materials generated by the nuclear industry and a law handed down from the days of the Indian wars had combined to pose a major threat to one of the world's natural wonders, the Grand Canyon of Colorado. Its deposits of uranium ore, the richest in the entire United States, had provoked a dangerous rush of prospecting. Environmentalists feared irreparable damage to the site itself and, obviously, to wildlife, some species of which were already endangered. There was also a risk that mining activity would result in water pollution that might be hazardous for the only permanent residents of the Grand Canyon, the Havasupai Indians. There had already been uranium mining spills, one in the nearby Navaho reservation, where the United States Department of the Interior had urged residents not to eat cattle that drank from the Puerco River because of radionuclide contamination.

78. Under an anachronistic law of 1872, written when a prospecting operation as often as not consisted of a solitary individual, the mining companies, which today were multinational corporations, had unlimited access to those areas. The most active companies currently operating in the vicinity of the Grand Canyon were a Denver concern that had Swiss affiliations and a San Francisco corporation which was a subsidiary of Cogema, an arm of the French Government.

79. At the present time, the companies were limiting their activities to prospecting, because they were encountering local opposition and a depressed uranium market, but they had discovered deposits that were more than five times as rich as other fields in the United States, making it economical to extract the ore, even in today's market. While most other uranium operations along New Mexico's uranium belt were closing down, prospecting was continuing in the Grand Canyon area, where six mines had already opened barely a dozen miles from the national park's boundaries. The two mining companies were obviously not going to stop there, since they had applied to open mine sites a short distance from the Havasupai reservation and had appealed against the refusal of the authorities.

80. The concerns of the Havasupai had attracted the support of conservationists as well as Native American rights groups. The tribe's only source of water was directly threatened by the proposed mine sites. Worse still, one of its sacred sites would be destroyed. The Havasupai had accordingly filed a suit appealing the approval given for mining, on the grounds that it violated their right to practise their religion and to live according to their ancestral way of life.

81. Native Americans looked at the Earth as a living being, the creator of what some called the environment. Mother Earth and all it had fostered - which constituted human life - were in grave danger today. To destroy the environment was to destroy man's ability to survive and, in the final analysis, to destroy the human being. That principle had been maintained since time began by indigenous peoples, but it was not recognized by colonial Governments, which thereby demonstrated a singular lack of wisdom. But the Earth was defending itself: a process of purification had begun, bringing phenomena such as the changing of the seasons, floods, earthquakes, winds and fires. If man did not heed those signs, human beings would be destroyed: the Earth, however, would survive.

82. In 1855, Chief Sealth of the Duwamish tribe in the State of Washington had written a letter to President Franklin Pierce concerning a proposed purchase of tribal land, in which he said, in essence, that the idea of buying land was alien to Indians. The white man considered the earth to be his enemy and sought to conquer it, to build cities the sight of which pained the red man. If the Chief were to decide to sell the land, it would be on one condition: that the white man treated the Indians as his brothers. The white man believed that his God was different from the God of the Indians and that, in his name, he could own tribal lands. But there was only one God, and harming the earth was the same as heaping contempt upon its creator. The white man's dreams were hidden from the Indians: they would therefore go their own way. If the Chief agreed to sell Indian land, it would be so that the Indians might live out their days on the reservations promised to them. Chief Sealth ended his letter by exhorting the white man to love the earth and to care for it as the Indians had always cared for it; to preserve it with all his strength, all his might and all his heart for the children: both those now living and those still to be born.

83. Mrs. PARKER (Disabled Peoples' International) said her organization was pleased with the progress made towards elaborating a declaration on the rights of the mentally ill. Disabled Peoples' International considered the promulgation of such a declaration to be a highlight of action during the United Nations Decade for Disabled Persons, and hoped that the text would be completed before the forty-seventh session of the Commission on Human Rights.

84. At the Commission's forty-fifth session, her organization had referred to the relationship between the environment and disability. Much of the ecological disaster that occurred was preventable, and scientific and technological advances rendered many ongoing practices that adversely affected human life and health unconscionable.

85. The issue of human rights and the environment encompassed much more than disability, however. Although some environmental issues, especially those related to occupational hazards, fell within the mandate of the Special Rapporteur on human rights and disability, her organization had successfully discouraged the idea of the environment in general being included in his mandate, because environmental degradation gave rise to numerous other human rights issues that called for urgent attention.

86. In conclusion, she strongly urged the Commission to address an issue that had long been avoided, and she welcomed the Sub-Commission's decision to have a report on the subject prepared for its forty-second session.

87. Mr. ZUNIGA REY (International Association of Educators for World Peace) said it was most disturbing to note that breakthroughs in understanding the workings of the human mind were so often used against individuals for political reasons. The use of psychiatry by authorities to muzzle political opponents had been investigated by numerous associations of psychiatrists throughout the world, which had condemned a practice that had nevertheless been common not very long ago in the Soviet Union and various Eastern European countries. Psychiatric methods and psychotropic substances offered torturers numerous advantages over physical violence: they left no marks on the skin, they totally destroyed the individual by demolishing his mental faculties and they created an atmosphere of terror without recourse to beatings, sham trials or lengthy periods of imprisonment.

88. Many countries were still using psychology and psychiatry against political opponents and political prisoners: Viet Nam, North Korea, Iraq and Cuba, for example. With regard to Cuba, he cited a great many cases, of which he had personal intelligence, of victims of psychiatric abuse, and specifically of electric shock technique. That practice, which was becoming more and more widespread under a paranoid régime, was incompatible with the principles and guarantees of human rights protection that Cuba claimed to respect.

STATEMENT MADE BY THE REPRESENTATIVE OF YUGOSLAVIA IN EXERCISE OF THE RIGHT OF REPLY

89. Mr. JAZIC (Yugoslavia), speaking in exercise of the right of reply, said that the representative of the World Association for World Federation had included Yugoslavia among the countries where martial law had been imposed in response to demands for self-determination. He assumed that that representative had been referring to the situation in the autonomous province of Kosovo. He wished to point out, however, that special measures had been introduced by the Presidency of Yugoslavia for the purpose of protecting the constitutional system and preserving peace, order and security for all citizens of Kosovo, regardless of their national origin. A recent account of the situation in Kosovo was to be found in document E/CN.4/1990/82. There had been no case of suppression of the right to self-determination by force in

Yugoslavia, nor could the situation in that country be compared with other cases mentioned by the representative of the World Association for World Federation.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTY-FIRST SESSION (agenda item 19) (E/CN.4/1990/2-E/CN.4/Sub.2/1989/58; E/CN.4/1990/40, 56, 75 and 82; E/CN.4/1990/NGO/6; E/CN.4/Sub.2/1989/26, 36, 37 and 39

90. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 19, drew attention to Commission resolution 1989/36 in which, *inter alia*, it requested the Chairman of the Sub-Commission, at its forty-first session, to report to the Commission on the implementation of the guidelines contained in the resolution itself. The report prepared by the Chairman was before the Commission in document E/CN.4/1990/40, and Mr. Yimer, would also address the Commission.

91. At its forty-fifth session, the Commission had adopted resolution 1989/37, in which it had recommended that the Economic and Social Council should request, pursuant to Article 96, paragraph 2, of the Charter of the United Nations and in accordance with General Assembly resolution 89 (I) of 11 December 1946, an advisory opinion from the International Court of Justice on the legal question of the applicability of article 6, section 22, of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 in the case of Mr. Dumitru Mazilu as Special Rapporteur of the Sub-Commission.

92. In resolution 1989/75, adopted at its first regular session of 1989, the Economic and Social Council had requested, on a priority basis, such an advisory opinion from the International Court of Justice.

93. On 15 December 1989, the Court had given the following advisory opinion:

"The Court, unanimously, is of the opinion that Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations is applicable in the case of Mr. Dumitru Mazilu as a special rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities."

94. Mr. YIMER (Chairman of the Sub-Commission on Prevention of Discrimination and Protection of Minorities) said that as the Commission's subsidiary organ, the Sub-Commission acted as its think-tank and set up standards and principles for the Commission. It also played the role of a catalyst in drawing the Commission's attention to particular situations of serious violations of human rights. Recognizing that working groups constituted an invaluable element, particularly in standard-setting activities, the Sub-Commission had decided, at its forty-first session, to establish two additional sessional working groups to deal with the preparation of a revised version of the Draft Declaration on Freedom and Non-Discrimination in Respect of the Right of Everyone to Leave Any Country, including His Own, and to Return to His Country and to produce an overview and analysis of the suggestions and proposals made to enable the Sub-Commission to fulfil its responsibilities in respect of the human rights violations discussed under item 6 of its agenda. In its resolution 1989/34, the Sub-Commission had recommended that the Commission

should authorize the Working Group on Indigenous Populations to meet in 1990 and 1991 for 10 working days in order to enable it to complete a draft universal declaration on indigenous rights.

95. In discharging its mandate, the Sub-Commission had done its utmost to ensure impartiality and efficacy in its work.

96. The agenda for the forty-first session had included 18 items, and at the end of the session, 47 resolutions and 13 decisions had been adopted. In 1989, some members of the Commission had expressed concern about the overburdened agenda, and had suggested lightening it. It should be noted, however, that during its forty-first session, the Sub-Commission had endeavoured to rationalize its consideration of the agenda items before it and to streamline and make its methods of work more efficient and rational.

97. In reviewing the Sub-Commission's task in the area of studies, reports and the activities of its special rapporteurs, account should always be taken of its very nature as a body of independent experts acting in their personal capacity.

98. The study on the right of everyone to leave any country, including his own and to return to his country had been completed and constituted a contribution to the legal doctrine on the subject.

99. With respect to the elimination of religious intolerance, the Sub-Commission had endorsed the view of its Special Rapporteur that the draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief should continue to serve as a basis for any further work by the Sub-Commission. It had also recommended that a seminar on the subject should be organized no later than 1991 and that consideration be given to organizing a global consultation on the positions and approaches of different religions and beliefs to human rights and fundamental freedoms.

100. With regard to the right to freedom of opinion and expression, the Sub-Commission had decided to entrust two of its members with the drafting of a study on problems that currently arose in connection with its realization.

101. On the status of the individual and contemporary international law, the Sub-Commission had recommended that the study prepared by its Special Rapporteur be published and given wide dissemination.

102. Concerning the administration of justice, the Sub-Commission would henceforth review the independence of the judiciary under a separate agenda item. Regarding the question of states of emergency, the Sub-Commission had requested the Secretary-General, under the programme of advisory services in the field of human rights, to give consideration to technical assistance which might be furnished by the Special Rapporteur or by the Secretariat to States requesting it. The Working Group on Detention had discussed a draft declaration on enforced or involuntary disappearance.

103. Annex III of the Sub-Commission's report contained a list of studies and reports under preparation and a list of new studies proposed for preparation, subject to approval by the Economic and Social Council. The annex showed that four new studies had been initiated by the Sub-Commission, namely on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights; on the right to freedom of opinion and expression; on the problems and causes of discrimination against HIV infected people or people with AIDS; and on possible ways and means of facilitating the peaceful solution of problems involving minorities. Members of the Sub-Commission had been entrusted with preparing seven new reports and working papers, with no financial implications, to deal with the following subjects: the feasibility of preparing a study on the protection of journalists; the right to a fair trial; the human rights of detained juveniles; the interrelationship between peace and human rights, human rights and the environment, the privatization of prisons; and means of monitoring respect for the independence of the judiciary.

104. By its resolution 1989/45, the Sub-Commission had requested the Special Rapporteur, Mr. Mazilu, to update his report on human rights and youth.

105. With respect to economic, social and cultural rights, the Sub-Commission had endorsed the conclusions contained in the preliminary report prepared by its Special Rapporteur on the topic, and had given due regard to the question of extreme poverty and the relationship between foreign debt and the enjoyment of human rights in developing countries.

106. As in past years, the Sub-Commission had discussed the report of its pre-sessional Working Group on Communications. During its forty-first session, the Sub-Commission had adopted two important procedural decisions on the implementation of Economic and Social Council resolution 1503 (XLVIII), namely, decisions 1989/101 and 1989/102. In the first decision, rule 59 of the rules of procedure of the functional commissions of the Economic and Social Council would be suspended so to allow for voting by secret ballot on the decisions adopted by the Sub-Commission at its forty-first session under Council resolution 1503 (XLVIII). The decision had been adopted after a lengthy debate and had proved extremely controversial. In connection with the procedure provided for under Council resolution 1503 (XLVIII), the Sub-Commission had decided that henceforth, its Working Group on Communications, acting under operative paragraph 1 of that resolution, would not consider a communication unless the Government concerned had had five months for the submission of the reply, counted from the day on which the communication was transmitted to the Government under Council resolution 728 F (XXVIII). The adoption of that decision had also been preceded by a lengthy debate, some members having held the view that the Sub-Commission was not competent to take such a decision. A vote had had to be taken.

107. By its decision 1989/104, the Sub-Commission had decided to establish, at its forty-second session, a sessional working group to prepare an overview and an analysis of the suggestions and proposals that had been made in order to enable the Sub-Commission to better discharge its responsibilities in dealing

with violations of human rights, and to submit to the Sub-Commission its views and recommendations as to the possible advantages and disadvantages of the various suggestions and proposals that had been made.

108. In conclusion, he expressed his gratitude to all participants for their contributions to the Sub-Commission's work.

The summary record of the second part of the meeting appears as document E/CN.4/1990/SR.46/Add.1.
