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THE WIDENING GAP

A study of the realization of economic, social
and cultural rights

by

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of the Commission on Human Rights

PREFACE AND INTRODUCTION

Note: The complete study is contained in documents E/CN.4/1108 and Add.1-9.

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PREFACE

I have the honour and pleasant duty of submitting herewith the report on the realization of economic, social and cultural rights which the Commission on Human Rights asked me to prepare, and which, I believe, faithfully reflects the terms of reference laid down by the Commission. However, I do not wish to imply that the subject is dealt with exhaustively; indeed it would justify a more comprehensive study.

The compilation of this report was governed by only one basic assumption, namely, the solidarity of all Governments and peoples in their agreement that the enjoyment of economic, social and cultural rights is a fundamental need of mankind.

Emphasis has been placed on the countries of Asia, Africa and Latin America and the different requirements of those countries for the actual attainment of the rights under consideration. Each of the three main parts of the report concerning conditions in the various countries throughout the world represents a separate study. Each points to different problems, situations and types of action necessary to realize those rights. Collectively, however, they reflect the universal aspirations and trends of humanity in its movement towards one and the same destiny, a movement characterized by a growing interdependence of nations and of men. The late Adlai Stevenson best summarized this internationality as follows:

"We travel together, passengers on a little space ship, dependent on its vulnerable reserves of air and soil, all committed for our safety to its security and peace; preserved from annihilation only by the care, the work, and I will say the love we give our fragile craft. We cannot maintain it, half fortunate, half miserable, half confident, half despairing, half slave - to the ancient enemies of man - half free in a liberation of resources undreamed of until this day. No craft, no crew can travel safely with such vast contradictions. On their resolution depends the survival of all."

Manouchehr Ganji

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INTRODUCTION

1. At its twenty-fourth session, the Commission on Human Rights, convinced that further measures were needed to attain the complete realization of economic and social rights, adopted resolution 11 (XXIV) of 6 March 1968 entitled "Study of the question of the realization of economic and social rights contained in the Universal Declaration of Human Rights", 1/ in which it requested the Secretary-General to prepare, in consultation with interested specialized agencies, a preliminary study of issues relating to the implementation of economic and social rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, with a view to submitting it to the Commission in time for its consideration at the twenty-fifth session. The Commission also decided to consider at its twenty-fifth session the question of the appointment of a Special Rapporteur to be entrusted with the task of preparing a comprehensive report on the issues involved, on the basis of the preliminary study, discussions in the Commission and other available material.
2. The International Conference on Human Rights, held at Teheran in April/May 1968, in resolution XXI, entitled "Realization of economic, social and cultural rights", 2/ welcomed the action of the Commission on Human Rights at its twenty-fourth session in studying the realization of the economic and social rights provided for in the Universal Declaration of Human Rights.
3. At its twenty-fifth session in 1969, the Commission on Human Rights had before it a preliminary study, prepared by the Secretary-General, 3/ of issues relating to the realization of economic and social rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights. The Commission considered the question together with an item concerning the study of special problems relating to human rights in developing countries.
4. By resolution 14 (XXV), entitled "Question of the realization of the economic and social rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and study of special problems relating to human rights in developing countries", of 13 March 1969, 4/ the Commission appointed the Special Rapporteur and asked him to submit, at the Commission's twenty-seventh session, "a comprehensive report,

1/ See Official Records of the Economic and Social Council, Forty-fourth Session, Supplement No. 4 (E/4475).

2/ Final Act of the International Conference on Human Rights (United Nations publication, Sales No. E.68.XIV.2), p. 16.

3/ E/CN.4/988 and Add.1.

4/ See Official Records of the Economic and Social Council, Forty-sixth Session (E/4621).

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together with his conclusions and recommendations, including the question of the role of the Commission in this respect, on the realization, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status, of economic, social and cultural rights set forth in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, taking particular account of the special problems of the developing countries in this regard".

5. The Economic and Social Council in resolution 1421 (XLVI) of 6 June 1969 confirmed the appointment of the Special Rapporteur made by the Commission and invited States Members of the United Nations and members of the specialized agencies to provide full co-operation to the Special Rapporteur in the fulfilment of his task. The Economic and Social Council also invited the full co-operation of the United Nations Secretariat, the specialized agencies, intergovernmental organizations and the various organs and bodies of the United Nations concerned, as well as non-governmental organizations in consultative status with the Economic and Social Council.

6. The question of the realization of the economic, social and cultural rights contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and the study of special problems relating to human rights in developing countries was further considered at the twenty-sixth, twenty-seventh and twenty-eighth sessions of the Commission on Human Rights. At the Commission's twenty-sixth session the Special Rapporteur informed the Commission of the magnitude of the task and the probable need for extension of the deadline for the final submission of his report.

7. On the recommendation of the Commission on Human Rights in resolutions adopted at its twenty-sixth 5/ and twenty-seventh 6/ sessions, the Economic and Social Council in resolutions 1502 (XLVIII) of 27 May 1970 and 1595 (L) of 21 May 1971 requested the Special Rapporteur to submit his report to the Commission on Human Rights not later than at its twenty-eighth session in 1972. The Council, in resolution 1595 (L), also requested the Special Rapporteur, while preparing his study, to take into account the provisions of General Assembly resolutions 2542 (XXIV), containing the Declaration on Social Progress and Development, and 2543 (XXIV), on the implementation of that Declaration, which had been adopted since the study had been authorized.

5/ Resolution 11 (XXVI), adopted on 24 March 1970 (see Official Records of the Economic and Social Council, Forty-eighth Session, Supplement No. 5 (E/4816)).

6/ Resolution 17 (XXVII), adopted on 25 March 1971 (see Official Records of the Economic and Social Council, Fiftieth Session, Supplement No. 4 (E/4949)).

8. On the recommendation of the Commission, 7/ the Economic and Social Council in resolution 1689 (LII) of 2 June 1972 urged the Special Rapporteur to complete his study and to submit the final report to the Commission on Human Rights at its twenty-ninth session in 1973.

9. In the same resolution, the Economic and Social Council urged once again those Governments and specialized agencies that had not yet done so to submit, as requested in Council resolutions 1421 (XLVI) and 1502 (XLVIII), information on the effectiveness of the methods and means used by them in the realization of economic, social and cultural rights, so that the Special Rapporteur might utilize the information as he deemed appropriate. 8/

10. As of 14 December 1972, such information had been received by the Secretariat from the Governments of Argentina, Austria, Belgium, Brazil, the Byelorussian Soviet Socialist Republic, Cameroon, Canada, Cyprus, Czechoslovakia, Denmark, Ecuador, the Federal Republic of Germany, Finland, France, Hungary, Greece, India, Iran, Iraq, Italy, Jamaica, Japan, the Khmer Republic, Kuwait, Liechtenstein, Luxembourg, Madagascar, Malawi, Maldives, Malta, Mauritius, Mongolia, the Netherlands, Nicaragua, the Niger, Nigeria, Pakistan, Panama, Peru, the Philippines, Poland, the Republic of Korea, the Republic of Viet-Nam, Rwanda, Senegal, Singapore, Somalia, Switzerland, Turkey, the Ukrainian Soviet Socialist Republic, the Union of Soviet Socialist Republics, and the United States of America, as well as from the International Labour Organisation (ILO), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), the Universal Postal Union (UPU), the International Telecommunication Union (ITU), the World Meteorological Organization (WMO), and the Inter-Governmental Maritime Consultative Organization (IMCO). 9/

11. To solicit further statistical and other sources of information needed for the preparation of the report, the Special Rapporteur dispatched a general questionnaire to all States Members of the United Nations and members of specialized agencies. This questionnaire was sent out in November 1971. Two other questionnaires, one intended solely for the socialist countries and the other for the less developed countries, were dispatched to the countries concerned in February and April 1972, respectively.

7/ Resolution 5 (XXVIII), adopted on 28 March 1972 (see Official Records of the Economic and Social Council, Fifty-second Session, Supplement No. 7 (E/5113)).

8/ Information received from Governments and specialized agencies in response to this request is reproduced in documents E/CN.4/1023 and Add.1-6.

9/ These replies, as they appear in documents E/CN.4/1023 and Add.1-5, were only brought to the Special Rapporteur's attention when he arrived in New York in mid December 1972 to submit the final text of his report.

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12. As of 14 December 1972, replies to these questionnaires 10/ had been received from the Governments of the following 47 States Members of the United Nations and members of specialized agencies: Argentina, Austria, Brazil, Bulgaria, Byelorussian Soviet Socialist Republic, Canada, Central African Republic, Denmark, Ecuador, Egypt, El Salvador, Fiji, Finland, Greece, Honduras, India, Iran, Iraq, Italy, Ivory Coast, Kenya, Kuwait, Luxembourg, Madagascar, Malaysia, Malta, Morocco, Netherlands, Philippines, Poland, Republic of Viet-Nam, Romania, Rwanda, Singapore, Somalia, Sri Lanka, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Western Samoa.

13. The Special Rapporteur wishes to express his appreciation to all the Governments which submitted replies to the questionnaires.

14. In order to consult responsible officials of the regional economic commissions, particularly those directly concerned with issues relating to the economic and social situation and development in their respective regions, as well as to acquire on-the-spot knowledge of the prevailing situation with respect to economic, social and cultural rights in different parts of the world, the Special Rapporteur travelled to the seats of all the regional economic commissions, to seven Asian countries, to seven Latin American countries, to eight African countries, to five socialist countries and to eight Western or other countries. There were two other countries which he was unable to visit because he did not receive entry permits in time. The countries were selected by the Special Rapporteur so as to represent more or less the prevailing economic and social conditions in the region or area concerned. The Special Rapporteur was warmly received in all the countries visited and wishes to express his gratitude to the Governments of those countries for their assistance, which made his stay in each country most profitable and instructive. The interest, zeal and full co-operation of the various United Nations offices situated in these countries also contributed to the success of his mission. Mention should be made particularly of the assistance rendered by the United Nations Development Programme resident representatives' offices, the representatives of the specialized agencies concerned and the United Nations information centres, which enabled him to make the fullest use of the time available to him.

15. The Special Rapporteur was able to stay only a very short time in each country, for reasons of economy. His visits to all 35 countries were completed in 108 days. The total distance covered in flights alone was in the neighbourhood of 110,000 miles.

16. In each country, meetings were held with officials of ministries or other government offices responsible for matters concerned with health, education, labour, social insurance and welfare, housing, and urban and rural development in general. In addition, meetings were held with economic and social planners of the countries

10/ For the text of the questionnaires, see annex I.

concerned. In some countries, meetings were also held with ministers whose work was particularly concerned with the promotion and protection of economic, social and cultural rights. In countries visited in Asia, Africa and Latin America, meetings were also held with United Nations experts and agency representatives who had served in those countries for some time and had a good knowledge of the prevailing situation and the plans for development in their respective fields. In some countries, visits were also arranged to farms, factories, universities, urban and, in very few cases, rural schools, crèches, kindergartens, day-care centres, clinics, hospitals, department stores and market places. Only in a few cases did the Special Rapporteur have enough time to visit more than one city or province of the country concerned.

17. In all, the Special Rapporteur met with about 1,000 officials directly concerned with promotion and protection of the economic and social rights of the people of the countries visited.

18. One important side effect of these meetings was the guidance provided to the officials concerned in completing the questionnaires, in cases where this had not yet been done. The meetings also provided an opportunity for the Special Rapporteur to gather a large amount of statistical material and other relevant information.

19. This on-the-spot observation and consultation helped to rectify at least some of the misconceptions that might otherwise have been reflected in the report. This is in no way to say that the report does not have shortcomings; there is always room for improvement. However, it should be borne in mind that this is the first time in the history of the United Nations that a report of this magnitude and nature has been prepared from the human rights point of view and that such innovation and improvisation was necessary in an area in which United Nations activities are directed and carried out by numerous organs, autonomous and semi-autonomous bodies and specialized agencies. Therefore no attempt is made to be complete and comprehensive in this survey. Apart from some information that appears in part three, the Special Rapporteur regrets the fact that conditions regarding trade union rights and the right to strike are not covered in the report. 11/

20. The Special Rapporteur wishes to express his gratitude and appreciation to those who acted as consultants in the preparation of the report. His appreciation is also due to all others who assisted him in the performance of his task.

21. The general outline of the report is as follows. 12/ Part one is limited to a brief review of constitutional provisions; 13/ it therefore gives only an incomplete picture of national norms and standards governing the realization of economic, social and cultural rights. This part should certainly be supplemented,

11/ For a comprehensive survey, see the ILO studies and publications regarding this matter.

12/ A table of contents for the complete study is contained in document E/CN.4/1108/Add.9.

13/ E/CN.4/1108/Add.1.

in the future, by a more comprehensive study. Parts two, three and four deal with economic, social and cultural rights in the less developed countries, in socialist countries, and in the developed market economies, respectively. 14/ Part five concerns international action taken for promotion and protection of economic, social and cultural rights. 15/ Part six contains the Special Rapporteur's conclusions, observations and recommendations. 16/ The annexes 17/ include maps, texts of questionnaires sent to Governments, and an indication of the number of ratifications of and accessions to international instruments relating to economic, social and cultural rights.

22. The Special Rapporteur considers that the time available to him and the assistance provided were inadequate for more than the general conclusions and recommendations that appear in part six of the report. He is of the view that, after the full text of the report has been circulated, further consultations by him with the most important and relevant bodies of the United Nations and the specialized agencies and some, if not all, of the regional intergovernmental organizations outside the family of United Nations organizations would place him in a better position to present to the Commission more adequate and pertinent practical conclusions and recommendations.

23. The Special Rapporteur sincerely hopes that the report will meet the expectations of the Commission on Human Rights.

14/ E/CN.4/1108/Add.2, 3 and 4, respectively.

15/ E/CN.4/1108/Add.5.

16/ E/CN.4/1108/Add.6.

17/ E/CN.4/1108/Add.7 and 8.