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THE WIDENING GAP

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

by

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PART FIVE. INTERNATIONAL ACTION FOR THE PROTECTION  
AND PROMOTION OF ECONOMIC, SOCIAL AND  
CULTURAL RIGHTS

## INTRODUCTION

1. The intergovernmental bodies whose activities are described in this part of the report are the United Nations and its subsidiary organs; those specialized agencies which are entrusted with responsibilities directly related to the formulation and observance of economic, social and cultural rights or to the creation of the conditions needed for their enjoyment; the World Intellectual Property Organization (WIPO); and three regional organizations - the Organization of American States (OAS), the Council of Europe and the League of Arab States.
2. The specialized agencies dealt with are 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) and the International Bank for Reconstruction and Development (IBRD). The World Intellectual Property Organization has been included because it is the organ charged with the task of administering the international conventions and agreements covering the protection of intellectual property and is involved in certain aspects of cultural rights; it works in close liaison with the United Nations and UNESCO.
3. In the United Nations system, the United Nations itself occupies a central position, both as a link between the individual components and as possessing, by virtue of the relevant Articles of the Charter, a constitutional competence that extends to all economic, social and cultural affairs and to all activities of the related agencies. For human rights, in particular, the Organization has a direct responsibility; it also provides over-all inspiration and guidance to the entire system. Accordingly, United Nations organs, notably the General Assembly and the Economic and Social Council, have frequently taken the initiative of requesting from specialized agencies action in their own fields, such as prevention of discrimination in employment, education, freedom of association, and abolition of forced labour. United Nations activities are thus not only general in character; they also encompass the contributions made by the sectoral bodies to the problems of human rights. In view of the ILO's primary responsibility in the field of trade-union rights, the joint machinery established by the United Nations and the ILO to deal with complaints of violations of these rights is described in the section relating to the ILO (see paragraph 115).
4. Standards and activities are described separately for each of the organizations concerned, and for each of them subdivided as required into four main subheadings: (a) organs concerned with the formulation of standards, (b) international instruments, including their implementation machinery, if any, (c) promotional activities and (d) advisory services, including technical assistance.
5. In so far as appropriate, particularly for subheadings (b), (c) and (d), the rights under consideration are listed as they were in the index to periodic reports by Governments for the three years ending 30 June 1969 (E/CN.4/1025). But there are obviously border-line cases, in which a classification by type or by subject is bound to be arbitrary in character. For instance, medical care provided under a social security system is shown under the right to social security, and not under the right to an adequate standard of health; similarly, seminars are generally considered as belonging to advisory services, although their promotional character is also evident. In such cases, a pragmatic approach is of course required. /...

## I. UNITED NATIONS

6. As noted above, United Nations actions are generally directed at the entire group of economic, social and cultural rights. The Organization has nevertheless specific responsibilities of its own for some of the sectoral matters covered by these rights, such as, for instance, housing, social services and family protection.

### A. Organs concerned with the formulation of standards

7. The permanent organs concerned with the formulation of standards in the field of economic, social and cultural rights include the General Assembly and the Economic and Social Council and some of its subsidiary bodies, notably the Commission on Human Rights and the Commission on the Status of Women. In addition, conferences of plenipotentiaries have been convened to deal with the status of refugees and of stateless persons. Two of these conferences adopted conventions having a direct bearing on some of the economic, social and cultural rights: the 1951 Convention on the Status of Refugees, and the 1954 Convention on the Status of Stateless Persons.

#### 1. General Assembly

8. According to Article 10 of the Charter of the United Nations, the General Assembly may discuss and make recommendations on any matters within the scope of the Charter. Under Article 13, it is one of its functions to "initiate studies and make recommendations for the purpose of... assisting in the realization of human rights".

9. Under Article 22, the General Assembly "may establish such subsidiary organs as it deems necessary for the performance of its functions". Among these organs, the United Nations Children's Fund (UNICEF), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and the Office of the United Nations High Commissioner for Refugees (UNHCR) are especially relevant to economic, social and cultural rights as entrusted with the protection of children and of refugees. Others contributing to the creation of conditions required for the full enjoyment of economic, social and cultural rights include the United Nations Conference on Trade and Development (UNCTAD), the United Nations Industrial Development Organization (UNIDO), the United Nations Development Programme (UNDP) and the joint United Nations/FAO World Food Programme (WFP).

10. In the General Assembly, items concerning economic, social and cultural rights originate for the most part in reports of the Economic and Social Council and of the Secretary-General. They are referred to the Assembly's Third Committee (social, humanitarian and cultural affairs).

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## 2. Economic and Social Council

11. Under Article 62 of the Charter, the Council "may make or initiate studies and reports... and may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all". It may also "prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence".

12. Article 63 provides that the Council may, subject to approval by the General Assembly, bring specialized agencies into relationship with the United Nations. It is also authorized to co-ordinate their activities and, under Article 64, to obtain regular reports on their work.

13. On the basis of Article 71, the Council may make "arrangements for consultation with non-governmental organizations which are concerned with matters within its competence". A certain degree of this institutional relationship relates to economic, social and cultural rights.

14. During its sessions, the Council is assisted by three sessional committees: the Economic Committee, the Social Committee and the Co-ordination Committee. Human rights items are normally referred to the Social Committee.

## 3. Commission on Human Rights

15. According to Article 68 of the Charter, which provides that the Council may "set up commissions in economic and social fields and for the promotion of human rights", the Council established, by resolution 5 (I) of 16 February 1946, a Commission on Human Rights, with, as later revised, the task of submitting proposals, recommendations and reports to the Council regarding:

(a) An international bill of rights;

(b) International declarations or conventions on civil liberties, the status of women, freedom of information and similar matters;

(c) The protection of minorities;

(d) The prevention of discrimination on grounds of race, sex, language or religion;

(e) Any other matter not covered by items (a), (b), (c) and (d).

16. The Commission is now composed of one representative from each of 32 States Members of the United Nations selected for three years by the Council on the basis of an equitable geographical representation. It meets once a year and reports to the Council. It may establish subsidiary bodies either on a permanent basis or on an ad hoc basis. One of the latter kind is the Ad Hoc Committee on Periodic Reports.

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17. The Ad Hoc Committee on Periodic Reports was established by the Commission following a request made by the Council in resolution 1074 C (XXXIX), which invited Governments to supply regular reports on human rights and fundamental freedoms in territories subject to their jurisdiction. The task of the Committee is to study and evaluate these reports and to submit its comments, conclusions and recommendations to the Commission. At present it consists of eight members chosen by the Commission from its membership. It meets regularly before the Commission's sessions. Further details on its tasks and procedure will be found below (paragraphs 72-74).

#### 4. Commission on the Status of Women

18. While its responsibilities embrace the entire field of women's problems, the Commission on the Status of Women plays an important part in the realization of economic, social and cultural rights. Initially established as a sub-commission of the Commission on Human Rights, it was given, by Council resolution 11 (II), the full status of a functional commission.

19. As subsequently defined, the functions of this Commission include the preparation of "recommendations and reports to the Economic and Social Council on promoting women's rights in political, economic, civil, social and educational fields".

20. The Commission is now composed of 32 representatives of Member States elected by the Council on the basis of an equitable geographical distribution. It meets once every two years and reports to the Council.

#### 5. Commission for Social Development

21. The Commission for Social Development, as a functional commission of the Council, is its primary instrument for dealing with the wide range of social problems. As such, it is called upon to advise the Council on major issues of a social character and, under its authority, to contribute to the improvement of standards of living and of the quality of life. One of its major achievements in recent years has been the preparation and formulation of the Declaration of Social Progress and Development referred to in paragraph 67 below.

#### 6. Committee for Development Planning

22. A similar organ, but concerned with economic matters, is the Committee for Development Planning. Created in 1965 as a standing committee of the Council, this body's functions are to consider and evaluate the programmes and activities of the United Nations system relating to economic planning and projections and to propose measures for their improvement, and also to review the progress made in the transfer of knowledge to developing countries and in the training of personnel needed by them for economic planning and projections.

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7. Advisory Committee on the Application of Science  
and Technology to Development

23. Mention must also be made here of the existence and work of the Advisory Committee on the Application of Science and Technology to Development. Established in 1963 by Council resolution 980 A (XXXVI), subsequently endorsed by the General Assembly in resolution 1944 (XVIII), this body, now composed of 54 independent experts, has, among others, the task of keeping under review progress in the application of science and technology and proposing to the Council practical measures for such application for the benefit of the less developed areas. It thus provides guidance and inspiration to the organizations of the United Nations system in their efforts to bring science and technology into play in social and economic advancement.

8. Committee on Review and Appraisal

24. Finally, in view of the impact of the Second United Nations Development Decade on the economic and social work of the system, the Committee on Review and Appraisal established by the Council in its resolution 1621 C (LI) of 30 July 1971 also deserves to be listed among the organs concerned with the promotion of the conditions required for the exercise of economic, social and cultural rights. The Committee is composed of 54 members; its assigned objective is to enable the Council to discharge its responsibility to assist the General Assembly in its over-all assessment of the progress of the Decade, as provided in the General Assembly resolution 2626 (XXV).

9. United Nations Industrial Development Organization (UNIDO)

25. The main task of UNIDO is to promote industrial development, with special reference to developing countries. While its activities have no direct bearing on economic, social and cultural rights, they nevertheless contribute to the creation of the conditions that are required for their realization, particularly in providing assistance to these countries in building up their economic infrastructure.

26. Thus, the diversification of economy that is a main objective of industrialization is likely to multiply the opportunities for free choice of employment and, in a more general way, to strengthen the economic and financial basis upon which the right to social security, to medical care and to an adequate standard of living may be established. A brief account of UNIDO's work is, therefore, not out of place in this survey.

27. In the discharge of its responsibilities, UNIDO gives special consideration to the needs of the developing countries and, among them, to the problems of the least developed ones, following in that a recommendation formulated by its Special International Conference. A list of 25 such countries has been established on the basis of criteria developed by the United Nations Committee for Development

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Planning, and UNIDO has been actively engaged in providing assistance to them. In 1971, its operational programmes in those countries amounted to \$2.6 million. Plans for future activities in this direction have been and are being developed.

28. The assistance provided by UNIDO to developing countries is financed from the United Nations regular programme of technical assistance, UNDP, direct contributions of Governments and special funds-in-trust. These sources are supplemented by the UNIDO General Trust Fund, which serves to provide assistance outside the framework of the traditional programmes, such as the supply of industrial equipment, the creation of new industries and the support of regional organizations.

29. The relative importance of these different modes of financing is illustrated by the resources available in 1972:

	<u>Millions of dollars</u>
Regular programme	1.5
UNDP	22.9
Special industrial services	6.0
General Trust Fund	2.5
Funds-in-trust	<u>0.5</u>
Total	<u>33.4</u>

30. Under the regular programme, assistance to Governments may be given in the form of experts and training fellowships for one year or less.

31. UNDP financing is used for technical assistance, long-term pre-investment projects, research or training institutes and pilot demonstration plants. More specifically, these activities are directed at the following objectives:

(a) Feasibility studies to identify investment opportunities and determine the extent of available resources and markets;

(b) Development centres to promote and establish new industries through the utilization of local resources and outside help;

(c) Research institutes to develop and adapt technology to the needs of the local industries;

(d) Design centres to turn out modern industrial designs for local industries;

(e) Standards institutes to prepare standards of quality and methods of quality control;

(f) Industrial estates to assist in the servicing and development of industries;

(g) Pilot plants to set up and launch the initial operation of industrial enterprises for demonstration purposes.

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32. From its General Trust Fund, UNIDO finances the organization of seminars, workshops, in-plant training and expert group meetings. It also provides special industrial services designed to make available to developing countries a broader range of technical assistance services under procedures adapted to the particular requirements of industrial projects. This programme is aimed at supplementing existing activities and its main purpose is to assist in the successive steps which are normally required to make feasible the capital financing of industrial projects. Examples of these services are:

- (a) Ad hoc assignment of high-level experts to advise on specific questions;
- (b) Assistance in the various stages of new manufacturing projects;
- (c) Expert services on an intermittent basis during the development of projects;
- (d) Co-operative attention of various specialists in projects involving complex manufacturing techniques;
- (e) Bringing national technicians to the source of specialized knowledge abroad;
- (f) Support in solving specific problems, such as the need for complex technical documentation, data and analyses of the type not available locally;
- (g) Confidential consultations at a high policy level on matters involving either specific projects or industrial development policies;
- (h) "Trouble-shooting" assignments to solve special technical problems.

33. In these activities, UNIDO is somewhat hampered by the lack of sufficient funds. It nevertheless makes a significant contribution to the advancement of economic conditions and, in this way, to the progress which developing countries may be able to achieve in the realization of economic, social and cultural rights.

#### 10. United Nations Conference on Trade and Development (UNCTAD)

34. As determined by the General Assembly in resolution 1995 (XIX) of 30 December 1964, UNCTAD is established as a permanent organ to promote international trade, especially with a view to accelerating economic development, and, to this end, to formulate principles and policies on international trade and related problems of economic development. Its tasks are therefore of a comprehensive character. As they developed in the course of the years, they have come to include, in addition to trade, on which they remain centred, such concerns as the international monetary system, shipping, tourism, the transfer of technology, the activities of multinational corporations, the exploitation of the sea-bed, and the environment.

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35. UNCTAD must accordingly be viewed as an important factor for the improvement of the economic and social conditions governing the enjoyment of economic, social and cultural rights. The Final Act of the first session of the Conference (Geneva, 1964) contains towards this over-all objective significant pronouncements from which the following may be quoted:

"General principle four: Economic development and social progress should be the common concern of the whole international community and should, by increasing economic prosperity and well-being, help strengthen peaceful relations and co-operation among nations...

"General principle five: National and international economic policies should be directed towards the attainment of an international division of labour in harmony with the needs and interests of developing countries in particular, and of the world as a whole. Developed countries should assist the developing countries in their efforts to speed up their economic and social progress, should co-operate in measures taken by the developing countries for diversifying their economies and should encourage appropriate adjustments in their own economies to this end."

36. Similarly, the Conference at its second session (New Delhi, 1968), recommended in resolution 24 (II) that:

"special measures be devised within a global strategy of convergent measures in order to enable the least developed among the developing countries to derive equitable benefits so that all the developing countries are enabled to gain comparable results from the co-operation of member States of UNCTAD, particularly the co-operation between developing and developed countries".

37. Still in the general endeavour to promote economic development, the Conference at its third session (Santiago, 1972) decided to establish a working group with the task of drawing up a draft for a Charter of Economic Rights and Duties of States, based on (a) the general, special and other principles approved by the first Conference, (b) any proposals and suggestions made at the third Conference, (c) the relevant resolutions adopted in the United Nations system, especially in connexion with the Second Development Decade, and (d) the principles formulated in the Charter of Algiers and the Declaration of Lima.

38. Among other resolutions of a general character should also be mentioned resolution 44 (III) which, in support of the views expressed at the International Conference on Human Rights held at Teheran in 1968 (see paragraphs 80-81 below), urges member States to envisage the use of resources freed through concrete measures in the field of disarmament for the financing of economic and social programmes, particularly in the developing countries. In addition, resolution 46 (III), outlining the steps required to achieve a greater measure of agreement on principles governing international trade relations and policies, proclaims that the international community has the responsibility of eliminating any impediment to the growth and development of developing countries, and thus of contributing to the creation of a world economic development conducive to progress, prosperity and collective economic security.

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39. Some of UNCTAD's activities are, however, more directly related to the realization of economic, social and cultural rights. General principle four, part of which was quoted in paragraph 35 above, states with respect to the right to an adequate standard of living:

"all countries pledge themselves to pursue internal and external policies designed to accelerate economic growth throughout the world and in particular to help promote, in developing countries, a rate of growth consistent with the need to bring about a substantial and steady increase in average income in order to narrow the gap between the standard of living in developing countries and that in developed countries".

40. The Final Act of the first Conference elsewhere underlined the duty of developing countries to raise their standards of living and called for the adoption of international policies which would increase productivity and contribute to economic growth.

41. On the other hand, general principle five, also quoted in paragraph 35 above, may, in promoting greater diversification and a more balanced international division of labour, facilitate the exercise of the right to work, and, particularly, the right to free choice of employment, in the developing countries.

42. More specifically, the continued concern of UNCTAD with the need to facilitate the transfer of technology from developed to developing countries can be viewed as a transposition from the individual to the national level of the right to enjoy the benefits of scientific progress and its applications, even though it may affect the protection of the material interests resulting from scientific and technological production.

43. On this point, the first Conference had taken the lead in recommending that:

"developed countries should encourage the holders of patented and non-patented technology to facilitate the transfer of licenses, know-how, technical documentation and new technologies in general to developing countries, including the financing of the procurement of licenses and related technology on favourable terms;"

and that:

"Competent international bodies, including United Nations bodies and the Bureau of the International Union for the Protection of Industrial Property, should explore possibilities for adaptation of legislation concerning the transfer of industrial technology to developing countries, including the possibility of concluding appropriate international agreements in this field."

44. The second Conference gave further impetus to this idea and recommended the setting up of an intergovernmental committee to examine the over-all question of the transfer of technology to developing countries. The third Conference extended this concern to the initiation and implementation, through UNDP and in co-operation

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with other competent bodies, including WIPO, of training programmes for personnel needed in this connexion in developing countries. It also requested the Secretary-General of UNCTAD to carry out with WIPO a joint study of possible bases for a new international legislation regulating the transfer from developed to developing countries of patented and non-patented technology. It finally recalled that none of the United Nations bodies has the exclusive task of dealing with the question of the transfer of operative technology and decided that UNCTAD would perform its functions in this field in co-operation and co-ordination with the other bodies of the United Nations system and with the other international organizations concerned, with a view to avoiding any overlapping and unnecessary duplication.

# 11. United Nations Development Programme (UNDP)

45. Among United Nations bodies, UNDP occupies a special position. By contrast with the others, it was created not to deal with any substantive issue but to superpose on the entire range of economic and social questions an integrated type of development assistance, which includes technical assistance proper, training, feasibility surveys and pre-investment studies.

46. UNDP activities, therefore, coincide in substance with the tasks assigned to other organizations, but at the level of operational assistance. It may nevertheless be of interest to identify those among them which can be viewed as contributing to the realization of economic, social and cultural rights.

47. This contribution is to be found mostly in the group of projects designed to foster human capabilities. Action to promote education and training, to raise standards of health, to improve social welfare, to provide decent housing and to strengthen public administration as a necessary infrastructure reflects many of the concerns expressed in the International Covenant on Economic, Social and Cultural Rights, notably in the rights to work, to education, to the best attainable standards of health, to social services and to adequate housing.

48. The total sums spent in these fields by UNDP, and by the recipient Governments in the form of counterpart support in cash and in kind, are, for the period 1959-1968, as follows:

	<u>Millions of dollars</u>
Education and training	485.7
Health	131.8
Social welfare	29.0
Housing, building and physical planning	50.8
Public administration and services	<u>152.2</u>
Total	<u>849.5</u>

49. Projects in these fields are entrusted to the organs and agencies in the United Nations system which have the competence to carry them out. They are included in the activities summarized in the relevant sections below.

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## 12. Conferences of plenipotentiaries

### (a) United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons

50. Convened by General Assembly resolution 429 (V), this Conference met in 1951 in Geneva "to complete the drafting of and to sign both the Convention relating to the Status of Refugees and the Protocol relating to the Status of Stateless Persons". Details of these instruments are given in paragraph 59.

### (b) United Nations Conference on the Status of Stateless Persons

51. Convened by Economic and Social Council resolution 526 A (XVII), this conference met in New York in 1954. It adopted a Convention relating to the Status of Stateless Persons (see paragraph 60).

## B. International instruments and implementation machinery

### 1. Charter of the United Nations

52. Article 55 of the Charter makes it a duty for the United Nations to "promote... higher standards of living, full employment and conditions of economic and social progress and development", as well as "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion". In addition, under Article 56, "All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55".

53. These two provisions give to the promotion and observance of human rights and the obligation of Member States in this respect the character of a rule of international law. They must be viewed, therefore, as the foundation upon which all subsequent action in this field rests.

### 2. International bill of rights

54. As recommended by the 1945 Preparatory Commission, the General Assembly, at its first session, assigned to the future Commission on Human Rights the task of undertaking the "formulation of an international bill of rights". This instrument eventually took the form of a Universal Declaration of Human Rights and of two Covenants: the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the latter with an Optional Protocol.

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(a) Universal Declaration of Human Rights

55. While it lacks the legal force of an international treaty, the Universal Declaration, adopted by the General Assembly on 10 December 1948, is nevertheless possessed of such authority as to constitute a source of inspiration for all international and regional instruments relating to human rights. It is indeed from those of its provisions dealing with economic, social and cultural rights that the more detailed and binding standards later incorporated into the International Covenant on Economic, Social and Cultural Rights were derived. The Covenant, in turn, was the origin of, or influenced, most of the other international and regional conventions adopted in this field. In view of the enormous moral authority of the Universal Declaration, which was emphasized by the International Conference on Human Rights held at Teheran in 1968, it may be looked upon as more of a legal document now than when it was adopted, in regard to the priorities of life in different parts and regions of the world. The Declaration also inspired the relevant provisions in many of the new or revised constitutions of the world and in the legislation and jurisdictions of many countries.

(b) International Covenant on Economic, Social and Cultural Rights

56. The Covenant provides the immediate basis for action at the international and regional levels, as well as for the translation of its standards into national reality. The principles it formulates reappear throughout this report; and even where it has not been formally ratified, it is often considered as a guide for action. This is indeed one of the most important international instruments adopted by the United Nations. Its only drawback is that in most of the less developed countries its provisions can only be implemented progressively, according to their level of development, availability of resources and size of population. It is probably for that reason that most of these countries have found it difficult to accept global international obligations in respect of all rights provided for in the Covenant. The Covenant has, however, acted as a catalyst in developing national consciousness and, in many cases, legal norms guiding national development planning for the promotion of balanced economic and social development.

57. The principles cover the following rights:

(a) The right to work, and more specifically: to free choice of employment; to just and favourable conditions of work; to protection against unemployment; to just and favourable remuneration; to equal pay for equal work; to rest, leisure and reasonable limitation of working hours, and periodic holidays with pay; to form trade unions and to join trade unions of one's choice; and to strike;

(b) The right to social security, including social insurance;

(c) The right to an adequate standard of living, covering: adequate food; adequate clothing and housing; necessary social services; continued improvement of living conditions;

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(d) The right to the enjoyment of the highest attainable standard of physical and mental health, in particular, through: the reduction of the still-birth rate and of infant mortality and the healthy development of the child; the improvement of environmental and industrial hygiene; the prevention, treatment and control of diseases; the creation of conditions ensuring to all medical service and attention in the event of sickness;

(e) The right to family, motherhood and childhood protection and assistance, including: family protection and assistance; special care and assistance for mothers; special care and assistance for children and young persons;

(f) The right to education, including: free primary education; equal access to higher education; and the right of parents to choose the kind of education to be given to their children;

(g) The right to participate freely in cultural life, and specifically: to take part in cultural life and to enjoy the benefit of scientific progress and its applications; and to protection of moral and material interests arising out of scientific, literary or artistic work.

58. The Covenant was adopted by the General Assembly on 16 December 1966; it will enter into force after it has been accepted by 35 States. On 31 December 1972, 18 such ratifications or accessions had been registered. <sup>1/</sup> The General Assembly has repeatedly urged Governments to ratify this instrument, together with the companion International Covenant on Civil and Political Rights. Thus, by resolution 2337 (XXII) of 1967, it invited them to hasten their formal adhesion to it; in 1969, it reiterated this request in resolution 2543 (XXIV), and in 1971, it asked the States concerned to accelerate the formal procedures required to that effect.

### 3. Conventions concerning refugees and stateless persons

#### (a) Convention and Protocol relating to the Status of Refugees

59. Following and reinforcing the international agreements concluded under the auspices of the League of Nations, the Convention relating to the Status of Refugees, adopted on 28 July 1951 by the Conference of Plenipotentiaries referred to in paragraph 50, contains a number of provisions designed to ensure the application to refugees of many of the economic, social and cultural rights. It protects their right to artistic and industrial property and seeks to give them the same position as nationals, or as aliens subject to reciprocity clauses, in respect to the right of association, gainful employment, welfare, housing, public education, public relief and to the benefits of the labour legislation and of social security. The

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<sup>1/</sup> Ratifications and accessions: Bulgaria, Chile, Colombia, Costa Rica, Cyprus, Denmark, Ecuador, Iraq, Kenya, Lebanon, Libyan Arab Republic, Madagascar, Norway, Sweden, Syrian Arab Republic, Tunisia, Uruguay and Yugoslavia.

Convention is accompanied by a Protocol relating to the Status of Refugees which deals with some additional aspects of the same problem. Both require the States parties to communicate to the Secretary-General the laws and regulations which they have adopted to ensure their application.

(b) Convention relating to the Status of Stateless Persons

60. Adopted on 28 September 1954 by the Conference of Plenipotentiaries referred to in paragraph 51, this Convention also provides for the application to stateless persons of laws and rules normally devised for the benefit of nationals or of aliens covered by a clause of reciprocity. Like the Convention on refugees, it ensures that stateless persons are given the benefit of the right to association, gainful employment, welfare, housing, public education and public relief, and are included in the scope of application of the labour legislation and of the existing social security schemes. (For details on the ratification of this instrument see annex II.)

4. Other instruments

61. Five other formal declarations deserve to be mentioned here. The authority of these declarations far exceeds that provided in the normal General Assembly resolutions. They give more precise definition to what is found in the Charter provisions and the Universal Declaration of Human Rights. They are as follows: the Declaration of the Rights of the Child, the Declaration on the Elimination of All Forms of Racial Discrimination, which was followed by the adoption of a Convention on the same subject, the Declaration on the Elimination of Discrimination against Women, the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the Declaration on Social Progress and Development.

(a) Declaration of the Rights of the Child

62. Adopted by the General Assembly by its resolution 1386 (XIV) of 1959, this instrument, which recalls the Geneva Declaration of the Rights of the Child of 1924, reflects the objectives of the International Covenant on Economic, Social and Cultural Rights in its requirement that special care and assistance be given to children and young persons. More concrete provisions relate to the benefits of social security and education, and to the prevention of employment above an appropriate minimum age.

(b) Declaration on the Elimination of All Forms of Racial Discrimination

63. On 20 November 1963, the General Assembly proclaimed, by resolution 1904 (XVIII), the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. This document, based on the principle of the dignity and equality of all human beings set forth in the Charter, solemnly condemns discrimination between human beings on the ground of race, colour or ethnic origin as an offence to human dignity, as a denial of the principles of the Charter and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration.

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(c) International Convention on the Elimination of All Forms of Racial Discrimination

64. Following the Declaration, the General Assembly adopted on 21 December 1965 an International Convention on the Elimination of All Forms of Racial Discrimination. In it, racial discrimination is defined as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life". A specific reference is made in article 5 to the economic, social and cultural rights listed in the Covenant. In this Convention, the States parties condemn racial discrimination and undertake to pursue a policy of eliminating it by appropriate means and without delay. The Convention came into force on 4 January 1968. 2/ The Committee on the Elimination of Racial Discrimination foreseen in the Convention was established in 1969 to examine the information submitted by the States parties on the steps they had taken to give effect to the provisions of the Convention. The Committee reports annually to the General Assembly.

(d) Declaration on the Elimination of Discrimination Against Women

65. Adopted by General Assembly resolution 2263 (XXII) of 1967, this Declaration elaborates upon those aspects of the Universal Declaration which emphasize the need to eliminate all forms of discrimination based on sex.

(e) Declaration on the Granting of Independence to Colonial Countries and Peoples

66. This Declaration, adopted by the General Assembly on 14 December 1960, has a bearing on the realization of economic, social and cultural rights in proclaiming that the subjection of peoples to alien subjugation constitutes a denial of fundamental human rights, and that all peoples have the right to self-determination and to pursue freely their economic, social and cultural development.

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2/ As of 31 December 1972 the following States had ratified or acceded to this Convention: Algeria, Argentina, Austria, Barbados, Bolivia, Brazil, Bulgaria, Byelorussian SSR, Cameroon, Canada, Central African Republic, Chile, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Denmark, Ecuador, Egypt, Finland, France, Germany (Federal Republic of), Ghana, Greece, Haiti, Holy See, Hungary, Iceland, India, Iran, Iraq, Jamaica, Kuwait, Lebanon, Lesotho, Libyan Arab Republic, Madagascar, Malta, Mauritius, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Senegal, Sierra Leone, Spain, Swaziland, Sweden, Syrian Arab Republic, Togo, Tonga, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Venezuela, Yugoslavia, Zambia.

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(f) Declaration on Social Progress and Development

67. The Declaration on Social Progress and Development, adopted by the General Assembly in resolution 2542 (XXIV) of 11 December 1969, is, as the most comprehensive statement of social policy objectives ever made by the United Nations, of particular importance for the equitable realization of economic, social and cultural rights. Recalling the principles of the Universal Declaration, of the Covenants, of the Declaration on the Elimination of All Forms of Racial Discrimination, of the Declaration on the Granting of Independence to Peoples Under Colonial Rule, of the Declaration of the Rights of the Child and of the standards set by the various components of the United Nations system, the Assembly called for national and international action for the use of the Declaration as a common basis for social development policies.

68. Among the principles, objectives and methods advocated in the Declaration, the following may be mentioned as of immediate import to the exercise of economic, social and cultural rights:

- (i) Elimination of all forms of discrimination, inequality, colonialism and apartheid, and exploitation among peoples and individuals;
- (ii) National independence and non-interference in the internal affairs of States and respect for their sovereignty and territorial integrity;
- (iii) Agrarian reforms in which the ownership and use of land will be made to serve best the objectives of social justice and economic development;
- (iv) Recognition and effective implementation of civil and political rights as well as of economic, social and cultural rights;
- (v) Protection of and assistance to the family, maternity and infancy;
- (vi) Development of an adequate organizational and legal framework conducive to an uninterrupted and diversified growth of the industrial sector;
- (vii) Maintenance of a proper balance between rural and urban development;
- (viii) Assurance at all levels of the right to work; to free choice of employment, with elimination of unemployment and underemployment, without any discrimination and with sufficiently high wages, and provision of vocational training; to equitable and favourable conditions of work, including improvement of occupational health and safety provisions; to form and join trade unions of one's choice; to bargain collectively and to strike, but with development of harmonious industrial relations; and to just and equal remuneration, with a statutory minimum sufficient for decent living;

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- (ix) Just and equitable distribution of national wealth and income among all members of the community; removal of all sorts of inequality; elimination of poverty, with steady improvement in levels of living, and of hunger and malnutrition; and provision of adequate housing for all, particularly for low-income groups and large families;
- (x) Achievement of the highest standards of health and health protection and services, if possible free of charge;
- (xi) Eradication of illiteracy, with free education at all levels, and universal access to culture;
- (xii) Establishment of comprehensive schemes of social security, insurance and welfare, covering in particular the needs of those unable to earn their living;
- (xiii) The improvement in the position of the developing countries in international trade, inter alia, through achievement of favourable terms of trade;
- (xiv) The provision of greater assistance on better terms, reaching a volume target of a minimum of 1 per cent of the gross national product at market prices of economically advanced countries, to the developing countries;
- (xv) Intensification of international co-operation with a view to ensuring the international exchange of information, knowledge and experience concerning social progress and development.

#### 5. Implementation machinery

69. The mechanism provided in the United Nations for ascertaining the extent to which international instruments on economic, social and cultural rights are effectively applied is either related to the instrument or to the organ. In both cases, it is entrusted to the Commission on Human Rights, to the Economic and Social Council and to the General Assembly.

#### (a) Provisions of the International Covenant on Economic, Social and Cultural Rights

70. The implementation process devised in the International Covenant on Economic, Social and Cultural Rights requires the States parties to report on the measures taken to achieve the objectives set forth in that instrument. Reports are to be furnished in stages, as determined by the Council, and may indicate factors and difficulties that affect the fulfilment of the obligations assumed under the Covenant. The Council can also make arrangements with the specialized agencies for their reporting on the progress made, within the scope of their activities, in advancing the realization of the rights embodied in the Covenant. The Council may refer the reports thus received to the Commission on Human Rights for study and

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general recommendation, or for information. The Governments and agencies concerned are entitled to present to the Council their comments on the recommendations made by the Commission after consideration of their reports.

71. From time to time, the Council may submit to the General Assembly recommendations of a general nature on the measures taken and progress achieved in the implementation of the rights proclaimed in the Covenant.

(b) Periodic reporting system

72. In advance of the coming into force of the Covenant and of the implementation machinery provided by it, the Council initiated in 1959 a system, revised in 1965, of periodic reporting under which Members of the United Nations or members of any of the specialized agencies are invited to supply information on human rights and fundamental freedoms in the territories subject to their jurisdiction. The reports are submitted within a continuing six-year cycle, successively on (i) civil and political rights, (ii) economic, social and cultural rights, and (iii) freedom of information. Non-governmental organizations in consultative status may also present objective information on any of these topics.

73. In its review of this process in 1965, the Council pointed out, in resolution 1074 C (XXXIX), that the reporting system not only was a source of information but provided a valuable incentive to governmental efforts to protect the rights in question and to implement the principles set forth in the Universal Declaration. It therefore requested the Commission on Human Rights to plan for effective consideration of the periodic reports and to establish to that end an Ad Hoc Committee on Periodic Reports (see paragraph 17), with the mandate to study and evaluate the periodic and other information thus received, and, in the light of the comments of the Commission on the Status of Women and of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities, to submit to the Commission on Human Rights conclusions and recommendations of an objective character.

74. Also, by resolution 888 B (XXIV) of 24 July 1962, the Council invited non-governmental organizations in consultative status to submit comments and observations of an objective character on the situation in the field of human rights so as to assist the Commission in its consideration of the periodic reports from Governments and agencies.

C. Promotional activities

75. The promotion by the United Nations of the protection and observance of economic, social and cultural rights is a continuing process. It takes many forms. In most cases it originates in initiatives of the Commission on Human Rights and the Commission on the Status of Women, followed by endorsing resolutions of the Council and the General Assembly. There is indeed hardly a session of these bodies in which some aspect of these rights is not the subject of a request for further action. Such requests are generally directed at the holding of special meetings, the

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undertaking of special studies, the organization of specific manifestations, or the formulation of statements of a promotional character. The preparation of information of a purely factual nature, such as that in the Yearbook on Human Rights, which, while constituting a necessary instrument for promotional action, seeks to inform rather than to stimulate, is not dealt with here.

76. It would take too much space, and be no doubt unnecessary, to list here all these promotional activities. A few significant examples should suffice to show that the furtherance of economic, social and cultural rights remains a permanent concern of the Organization at all levels.

#### 1. Human Rights Day

77. By resolution 423 (V) of 1950, the General Assembly invited all States to adopt the tenth of December as Human Rights Day and to mark it by appropriate manifestations. This practice, which helps in drawing attention to human rights and their importance for all mankind, is now followed in many parts of the world.

#### 2. Anniversaries of the adoption of the Universal Declaration

78. As requested by the General Assembly, the United Nations organs made extensive arrangements, including publicity and educational measures, for the observance and commemoration of the tenth (1958) and fifteenth (1963) anniversaries of the adoption of the Universal Declaration.

#### 3. Designation of 1968 as International Year for Human Rights

79. For the twentieth anniversary, the General Assembly, by resolution 1961 (XVIII) of 1963, designated 1968 as International Year for Human Rights. The programme envisaged for that year included the use of publicity and of educational methods. It involved United Nations offices everywhere in the organization of lectures, the translation of important United Nations documents in the field of human rights, the writing of articles on the Universal Declaration, and, in co-operation with local authorities, the preparation of appropriate celebrations. In respect of Member States, the programme recommended special efforts in the field of education. Radio and television networks were also invited to organize special programmes, and newspapers and other periodicals were asked to publish articles designed to publicize the Declaration and its objectives. Finally, private organizations having an interest in the promotion of, and respect for, human rights were likewise requested to support - and participate in - all these activities.

#### International Conference on Human Rights

80. One of the major features of the International Year was the International Conference on Human Rights, held at Teheran from 22 April to 13 May 1968. It was attended by representatives of 84 countries, of four specialized agencies and of

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four regional organizations. Certain non-governmental organizations were also invited to send observers. The agenda included consideration of "measures to strengthen the activities of the United Nations in promoting the full enjoyment of political, civil, economic, social and cultural rights, including the improvement of methods and techniques and such institutional and organizational arrangements as may be required". 3/

81. The major outcome of the Teheran Conference was, however, the adoption of the Proclamation of Teheran. This document, adopted on 13 May 1968, constitutes a solemn affirmation of human rights in general. In paragraph 13, it is stated that "the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible", and that "the achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development". 4/ The Conference also adopted a number of resolutions, several of which must be mentioned here as having a direct bearing on economic, social and cultural rights. They are:

Resolution III, "Measures to achieve rapid and total elimination of all forms of racial discrimination in general and the policy of apartheid in particular", in which the Conference condemns the Government of South Africa for its continued implementation of the policy of apartheid, declared as a crime against humanity, and appeals to all States and organizations to give appropriate moral, political and material assistance to the non-white people of southern Africa in their struggle to achieve the rights recognized in the Charter, and urges all States to comply with the resolutions adopted by the Security Council and the General Assembly to that end;

Resolution V, "Observance of the principle of non-discrimination in employment", in which Governments are called upon to observe fully the principle of non-discrimination in employment laid down in the Universal Declaration and in the 1958 ILO Convention;

Resolution XII, "Illiteracy", inviting increased efforts for the eradication of illiteracy, in which the United Nations and the specialized agencies, especially UNESCO, are invited to stimulate efforts for enhancing the contribution which literacy can make to the development and promotion of human rights;

Resolution XVI, "Disarmament", which, recognizing the world-wide economic and social consequences that disarmament could have in the implementation of human rights and fundamental freedoms, requests that resources thus released be employed for economic and social progress throughout the world.

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3/ Final Act of the International Conference on Human Rights (United Nations publication, Sales No. E.68.XIV.2), chap. I, para. 21.

4/ Ibid., chap. II, para. 13.

Resolution XXI, "Realization of economic, social and cultural rights", calling upon all States to ratify the Covenants; asking that increased attention be given to economic, social and cultural rights in the activities of the United Nations system and suggesting close co-ordination in this respect; welcoming the action of the Commission on Human Rights in providing for a study of the realization of economic, social and cultural rights; requesting the United Nations organs and the specialized agencies to intensify their efforts, including advisory services, towards the effective observance of these rights, and inviting Governments to develop the material and legal means required for their protection and enjoyment.

4. Designation of 1971 as International Year to Combat Racism and Racial Discrimination

82. In 1968, the General Assembly decided, by resolution 2446 (XXIII), to designate the year 1971 as International Year to Combat Racism and Racial Discrimination, asking that it be observed in the name of the ever-growing struggle against racial discrimination in all its forms and manifestations. It later approved the programme prepared by the Secretary-General for the observance of the Year and appealed to all States to intensify and expand their efforts at the national and international levels towards ensuring the rapid and total eradication of racial discrimination, in all its contemporary forms, including the policy of apartheid. It also invited the organs of the United Nations and the specialized agencies to co-operate and participate in the programme of the Year.

5. International Education Year

83. An International Education Year was proclaimed by General Assembly resolutions 2306 (XXII) and 2412 (XXIII) to mobilize energies and inspire initiatives in education and training. The year 1970 was designated for that purpose and UNESCO was asked to assume primary responsibility for the preparation and execution of an international programme of action. As approved by the UNESCO General Conference in 1968, that programme called upon Member States, among other things, to take stock of the existing situation in the field of education, to initiate and stimulate studies for possible improvements and to make specific efforts to increase financial resources for educational development and to eliminate all forms of discrimination.

D. Substantive and sectoral concerns

84. Without going into detail, mention must be made here of those sectoral activities which contribute to the conditions required for the full enjoyment of economic, social and cultural rights. They all derive from the over-all responsibility assigned to the United Nations for economic, social and cultural development. It would, however, exceed the scope of this report to review them in their totality. It will suffice to note that some of the major subsidiary organs

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and programmes established by the General Assembly have also been given general tasks in the promotion of economic and social development, with particular reference to developing countries, and that their activities are accordingly, at the same time, basic to the realization of economic, social and cultural rights.

85. The two United Nations Development Decades (1961-1970 and 1971-1980) indeed deserve to be mentioned here. They have provided a global framework for all activities of the United Nations system in the economic, social and cultural fields. Both aim at the fulfilment of conditions that will ensure a firm basis for the realization of the rights set forth in the Universal Declaration and in the Covenant. The first of these Decades was inaugurated by the General Assembly in 1961. It stressed the importance of economic and social development to the countries concerned and to the attainment of peace and security. The objectives assigned to this common effort included the development of human resources - a goal that has a direct bearing on human rights - and the expansion of specific programmes such as UNDP, WFP and the FAO Freedom from Hunger Campaign. The link between the first Development Decade and human rights was emphasized by General Assembly resolution 2027 (XX), in which reference was made to "the need... to devote special attention on both the national and the international level to progress in the field of human rights, and to encourage the adoption of measures designed to accelerate the promotion of respect for and observance of human rights and fundamental freedoms".

86. Though the results of the first Decade were not fully up to expectations, the concept itself of the Decade received wide acceptance and support, and it developed into a true focus for joint international and national action. The General Assembly was thus doubly moved to call for the proclamation of a Second Development Decade from 1971 to 1980. Among the goals assigned to it are to bring about a more equitable distribution of income and wealth for promoting both social justice and efficiency of production, to raise substantially the level of employment, to achieve a greater degree of income security, to expand and improve facilities for education, health, nutrition, housing and social welfare, and to safeguard the environment. All these objectives reflect a great concern for economic, social and cultural rights.

87. The four regional economic commissions, for Africa (ECA), Asia and the Far East (ECAFE), Europe (ECE) and Latin America (ECLA), together with the United Nations Economic and Social Office in Beirut (UNESOB), are also given, at the regional level, functions of a general character paralleling those of the Economic and Social Council. They deal, within their geographical area, with all problems of advancement that are involved in the realization of economic, social and cultural rights. And since the commissions are empowered to make recommendations for policies and action to their member Governments, they are in a position to make significant contributions to the fulfilment of the conditions required to ensure respect for and observance of these rights.

88. In addition, in so far as they may influence the enjoyment of economic, social and cultural rights, sectoral responsibilities entrusted to the Organization in specific fields should be noted. They are assigned to bodies created either

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under the Economic and Social Council's authority or under that of the General Assembly. The distribution of these responsibilities does not, however, fully coincide with the classification adopted in respect of economic, social and cultural rights. But as they sometimes cover several of these rights, it will be more practical to record them here by organ rather than by subject.

89. Under the Council's authority, the Committee on Housing, Building and Planning is concerned with the conditions required for the enjoyment of the right to adequate housing.

90. Under the General Assembly's authority:

(a) The United Nations Children's Fund (UNICEF) plays an important role in ensuring the observance of the rights of children and young persons to special care and assistance. As stated by the General Assembly in resolution 1391 (XIV), "the aid provided through the Fund constitutes a practical way of international co-operation to help countries carry out the aims proclaimed in the Declaration of the Rights of the Child". Its programmes include the building of health services for mothers and children, the strengthening of social services, the distribution of food and improvement of nutrition, aid to education and vocational training; they extend therefore to many of the economic, social and cultural rights formulated in the Covenant.

(b) The Office of the United Nations High Commissioner for Refugees (UNHCR), established by General Assembly resolution 428 (V), has continued on a greater scale the work initiated in this field by the League of Nations. It is entrusted with the task of providing protection and assistance to refugees, on the basis of the Convention and Protocol referred to in paragraph 59 above and of the relevant decisions of the General Assembly. Its activities are thus instrumental in ensuring the application to refugees of many of the economic, social and cultural rights.

(c) The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), created by General Assembly resolution 302 (IV), is responsible for carrying out relief and work programmes for the benefit of the refugees displaced at the time of the creation of the State of Israel and in subsequent developments. Its activities cover the provision of shelter, food, health services and educational facilities. They are carried out, where appropriate, with the co-operation of the competent specialized agencies, notably WHO and UNESCO.

(d) The World Food Programme (WFP), jointly established by the United Nations and FAO (General Assembly resolutions 1714 (XVI) of 1961 and 2095 (XX) of 1965) in their effort to meet the needs of food-deficient countries, assists in the creation of the material conditions that are necessary for the realization of the right of everyone to be free of hunger, set forth in article 11 of the International Covenant on Economic, Social and Cultural Rights. (See also paragraph 189.)

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#### E. Advisory services

91. The programme of advisory services established by General Assembly resolution 926 (X) of 1955 authorizes the Secretary-General, subject to the directions of the Economic and Social Council, to provide requesting Governments, with the co-operation if required of the specialized agencies concerned and without duplicating their existing activities, with the following forms of assistance: (i) advisory services of experts; (ii) fellowships and scholarships, and (iii) seminars.

92. The type of advisory assistance to be rendered by experts is determined by the requesting Government. Similarly, the choice of the recipients of fellowships and scholarships is made on the basis of proposals received from Governments.

93. For 1972, the credit included in the United Nations budget for advisory services in human rights was \$250,000. No separate allocation, however, within that credit is made for economic, social and cultural rights.

#### Advisory services of experts

94. While a few Governments have availed themselves of the services of experts in respect of civil and political rights, none have so far requested this type of aid for economic, social and cultural rights.

#### Fellowships and scholarships

95. Most fellowships are granted for advanced study and special training. Nominations are generally made for government officials of a certain standing. In respect of economic, social and cultural rights, typical grants were made in the following fields:

Protection of human rights of immigrants and resident aliens;

Advancement of human rights in the formulation and implementation of economic and social legislation;

Legislation, decrees and regulations concerning human rights, in relation to the implementation of national development plans;

Drafting and implementation of legislation related to the protection of the rights of the child and of the family;

Rights of the child, with particular reference to the protection of the rights of children placed for adoption and of children born out of wedlock;

Equal employment opportunities for women.

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### Seminars

96. Seminars are organized on a regional or interregional basis. Their purpose is to provide for reciprocal assistance in the form of exchange of experience and information, and of discussion of common problems. They are attended by highly qualified practitioners designated by Governments who attend in their personal capacity, by representatives of the specialized agencies concerned and by observers from non-governmental organizations in consultative status.

97. The following seminars have been organized on aspects of economic, social and cultural rights and related matters:

Status of women in family law (Bogota, Colombia, 1963);

Rights of the child (Warsaw, Poland, 1963);

Human rights in developing countries (Kabul, Afghanistan, 1964);

Status of women in family law (Lomé, Togo, 1964);

Human rights in developing countries (Dakar, Senegal, 1966);

Realization of economic, social and cultural rights contained in the Universal Declaration (Warsaw, Poland, 1967);

Special problems relating to human rights in developing countries (Nicosia, Cyprus, 1969);

Realization of economic and social rights with particular reference to developing countries (Lusaka, Zambia, 1970);

Participation of women in economic life (Moscow, USSR, 1970);

Participation of women in economic life (Libreville, Gabon, 1971).

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## II. INTERNATIONAL LABOUR ORGANISATION (ILO)

98. The objectives, programmes and activities of the ILO encompass many of the rights covered by the International Covenant on Economic, Social and Cultural Rights. The ILO is, in fact, the agency which, in the United Nations system, is primarily responsible for the problems related to the right to work and to social security; it also deals with aspects of the right to an adequate standard of living, to family protection and to education.

99. Traditionally, the ILO operates to a far greater extent than other agencies by way of international standards in the form of conventions and recommendations. Both are subject to a strict constitutional procedure, requiring that they be brought to the attention of the national authorities competent to implement them, and that Governments report on the measures taken in relation to them.

100. Conventions possess a binding character when ratified. Their ratification opens the way to a formal procedure of complaint for non-compliance by other ratifying countries. Recommendations, on the other hand, do not create such legal obligations, but they advocate more detailed rules and sometimes higher standards and are often linked to a particular convention which they complement in this way. For that reason, recommendations, when relevant, are listed here together with the related conventions.

101. Conventions come into force through a process of formal ratification. But their effect may, in some cases, reach beyond the scope of that process. It was found, for example, that in 1961 the Social Security (Minimum Standards) Convention (No. 102) of 1952 was more widely applied throughout the world than could be assumed from the then modest number of ratifications, which at the time was 11 (it is now 22).

102. By the range of its activities and the mode of its operation, the ILO has produced a substantial number of formal instruments covering some or the whole of the substance of many of the economic, social and cultural rights. It is not possible to give details here, owing to space limitations, but in most cases, the mere title of the instrument suffices to define its contents.

103. The conventions (and related recommendations) are reported here in the order used for the periodic reports on human rights. Those that affect several categories of rights are listed under each of them. It should be noted, in this connexion, that in the ILO classification, social security extends to several of the rights belonging in the Covenant to other groups, such as medical care, family and child protection, and unemployment. In such cases, the ILO classification is used, with appropriate cross-references under the other headings concerned.

104. To supervise the application of conventions and recommendations, a committee of independent experts examines the reports submitted by Governments and comments on them, either directly to the Governments or in its published report placed before the General Conference, which decides on any further action that may be required. In addition, procedures of impartial inquiry into conflicts on divergencies in application are provided and resorted to in certain cases.

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105. Under the Covenant, developing countries may determine the extent to which economic rights may be guaranteed to non-nationals. Certain of the ILO Conventions contain provisions under which the rights of non-nationals may be restricted, but they are of equal application to all ratifying States, whatever the degree of their economic development.

106. Promotional activities include resolutions of the General Conference, the Governing Body, and special and regional conferences, as well as conclusions reached in surveys, seminars and other similar activities.

107. Finally, advisory services are available to requesting Governments in the form of technical assistance projects, financed either from the regular ILO budget, UNDP or trust funds.

A. Organs concerned with the formulation of standards

108. One of the most distinctive features of the ILO is its tripartite structure. It is an intergovernmental agency, but employers and workers, as well as Governments, take an equal part in its work.

109. The International Labour Conference, which meets annually, is the supreme deliberative and standard-setting body. Each national delegation is composed of two government representatives, one employer and one worker representative. The Conference is the sole organ empowered to adopt conventions and recommendations. To that effect, a majority of two thirds is required.

B. International instruments and implementation machinery

1. Instruments of a general character

110. While the relevant ILO conventions and recommendations may be related to several of the rights included in the Covenant, the ILO constitution and its annex, the Declaration of Philadelphia, were directed at the general objective of advancing the development of the economic and social environment which conditions the realization of economic, social and cultural rights.

111. In its preamble, the constitution of the ILO urges improvement of labour conditions as a prerequisite of peace and harmony in the world. The 1944 Declaration of Philadelphia, which forms part of the constitution, affirms, in section II, that

"all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and spiritual development in conditions of freedom and dignity, of economic security and equal opportunity".

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112. The same Declaration, in section III, sets forth as an obligation of the ILO to further programmes that will achieve:

- (a) Full employment and the raising of standards of living;
- (b) The employment of workers in the occupations in which they can have the satisfaction of giving the fullest measure of their skill and make their greatest contribution to the common well-being;
- (c) Facilities for training and labour mobility;
- (d) Equitable remuneration;
- (e) The right of collective bargaining, the co-operation of management and labour in the improvement of efficiency, and the collaboration of workers in the preparation and application of economic and social measures;
- (f) The extension of social security measures to provide a basic income and comprehensive medical care;
- (g) Protection for the life and health of workers;
- (h) Provision for child welfare and maternity protection;
- (i) Adequate nutrition, housing and facilities for recreation and culture;
- (j) Equality of educational and vocational opportunity.

113. It will be noted that some of these objectives, notably in respect of adequate nutrition, child welfare, cultural facilities and education, are the primary responsibility of other United Nations agencies.

## 2. Implementation machinery

114. In so far as it applies to all ILO standards, the implementation machinery used by the ILO is threefold: it provides for (i) scrutiny by supervisory bodies, expert or representative; (ii) a quasi-judicial procedure of complaint for non-observance, followed by impartial inquiry; and (iii) a system of enforcement at the level of the undertaking.

115. In addition, sectoral enforcement systems are provided. A joint United Nations/ILO mechanism deals with complaints of violations of trade-union rights in countries not members of the ILO. A parallel ILO procedure covers similar complaints from its own membership; it is described below in connexion with the application of the right to form and to join trade unions (see para. 155). Another joint ILO/United Nations procedure, which has been used in the past to supervise the prohibition of force labour, is reviewed under the heading of the relevant rights (see para. 132). While these specialized mechanisms are designed to deal with sectoral problems of application, ILO standards are all subject to the general implementation machinery summarized in the following paragraphs.

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(a) Supervision by expert and representative bodies

116. Under the ILO Constitution, Governments undertake to bring newly adopted conventions and recommendations before the competent national authorities for the enactment of legislation or other action and to inform the ILO of the measures taken. The ILO Constitution also requires from Governments that they report periodically on the conventions which they have ratified, and, from time to time, on their position with respect to unratified conventions and to recommendations. Copies of these reports and information must be communicated to the representative organizations of employers and workers.

117. These reports are submitted to a Committee of Experts on the Application of Conventions and Recommendations, consisting of 19 independent personalities. It meets annually to examine the reports received from Governments as well as studies made by the ILO secretariat and formulates its conclusions and recommendations in the form of requests or observations for the benefit of the Governments and the General Conference. In addition to this annual review, the Committee undertakes from time to time, with the assistance of the ILO secretariat, surveys in depth in specific fields covered by the conventions. In 1971, for instance, it carried out a general survey of the effect given to the Discrimination (Employment and Occupation) Convention and Recommendation (No. 111) of 1958 in all the member countries.

118. In the Conference, a tripartite sessional committee reviews the experts' report and transmits it to the plenary session with its comments and conclusions.

119. At the Conference level, the tripartite committee regularly calls upon representatives of the Governments concerned to examine with them specific points of the situation described in their reports.

(b) Representations alleging non-observance of conventions

120. Article 24 of the Constitution provides for the possibility of representations by employers' or workers' organizations alleging non-observance of a ratified convention. The Governing Body may communicate such a representation to the Government concerned and has the right to publish the representation together with any statement made in reply, as well as its own findings on the matter.

(c) Impartial inquiry

121. Article 26 of the Constitution provides that complaints may be filed by a Government against another Government for non-compliance with the terms of a convention which they have both ratified.

122. The Governing Body may refer such complaints to a Commission of Inquiry. 5/ After hearing the Governments concerned and giving full consideration to the complaint, the Commission reports to the Governing Body its findings on the facts and recommends steps that may be taken to meet the complaint.

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5/ So far, three cases have been brought before the Commission of Inquiry.

123. Any of the Governments parties to the dispute may state within three months whether or not it accepts the commission's recommendations and, if not, whether the complaint should be referred to the International Court of Justice. If so, the decision of the Court, affirming, modifying or reversing the Commission's proposals, is final.

124. If the defendant Government fails to comply with the recommendations of the Commission of Inquiry or with the decision of the Court, the Governing Body may recommend to the General Conference "such action as it may deem wise and expedient to secure compliance therewith" (article 33).

(d) Control at the level of the undertaking

125. Control of the application of ILO standards at the level of the undertaking naturally belongs to the Government concerned. Its action here is, however, supported by ILO standards embodied in conventions and recommendations. They provide for (i) a labour inspection system, and (ii) representations by workers' representatives within the undertaking.

(i) Labour inspection

126. While the ILO supervision machinery applies to the application of its standards both in law and in practice and both at the national level and at the level of the undertaking, the Labour Inspection Convention (No. 81) of 1947 stresses the day-to-day role of labour inspectors in securing compliance with accepted standards. The Plantations Convention (No. 110) of 1958 contains similar provisions. Labour inspection standards were extended to agricultural workers by the Labour Inspection (Agriculture) Convention (No. 129) of 1969.

(ii) Action by workers' representatives in the undertaking

127. Another factor of implementation at the level of the undertaking is provided by the supervision exercised by the professional organizations concerned, notably the trade unions. A number of international instruments deal with the procedures to be followed when individual rights are denied. Such is the case, for example, with the instruments relating to minimum wages, social security and termination of employment. The Examination of Grievances Recommendation (No. 130) of 1967 further strengthens existing procedures by giving any worker the right to submit grievances without suffering prejudice and to have such grievances examined according to appropriate rules. More recent instruments, the Workers' Representatives Convention (No. 135) and Recommendation (No. 143) of 1971, are similarly devoted to this type of implementation control.

C. Specific rights

1. The right to work

128. The right to work is essentially conditioned by policies designed to achieve full employment. It also requires, for the exercise of free choice, guarantees of mobility as well as facilities for vocational training and improvement. Thus the Declaration of Philadelphia, in section III, affirms the obligation of the Organisation to further programmes which will achieve full employment, the possibility for workers to be employed in occupations in which they can give the fullest measure of their potentialities and contribute to the common well-being, and the provision of adequate facilities for labour training and mobility.

(a) Right to free choice of employment

129. Among ILO conventions and recommendations, the most comprehensive instruments designed to protect and promote the right to work are the Employment Policy Convention (No. 122) and Recommendation (No. 122) of 1964. The Convention prescribes measures to promote full and freely chosen employment, adopted and supervised in consultation with employers' and workers' representatives. The Recommendation provides more detailed guidance and deals more specifically with the matters referred to in article 6, paragraph 2, of the Covenant.

130. Other instruments deal with particular aspects of the right to work. The Employment Service Convention (No. 88) and Recommendation (No. 83) of 1948 provide for free employment services. Other conventions aim at abolishing fee-charging employment agencies. Further measures to assist workers to find suitable employment may be found in part VI of the Social Policies (Basic Aims and Standards) Convention (No. 117) of 1962, the Vocational Guidance Recommendation (No. 87) of 1949, the Vocational Rehabilitation (Disabled) Recommendation (No. 99) of 1955 and the Vocational Training Recommendation (No. 117) of 1962. Separate recommendations deal with the vocational training of seafarers, fishermen and agricultural workers.

131. The principle of free choice of employment is given specific expression in the Forced Labour Convention (No. 29) of 1930 and in the Abolition of Forced Labour Convention (No. 105) of 1957. Under the latter, States parties undertake to suppress and not make use of forced or compulsory labour.

132. As noted earlier in this section, a special mechanism has been used to ensure abolition of forced labour. In 1951, after an inquiry initiated by Economic and Social Council resolution 195 (VIII) of 1949, a joint United Nations/ILO ad hoc Committee on Forced Labour, composed of independent persons, was set up to make a survey and study of systems of forced labour. The Committee found, when it completed its work in 1953, that its inquiries had indeed revealed the existence of forced labour systems so grave as to threaten basic human rights. After further consideration of the Committee's findings by the Council and the General Assembly, the ILO Governing Body decided in 1955 to establish a new independent ad hoc Committee on Forced Labour, whose work led to the adoption in 1957 of the second of the conventions mentioned above.

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(b) Right to just and favourable conditions of employment

133. Article 7 of the Covenant requires: (i) fair remuneration, providing a decent living, (ii) safe and healthy conditions of work, (iii) equal opportunity for promotion, and (iv) reasonable rest and holiday periods.

(i) Remuneration

134. In this field, the ILO has adopted a number of instruments dealing with the minimum-wage-fixing machinery, the protection of wages and the need for equal remuneration. In addition, instruments concerning labour clauses in public contracts may have important effects for wage rates.

135. Provisions concerning minimum wages are contained in the Minimum Wage Fixing Machinery Convention (No. 26) and Recommendation (No. 30) of 1928, applicable to industry and commerce (including home-working trades), the Minimum Wage Fixing Machinery (Agriculture) Convention (No. 99) and Recommendation (No. 89) of 1951, applicable to agriculture, the Social Policy (Non-Metropolitan Territories) Convention (No. 82) of 1947 and the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962, and in part IV of the Plantations Convention (No. 110) of 1958. Mention must also be made here of the Minimum Wage Fixing (Developing Countries) Convention (No. 131) of 1970. As regards seafarers, actual minimum wage rates have been laid down in several instruments, notably in Conventions No. 76 of 1946, No. 93 of 1949 and No. 109 of 1958, none of which has yet entered into force.

136. The payment of fair wages to workers engaged in the execution of public contracts is one of the objects of the Labour Clauses (Public Contracts) Convention (No. 94) and Recommendation (No. 84) of 1949.

137. In addition, the Protection of Wages Convention (No. 95) and Recommendation (No. 85) of 1949 contain provisions to protect wages from improper abuses.

138. The principle of equal remuneration for men and women for work of equal value has been laid down in the Equal Remuneration Convention (No. 100) and Recommendation (No. 90) of 1951. The Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111) of 1958 prohibit discrimination on the ground of sex, race, colour, religion, political opinion, national extraction or social origin. The Social Policy (Non-Metropolitan Territories) Convention (No. 82) of 1947 and the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962 similarly provide for the abolition of any discrimination on the basis of race, colour, sex, belief, tribal association or trade union affiliation. While they cover the main cases of discrimination likely to occur, these instruments do not establish a general right to equal remuneration for work of equal value, without any distinction "of any kind", as prescribed by the Covenant.

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139. As regards a decent standard of living, the conventions concerning wage-fixing machinery referred to above do not lay down rules regarding the actual level of wages, but the complementary recommendations provide that, in fixing wages, account should be taken of the need to maintain a suitable standard of living. The Social Policy (Non-Metropolitan Territories) Convention (No. 82) of 1947 and the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962, already mentioned above, require that the improvement of standards of living be regarded as the principal objective of economic development.

(ii) Safe and healthy conditions of work

140. ILO standards of safe and healthy conditions of work are directed either at specific branches of activity or at particular aspects of health and safety problems.

141. Dealing with specific branches of activity are, for dock work, the Marking of Weight (Packages Transported by Vessels) Convention (No. 27) of 1929 and the Protection Against Accidents (Dockers) Convention (Revised) (No. 32) of 1932; for building and construction, the Safety Provisions (Building) Convention (No. 62) and Recommendation (No. 53) of 1937; for office and commercial work, the Hygiene (Commerce and Offices) Convention (No. 120) and Recommendation (No. 120) of 1964; for seafarers, the Food and Catering (Ships' Crews) Convention (No. 68) of 1946, the Accommodation of Crews Convention (Revised) (No. 92) of 1949, the Accommodation of Crews (Fishermen) Convention (No. 126) of 1966, the Crew Accommodation on Board Ship (Supplementary Provisions) Convention (No. 133) of 1970, and the Prevention of Occupational Accidents to Seafarers Convention (No. 134) of the same year.

142. The ILO has also drawn up a series of model codes, or codes of practice, covering such fields as safety regulations for industrial establishments, safety and health in dock work, safety in mines, protection against ionizing radiations, and safety and health in agricultural and forestry work.

(iii) Equal opportunity for promotion

143. The Covenant provides for equal opportunity for everyone to be promoted subject to no other consideration than seniority and competence. This right is reflected in most instruments already mentioned prohibiting discrimination in employment, notably: the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111) of 1958, the Social Policy (Non-Metropolitan Territories) Convention (No. 82) of 1947 and the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962.

(iv) Rest, leisure, limitation of working hours and holidays

144. To regulate hours of work, two conventions lay down the standard of the 8-hour day and the 48-hour week: the Hours of Work (Industry) Convention (No. 1) of 1919 and the Hours of Work (Commerce and Offices) Convention (No. 30) of 1930. The Forty-Hour Week Convention (No. 47) of 1935 proclaims the principle expressed in its title, to be applied to different classes of employment in

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separate instruments. Three more specific conventions were subsequently adopted: the Reduction of Hours of Work (Glass-Bottle Works) Convention (No. 49) of 1935, the Reduction of Hours of Work (Public Works) Convention (No. 51) of 1936 and the Reduction of Hours of Work (Textiles) Convention (No. 61) of 1937.

145. Instruments were also adopted to regulate more specifically the hours of work in industrial branches already covered by the 1919 Convention. They are: the Sheet-Glass Works Convention (No. 43) of 1934, the Hours of Work (Coal Mines) Convention (Revised) (No. 46) of 1935 and the Hours of Work and Rest Periods (Road Transport) Convention (No. 67) of 1939. Provisions concerning seafarers are laid down in the Wages, Hours of Work and Manning (Sea) Convention (Revised) (No. 109) of 1958.

146. Also on the question of hours of work, there are a certain number of recommendations which advocate more detailed standards than those in the conventions or cover categories excluded by them. They are: the Reduction of Hours of Work Recommendation (No. 116) of 1962, designed to achieve the social standard of the 40-hour week, the Plantations Recommendation (No. 110) of 1958, the Hours of Work (Fishing) Recommendation (No. 7) of 1920 and the Hours of Work (Inland Navigation) Recommendation (No. 8) of the same year.

147. Provisions for weekly rest are to be found in the Weekly Rest (Industry) Convention (No. 14) of 1921, the Weekly Rest (Commerce and Offices) Convention (No. 106) and Recommendation (No. 103) of 1957, the Hours of Work and Rest Periods (Road Transport) Convention (No. 67) of 1939, the Plantations Convention (No. 110) of 1958 and the Wages, Hours of Work and Manning (Sea) Convention (Revised) (No. 109) of 1958.

148. The more specific problems of night work are covered by the Night Work (Women) Convention (Revised) (No. 89) of 1948, applicable to industrial undertakings, the Night Work of Young Persons (Industry) Convention (Revised) (No. 90) of 1948, the Night Work of Young Persons (Non-Industrial Occupations) Convention (No. 79) of 1946, applicable to occupations other than industrial, agricultural or maritime, and the Night Work (Bakeries) Convention (No. 20) of 1925.

149. Night work is prohibited for young persons under 16 by the Wages, Hours of Work and Manning (Sea) Convention (Revised) (No. 109) of 1958.

150. Minimum daily rest periods are prescribed in the Hours of Work and Rest Periods (Road Transport) Convention (No. 67) of 1939. In agriculture, they are advocated for women and young persons in Recommendations Nos. 13 and 14 of 1921.

151. Provision for annual holidays with pay is made in the Holidays with Pay Convention (No. 52) and Recommendation (No. 47) of 1936; the Holidays with Pay (Agriculture) Convention (No. 101) and Recommendation (No. 93) of 1952; the Paid Vacations (Seafarers) Convention (Revised) (No. 91) of 1949; the Plantations Convention (No. 110) of 1958; the Holidays with Pay Recommendation (No. 98) of 1954, and the Holidays with Pay Convention (Revised) (No. 132) of 1970.

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(c) The right to form and join trade unions

152. Article 8 of the Covenant seeks to provide guarantees for (i) the right to form trade unions and to join the trade union of one's choice; (ii) the rights of trade unions to form national and international federations; (iii) the right of trade unions to function freely, and (iv) the right to strike.

(i) Instruments

153. The first three rights mentioned above are covered by the Freedom of Association and Protection of the Right to Organise Convention (No. 87) of 1948 which, in a number of respects, prescribes more detailed rules than the Covenant or supplements them with additional guarantees. In the Convention, the restrictions authorized on the exercise of these rights are generally more limited than in the Covenant. Despite these differences, the obligations under the Convention are fully protected by the saving clause contained in article 8, paragraph 3, of the Covenant. The Right to Organize and Collective Bargaining Convention (No. 98) of 1949, and the Workers' Representatives Convention (No. 135) and Recommendation (No. 143) of 1971 also contain provisions relevant to article 8 of the Covenant. Reference should moreover be made to the resolution concerning trade union rights and their relation to civil liberties adopted by the International Labour Conference in 1970.

154. The Covenant recognizes the right to strike, which ILO instruments do not. But the conclusions of the Governing Body's Committee on the Freedom of Association and of the Fact-Finding and Conciliation Commission on Freedom of Association have produced a substantial body of established principles providing considerable protection to workers' organizations in their exercise of the right to strike as a legitimate means of defending their occupational interests. As a counterpart of this right, the Voluntary Conciliation and Arbitration Convention (No. 92) of 1951 advocates methods and processes of settling labour disputes without having recourse to direct action.

(ii) Machinery

155. In 1950, the Governing Body established, at the request of the Economic and Social Council, a Fact-Finding and Conciliation Commission on Freedom of Association, composed of independent persons, to which all allegations of infringements of trade-union rights received from Governments and employers' and workers' organizations against States members of the ILO are referred. Allegations against countries not members of the ILO are considered by the Council itself (see para. 115).

156. In addition, the Governing Body decided in 1951 to set up its own Committee on the Freedom of Association with the task of screening such allegations so as to determine the appropriateness of referring particular cases to the Fact-Finding Commission. By March 1972, the Committee had considered a total of 685 cases, reaching conclusions on 640 of them.

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157. A third type of device has been used to ensure application of the right to form and join trade unions. In 1968, the Governing Body appointed, at the request of the Spanish Government, a Study Group composed of three independent persons to examine the labour and trade union situation in Spain in relation to the ILO standards. The Group's final report, submitted in 1969, provided an opportunity for a full and free debate on the position, present and future, of the trade unions in Spain.

## 2. The right to social security

158. Briefly expressed in article 9 of the Covenant, the right to social security has in ILO been the subject of a number of international instruments. They are divided into nine branches, several of which overlap the rights proclaimed in articles 10 and 12 of the Covenant. These branches are: medical care; cash sickness benefit; maternity benefit; invalidity benefit; old-age benefit; survivors' benefit; employment injury benefit; unemployment benefit; family benefit.

159. The ILO instruments of a comprehensive nature include the Income Security Recommendation (No. 67) of 1944, which advocated these nine types of benefits; the Medical Care Recommendation (No. 69) of 1944, providing for comprehensive medical care for all members of the community; the Social Security (Minimum Standards) Convention (No. 102) of 1952, laying down minimum standards for the nine branches of social security and requiring, in case of ratification, acceptance of at least three of them; the Equality of Treatment (Social Security) Convention (No. 118) of 1962, covering the same branches and requiring in case of ratification, acceptance of at least one of them, and the Plantations Convention (No. 110) and Recommendation (No. 110) of 1958, which contain social security provisions.

### (a) Medical care

160. The Sickness Insurance (Industry) Convention (No. 24) and the Sickness Insurance (Agriculture) Convention (No. 25) of 1927 provide for a system of compulsory sickness insurance giving entitlement to medical treatment and the supply of medicines and appliances. Similar provisions are made applicable to seafarers in the Sickness Insurance (Sea) Convention (No. 56) of 1936. The Shipowners' Liability (Sick and Injured Seamen) Convention (No. 55) of 1936 establishes the right to medical care as an employer's liability in respect of sickness occurring during the service. The Social Security (Seafarers) Convention (No. 70) of 1946 prescribes medical benefits similar to those applicable to industrial workers.

161. The Social Security (Minimum Standards) Convention (No. 102) of 1952 provides for wider benefits than the earlier social insurance conventions. The Medical Care and Sickness Benefits Convention (No. 130) of 1969 goes further in including in the benefits dental care and rehabilitation, and in extending the range of persons to be covered to 75 per cent of the economically active population or

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75 per cent of all residents. The Recommendation (No. 134) of the same year advocates extension of these provisions to all economically active persons and to their wives and children.

(b) Cash sickness benefit

162. The Conventions on medical care also deal with payments of cash benefits. The Social Security (Minimum Standards) Convention (No. 102) of 1952 makes provision for a minimum level. While it does not prescribe coverage of the entire population, it requires protection in this respect of at least 50 per cent of all employees, or 20 per cent of all residents, or to all residents whose means do not exceed a certain level. The Medical Care and Sickness Benefits Convention (No. 130) of 1969 extends this coverage to all employees or to 50 per cent of the economically active population. The Recommendation (No. 134) of the same year advocates extension to all economically active persons.

(c) Maternity benefit

163. ILO instruments handle maternity benefits from two different standpoints: as a protection for women workers, and as a branch of social security. The Maternity Protection Convention (Revised) (No. 103) of 1952 requires specific periods of leave, and medical care and cash benefits during these periods. The Social Security (Minimum Standards) Convention (No. 102) of 1952 provides for cash benefits in respect of suspension of earnings resulting from pregnancy and confinement, and for medical care beyond the period of maternity leave. It covers all women in prescribed classes constituting not less than 50 per cent of all employees, or women in prescribed classes of the economically active population constituting not less than 20 per cent of all residents.

(d) Invalidity benefit

164. Conventions on invalidity insurance in various undertakings and in agriculture were adopted in 1933 (Nos. 37 and 38). The Social Security (Minimum Standards) Convention (No. 102) of 1952 also provides invalidity benefits. The standards established by these instruments were revised by the Invalidity, Old-Age and Survivors' Benefits Convention (No. 128) of 1967. It prescribes invalidity benefits at a given level as well as rehabilitation and placement services. This protection is to be secured to all employees, or to 75 per cent of the economically active population, or to all residents with means below a certain level. The Invalidity, Old-Age and Survivors' Recommendation (No. 131) of the same year advocates extension of this protection to all economically active persons.

(e) Old-age benefit

165. Revising the earlier social insurance conventions (Nos. 35 and 36) of 1933, as well as the standards laid down in the Social Security (Minimum Standards) Convention (No. 102) of 1952, the Invalidity, Old-Age and Survivors' Benefits

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Convention (No. 128) of 1967 provides for old age benefits at a prescribed level to persons defined in the same terms as those used for the applicability of invalidity benefits. The companion Recommendation (No. 131) advocates extension of the range of the persons to be covered.

(f) Survivors' benefit

166. The same Invalidity, Old-Age and Survivors' Benefits Convention (No. 128) of 1967 requires payment of survivors' benefits to wives, children and other dependants of persons who were employed or belonged to prescribed classes of the economically active population constituting not less than 75 per cent of the whole economically active population, or to survivors who are also resident and whose means are below a certain level. The complementary Recommendation (No. 131) is designed to extend this protection to the survivors of all economically active persons.

(g) Employment injury benefit

167. The Employment Injury Benefits Convention (No. 121) of 1964, revising earlier standards, provides for medical care and allied benefits in cases of morbidity, incapacity, loss of earning capacity and loss of support due to employment injury for all employees, subject to certain exceptions. The Employment Injury Benefits Recommendation (No. 121) of the same year advocates extension of this protection to further categories of persons.

(h) Unemployment benefit

168. The Unemployment Provision Convention (No. 44) of 1934 prescribes the maintenance of schemes ensuring unemployment benefits related to the contributions paid in respect of previous employment, and for additional allowances in case of need. Such schemes are to be applicable to all persons habitually employed, except seamen, fishermen and agricultural workers. Seafarers are covered by the Social Security (Seafarers) Convention (No. 70) of 1946. The Social Security (Minimum Standards) Convention (No. 102) of 1952 extends unemployment benefits to further categories of workers.

(i) Family benefit

169. The Social Security (Minimum Standards) Convention (No. 102) of 1952 prescribes benefits for the assistance of children. It requires coverage of not less than 50 per cent of all employees, or of categories of persons constituting not less than 20 per cent of all residents, or of all residents whose means are below a certain level.

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3. The right to an adequate standard of living

170. The guarantee of an adequate standard of living and the continuous improvement of living conditions is the aim of a large number of ILO instruments, most of which have already been mentioned, particularly in respect of the right to just and favourable conditions of work and of the right to social security. More general provisions are contained in the Social Policy (Non-Metropolitan Territories) Convention (No. 82) of 1947 and in the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962. Other instruments having a direct bearing on standards of living are the Indigenous and Tribal Populations Convention (No. 107) and Recommendation (No. 104) of 1957, the Plantations Convention (No. 110) and Recommendation (No. 110) of 1958, the Workers' Housing Recommendation (No. 115) of 1961, the Co-operatives (Developing Countries) Recommendation (No. 127) of 1966 and the Tenants and Share-Croppers Recommendation (No. 132) of 1968.

4. The right to the enjoyment of the highest attainable standard of physical and mental health

171. ILO standards in the field of occupational safety and health have been reviewed in respect of the right to the enjoyment of just and favourable conditions of work and of the right to social security. Both the Indigenous and Tribal Populations Convention (No. 107) of 1957 and the Plantations Convention (No. 110) of 1958 lay down requirements for the provision of medical services.

5. The right of the family, motherhood and childhood to protection and assistance

172. This right may be considered under three main headings: (a) family, (b) maternity, and (c) children and young persons.

(a) Protection and assistance to the family

173. While the ILO is not primarily responsible for this field of activity, some of its standards have a bearing upon certain of its aspects. General principles relevant to it may be found in the Income Security Recommendation (No. 67) of 1944, which advocates co-operation of society with parents through general measures of assistance to secure the well-being of dependent children. This notion is developed in the Social Security (Minimum Standards) Convention (No. 102) of 1952. Reference must also be made here to the Employment (Women with Family Responsibilities) Recommendation (No. 123) of 1965.

(b) Maternity protection

174. The Maternity Protection Convention (Revised) (No. 103) of 1952 has already been noted under the heading of social security. The companion Recommendation (No. 95) of the same year prescribes more advanced standards of leave and benefits;

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it also provides for facilities for nursing mothers and infants. Standards similar to those required by the Convention are contained in the Plantations Convention (No. 110) of 1958.

(c) Protection of children and young persons

175. The Social Policy (Aims and Standards) Convention (No. 117) of 1962 sets forth general standards for the school-leaving age, a minimum age for employment, and conditions of employment. On the minimum age, standards for specific sectors of activity are contained in the Minimum Age (Agriculture) Convention (No. 10) of 1921; the Minimum Age (Trimmers and Stokers) Convention (No. 15) of 1921; the Minimum Age (Sea) Convention (Revised) (No. 58) of 1936; the Minimum Age (Industry) Convention (Revised) (No. 59) of 1937; the Minimum Age (Non-Industrial Employment) Convention (Revised) (No. 60) of 1937; the Minimum Age (Fishermen) Convention (No. 112) of 1959, and the Minimum Age (Underground Work) Convention (No. 123) of 1965. Apart from agriculture, where a 14-year standard remains, the general minimum age is set at 15, with lower levels for light work in non-industrial employment and a higher minimum for work that is dangerous to life, health or morals. At its June 1972 session, the International Labour Conference decided on the desirability of adopting in 1973 a new convention and recommendation concerning minimum age for admission to employment.

176. Medical examination for entry into employment and annual re-examination are prescribed by the Medical Examination of Young Persons (Sea) Convention (No. 16) of 1921; the Medical Examination of Young Persons (Industry) Convention (No. 77) of 1946; the Medical Examination of Young Persons (Non-Industrial Occupations) Convention (No. 78) of 1946; the Medical Examination (Fishermen) Convention (No. 113) of 1959, and the Medical Examination of Young Persons (Underground Work) Convention (No. 124) of 1965.

6. The right to education

177. The right to education falls primarily within the competence of organizations other than the ILO. Certain ILO instruments, however, have a bearing upon it. The Social Policy (Non-Metropolitan Territories) Convention (No. 82) of 1947 and the Social Policy (Basic Aims and Standards) Convention (No. 117) of 1962 provide for the development of education, vocational training and apprenticeship systems, and for the prescription of a school-leaving age. The Indigenous and Tribal Populations Convention (No. 107) and Recommendation (No. 104) of 1957, as well as the Plantations Recommendation (No. 110) of 1958 also contain provisions concerning education and vocational training. More general standards relating to vocational training have been mentioned in connexion with the right to the enjoyment of just and favourable conditions of work.

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## 7. The right to participate in cultural life

178. Here again, the primary competence belongs to other organizations, more particularly to UNESCO. It may nevertheless be noted that the ILO joined with UNESCO and the International Unions for the Protection of Literary and Artistic Work (now WIPO) in the preparation of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations adopted in 1961 (see below, para. 282).

### D. Promotional activities

179. The promotion by the ILO of the observance of economic, social and cultural rights, in so far as they fall within its competence, is essentially directed at the acceptance and implementation of its own conventions and recommendations. To go into the detail of this promotional work would involve a review of practically all the ILO activities and therefore exceed the limits of this report. It may, therefore, suffice to note here that, while the ILO standards are prepared through a process of extensive consultation of expert bodies, employers' and workers' organizations, regional and special conferences, and Governments, their application becomes the continuing concern of the organization at all levels and is the subject of frequent admonitions by the Governing Body and the General Conference.

180. An important initiative taken by the ILO may, however, be singled out as potentially effective in promoting opportunities for the enjoyment of the right to work. It is the World Employment Programme, launched in 1969, which has as its aim "to make productive employment for large numbers of people a major national goal of national and international policies for development". To assist member States in the drawing up and implementation of plans of action, the ILO undertakes, at the request of Governments, a series of strategic missions. Such missions visited Colombia in 1970 and Ceylon, Iran and Kenya in 1971. They are conceived on a multidisciplinary basis and carried out with the co-operation of the other agencies concerned, with the financial assistance of UNDP. Other employment promotion missions were sent in 1971 to Liberia and Madagascar, similarly financed by UNDP. In addition, regional teams are at work in Latin America, Asia and Africa.

181. A special mention should also be made of the support given by the ILO to the celebration of the International Year for Human Rights in 1968. In 1966, the General Conference adopted a resolution pledging the organization's co-operation in the activities contemplated for that year and calling on employers' and workers' organizations everywhere to work towards the advancement of human rights, through the acceptance of the ILO standards and their implementation, and to help in the review and assessment of the role of the ILO and the co-ordination of its activities into a concerted programme.

182. In the following year, another Conference resolution invited Governments to ratify the International Covenants as well as the ILO Conventions having a bearing on human rights, and requested that a comparative study be made of the relevant

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provisions of the International Covenants on Human Rights and ILO conventions and recommendations, so as to determine how the organization could best assist in their observance. This study was published in 1969. 6/

183. As a further contribution to the Year, the Director-General's report to the 1968 session of the General Conference was devoted to "the ILO and human rights" and provided a basis for a general review by the Conference of ILO action in this field. Following this review, a resolution was adopted, dealing in particular with the right to freedom of association. It called for a concerted programme that would form the basis and inspiration for future ILO action in the field of human rights. It also emphasized the fact that the whole of the research, operational and standard-setting work of the organization is aimed at promoting and extending human rights to increasing numbers of people.

#### E. Advisory and assistance activities

184. As a companion to the process of supervising the application of ILO standards, described above, the provision of advisory and assistance services, mostly in the form of operational programmes of technical co-operation, aims at helping requesting Governments in the progressive realization of these standards. More precisely, the operational programmes are designed not only to eliminate obstacles that are in the way of the full enjoyment of the rights concerned but also to create the conditions in which they may be exercised.

185. In accordance with the tripartite nature of the ILO, the participation of employers' and workers' bodies in the framing of assistance policies and in the establishment of priorities is given particular importance and is frequently stressed by the General Conference.

186. On that basis, the advisory assistance services provided by the ILO are generally directed at the following objectives: (i) preparation of labour legislation to conform with ILO standards; (ii) development and strengthening of labour administration, particularly of labour inspection services, so as to ensure effective application of the legislation; (iii) research into appropriate methods of protecting the rights of individuals, including the role of labour courts and of similar judicial institutions; (iv) informational and educational activities, with special reference to Workers Education Programmes, geared to the needs of workers' organizations, and (v) seminars and similar meetings, designed as in the United Nations to provide for exchanges of views and experience among officials of Governments and employers' and workers' organizations. Since 1964, the ILO has organized regional seminars with the object of acquainting the national officials concerned with the obligations and procedures relating to international labour standards.

187. Many of these assistance activities are financed by UNDP and carried out under its auspices, or from other external sources. Those that do not lend themselves to the type of operations carried out by UNDP are supported by the ILO regular budget. In 1971, expenditure under these three headings amounted to approximately \$33.2 million for UNDP, \$3.0 million for other external sources and \$1.7 million for the regular budget.

### III. FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

188. The main contribution of FAO to the realization of economic, social and cultural rights relates to the right to adequate food. The organization's role in this field is not expressed by the formulation and promotion of nutritional standards, which would rather be within the province of WHO, but by action to provide the necessary basis for the full enjoyment of this right, namely by the production of food and the improvement of nutrition opportunities.

189. The World Food Programme (WFP), created jointly by FAO and the United Nations (see paragraph 90 (d) above), initiated a vast action designed to provide food as an instrument of development. Though WFP is also expected to help victims of emergencies, its main function is to foster development by granting food aid as a form of capital aid. Its assistance may be directed, for example, at labour-intensive projects, at the feeding of school children as an investment in future human resources, or at the resettlement of displaced or nomad communities on new land. Up to July 1971, the cumulative total contributions made to the Programme amounted to \$737 million in cash, commodities and services. The annual target is of the order of \$100 million.

190. Likewise, the Freedom from Hunger Campaign (FFHC), a popular movement launched by FAO in 1960, has seen the mobilization and distribution of hundreds of thousands of tons of food to people suffering from malnutrition throughout the world.

191. In addition, FAO's Indicative World Plan for Agricultural Development now serves as an over-all guide for feeding the world and defining agricultural targets. The plan embodies the results of four regional studies - on the Near East, South America, Africa south of the Sahara and the Far East - covering a total of 64 countries. It sets 1975 and 1985 as target dates for the objectives it proposes.

192. Already, the plan has helped FAO to identify five areas of the food and agricultural situation in which particular effort is called for: (a) more extensive cultivation of high-yielding cereal varieties; (b) greater efforts to reduce wastage and loss of farm production; (c) expansion of programmes to narrow the protein gap; (d) greater efforts to increase the earning and saving of foreign exchange resources by the developing world; (e) expansion of programmes to enhance the quality of life and the effectiveness of rural labour.

193. The plan is continuously reviewed and updated. It has now evolved into a perspective study of world agricultural development and serves as the broad strategy for FAO in its contribution to the enjoyment of the right to adequate food.

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#### IV. UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION (UNESCO)

194. The task of UNESCO is to stimulate educational, scientific and cultural progress and to encourage international co-operation by assisting member States and serving as a clearing-house in these fields.

195. In respect of human rights, its action may be viewed from the angle of the three main functions with which it is entrusted. In science and culture, the organization contributes to the creation and development of the conditions required for the realization of the right to take part in cultural life and to enjoy the benefits of scientific progress set forth in article 1 of the Covenant. In education, its task is more specific, inasmuch as the obligation proclaimed in the Covenant to provide for compulsory education at the primary level and for accessibility to the higher levels constitutes for the individual a subjective right of a concrete nature, calling for the formulation of binding standards.

196. Standards of a legal nature are, in UNESCO, embodied in conventions and recommendations. Their application is ensured by a reporting process and by specific measures provided in some of the conventions.

197. Promotional activities are carried out with the assistance of the organization's national committees through surveys, resolutions, campaigns, programmes and other appropriate action.

198. Advisory services are rendered to requesting Governments, or to regions, in the form of seminars or technical assistance projects, and through co-operation with other international organs, such as UNICEF and IBRD.

##### A. Organs concerned with the formulation of standards

199. The General Conference is the sole organ competent to adopt formal conventions and recommendations. For conventions, a two-thirds majority is required. The Executive Board prepares the work of the General Conference, examines the programme and budget of the organization and submits them to the Conference with its recommendations. It is responsible, through the Director-General and the secretariat, for the execution of the programme adopted by the Conference.

##### B. General instruments and implementation machinery

200. The UNESCO constitution provides in article I that:

"the purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms... without distinction of race, sex, language or religion...."

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201. In the same article, the organization is given the task of "instituting collaboration among the nations to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social".

202. The implementation machinery is closely related to the instruments designed to protect specific rights. It is reviewed under the relevant sectoral headings. The constitution, however, contains, in article VIII, a general rule to the effect that "Each Member State shall report periodically to the Organization... on its laws, regulations and statistics relating to educational, scientific and cultural life and institutions, and on the action taken upon the recommendations and conventions referred to in Article IV, paragraph 4". According to paragraph 6 of the same article, the General Conference is responsible for receiving and considering these reports. The Board's competence in this respect is limited to powers specifically delegated to it by the Conference. To that extent, both these bodies are in a position to supervise the application of the standards adopted by the organization.

### C. Sectoral Rights

#### 1. The right to education

203. The Covenant proclaims in article 13 the right to education, as (i) free, at least at the elementary and fundamental levels, (ii) compulsory at the elementary level, (iii) generally available at the technical and professional levels, and (iv) equally accessible to all on the basis of merit at the higher level.

#### (a) Instruments

204. The instruments designed by UNESCO in this field are the Convention Against Discrimination in Education and the companion Recommendation, both adopted on 10 December 1960. The Convention has so far been ratified by 59 States.

205. According to their title, these instruments appear to be primarily directed at the elimination of discrimination. In fact, however, their contents also include the more general standards contained in article 13 of the Covenant.

206. Other instruments relevant to the right to education are the 1962 Recommendation concerning Technical and Vocational Education, the 1966 Recommendation concerning the Status of Teachers and the 1968 Recommendation concerning the International Standardization of Educational Statistics.

207. The Convention against Discrimination in Education prohibits any distinction, exclusion, limitation or preference based on race, colour, sex, language, religion, political or other opinions, national or social origin, economic condition or birth, that has the purpose of impairing equality of treatment in all types of education, including access, standards, quality and similar factors.

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208. The following are not considered as discriminatory: separate systems differentiating by (i) sex, provided they offer equivalent conditions, and (ii) religion or language, provided that participation remains optional. In addition, private institutions may be established or maintained if their object is not to discriminate but to offer additional facilities.

209. More generally, the parties to the Convention undertake to formulate, develop and apply national policies ensuring equal opportunities in education and, in particular, to make primary education free and compulsory, secondary education open to all and higher education equally accessible on the basis of individual capacity, to ensure equivalent standards of education, to encourage continuing education and to provide training for teachers.

210. The Convention also requires that the freedom of parents to choose for their children educational institutions other than those maintained by public authorities be fully respected.

211. The Recommendation of the same date contains provisions that are similar but presented as guiding principles for those member States which do not wish to be bound by the formal obligations resulting from ratification of the Convention.

(b) Implementation machinery

212. The Convention (article 8) requires the States parties to report on the legislative and administrative measures they have taken for its application. Periodic reports have been called for on two occasions and have been examined by a Special Committee set up by the Executive Board at the invitation of the General Conference; the Committee submits its reports to the General Conference through the Executive Board. The Convention further determines that any dispute between parties concerning its interpretation or application that cannot be settled by negotiation may, by request, be referred to the International Court of Justice.

213. A more specific machinery is offered by the Protocol instituting a Conciliation and Good Offices Commission to be responsible for seeking a settlement of any disputes which may arise between States Parties to the Convention against Discrimination in Education, which was adopted by the General Conference on 10 December 1962. This instrument has so far been ratified by 20 Governments. It entered into force on 24 October 1968.

214. The Commission created by the Protocol consists of 11 members elected for six years by the General Conference and serving in their personal capacity.

215. Disputes between parties to the Protocol concerning the application of the Convention may, if not adjusted by bilateral negotiation, be referred by any of them to the Commission, which, after ascertaining the facts and attempting to bring about an amicable solution, must draw up a report and indicate the recommendations which it made with a view to conciliation. It may recommend to the Executive Board or the General Conference that the International Court of Justice be asked for an advisory opinion on any legal question connected with the dispute.

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216. Beginning six years after the coming into force of the Protocol, the Commission may, subject to their agreement, also serve in the same capacity between parties to the Convention which are not parties to the Protocol.

217. The Recommendation concerning the Status of Teachers offers detailed guidelines for the building up of the teaching profession as a necessary basis for the exercise of the right to education. It stresses the fact that advances in education depend largely on the existence of a qualified teaching staff, whose profession should be regarded as a public service and whose status should be commensurate with the high objectives of education.

218. On a more specific subject, the Recommendation concerning Technical and Vocational Education of 1962 calls upon Governments to adopt policies for all forms of education given in schools and other similar institutions so as to prepare persons for work in such fields as industry, agriculture, commerce and related services. It advocates their inclusion in national plans for economic development as an integral part of an over-all system of education. In this planning, care should be taken to place the cultural content of this type of education at such a level as to prevent specialization from stifling broader interests. Facilities for women should be the same in importance and range as for men.

## 2. The right to participate freely in cultural and scientific life

219. Under this heading, the Covenant distinguishes between (a) the right to take part in cultural life and to enjoy the benefits of scientific progress and its applications, and (b) the right to the protection of the moral and material interests arising out of scientific, literary or artistic work. These two aspects, the subjective and the objective, cover both cultural life and scientific progress. They are closely linked. The second indeed conditions the first, since the enjoyment of culture and science requires that the creation and existence of cultural and scientific assets be effectively safeguarded.

220. As noted above, UNESCO's task in this field is twofold: to press for the protection of the cultural and scientific heritage, and to ensure that it is available for the enjoyment of the rights proclaimed by the Covenant. The organization's formal standards are mainly directed at the realization of the first of these objectives, while its direct and promotional and advisory action embraces both the first and the second, aiming at the availability to all of the benefits provided by art and science.

### (a) Protection and enjoyment of cultural assets

221. To propagate the general use of museum collections, a Recommendation concerning the Most Effective Means of Rendering Museums Accessible to Everyone was adopted in 1960.

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222. A Convention for the Protection of Cultural Property in the Event of Armed Conflict, with Regulations for the Execution of the Convention and attached Protocol, was adopted in 1964. It provides for centres and refuges created to shelter immovable and movable cultural property to be placed under special protection and entered in an International Register of Cultural Property under special Protection maintained by UNESCO. It further entrusts the Director-General with the task of compiling an international list of persons qualified to carry out the functions of a Commissioner-General for Cultural Property. As a means of ensuring implementation, it finally prescribes publication by the States parties of the measures taken in fulfilment of the Convention and of the related Regulations.

223. The General Conference adopted in 1964 a Recommendation on the Means of Prohibiting and Preventing the Illicit Export, Import and Transfer of Ownership of Cultural Property, the purpose of which is to ensure that countries are not deprived of their cultural heritage by illegal means and to promote international co-operation to that end. In 1970, a formal Convention was adopted, giving to the recommended rules the character of binding obligations. It entered into force on 24 April 1972 and has been ratified or acceded to by five States.

224. In 1968, the General Conference adopted a Recommendation concerning the Preservation of Cultural Property Endangered by Public or Private Works. It stresses the fact that contemporary civilization and its future evolution rests, among other elements, upon cultural traditions and that it is consequently indispensable to protect cultural property and to reconcile the demands of economic and social development with this requirement. The Recommendation defines cultural property and outlines measures designed to preserve or salvage it.

225. Other recommendations in this field cover the International Principles Applicable to Archaeological Excavations, 1956, and the Safeguarding of the Beauty and Character of Landscapes and Sites, 1962.

(b) The right to share in scientific advancement and its benefits

226. The draft of a Recommendation concerning the Status of Scientific Workers and Technicians is in preparation for adoption in 1974. Otherwise, the right to participate in scientific advancement is in UNESCO mainly promoted by direct action of a promotional and advisory nature. It will accordingly be reviewed later in this section.

(c) Protection of the moral and material interests resulting from any scientific, literary or artistic production

227. A Universal Copyright Convention, with appended Declaration relating to article XVII and Resolution concerning article XI, and attached Protocols, containing provisions complementary to those of the Berne Convention of 1886 (see paragraph 279 below) and the Inter-American Copyright Conventions, was adopted in 1952. The United International Bureaux for the Protection of Intellectual

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Property (BIRPI)<sup>7/</sup> was one of the parties associated with the preparation of this Convention. It was revised in 1971 to take account of the economic, social and cultural conditions obtaining in developing countries, while ensuring authors a reasonable degree of effective protection. The revision introduced other modifications of a technical nature. Article XI of the Convention and appended Resolution concerning article XI provide for the establishment of an Intergovernmental Committee to prepare periodic reviews of the instrument and to examine related problems. The Convention further prescribes that any dispute not settled by negotiation is to be brought before the International Court of Justice for determination by it.

228. A Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, prepared in co-operation with the ILO and BIRPI was adopted in 1961 by an intergovernmental conference jointly convened by the three organizations. An Intergovernmental Committee, assisted by a tripartite secretariat, ensures the application of its provisions.

#### D. Promotional activities

229. In one way or another, UNESCO's activities are all directed at the promotion of the right to education and to the enjoyment of culture and of scientific progress. In more specific terms, they include, under resolutions of the competent bodies, studies and surveys, translation and publication of representative works, and meetings designed to stimulate thought on such topics as the objectives of education, the diversity of cultures and the universality of science. Promotional work also extends to the implementation of conventions and recommendations adopted by the organization; as such, it has already been reported earlier in this section.

230. A full picture of UNESCO's promotional activities would accordingly exceed the scope of this report. Selected examples, taken mainly from recent activities, will, however, suffice to illustrate the way in which the organization approaches its task of advancing the realization of the right to education, culture and science.

#### 1. Education

231. In 1965, UNESCO helped to organize a World Congress on the eradication of illiteracy, held at Teheran, which provided the starting-point for a campaign that has since developed into many programmes and projects. Another major step in the furtherance of the right to education was the organization's acceptance of primary responsibility for the preparation and execution of the programme for the International Education Year referred to above (see paragraph 83).

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<sup>7/</sup> Now the World Intellectual Property Organization (WIPO) (see section VIII below).

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232. In this connexion, a report prepared in 1972 for UNESCO by an International Commission on the Development of Education deserves to be mentioned here. Under the title Learning to Be, it presents "a critical reflection by men of different origins and background, seeking, in complete independence and objectivity, for over-all solutions to the major problems involved in the development of education in a changing universe".

233. Apart from such actions of a general character, UNESCO has directed its attention to the situation of particular categories of people whose need for education requires special care. It has thus promoted access of women and girls to technical and vocational education as well as their right to literacy, combining in this way the right to education with the fight against discrimination.

234. Another class of individuals who need promotional assistance is that of handicapped and retarded adults and children. A review covering 38 countries was published in 1970 and more specialized studies were undertaken on various aspects of educational rehabilitation. Interagency consultations were held on this subject with the other United Nations organizations concerned.

235. Similarly, an analytical survey of research on the antecedents and consequences of early school leaving was made for the International Bureau of Education (now a branch of UNESCO). This study, prepared under the auspices of the Graduate School of Education of Harvard University, is centred on the educational problems of the developing countries; it is accordingly particularly relevant to the realization of the right to education.

## 2. Culture

236. On cultural rights, UNESCO's promotional activities are governed by the Declaration of the Principles of International Cultural Co-operation, adopted in 1966 by the General Conference. This statement of policy, to which the broadest diffusion was given, aims at contributing to the application of the relevant tenets advocated by the Universal Declaration of Human Rights and by the Declaration of the Rights of the Child. To that end, it sets forth principles of international co-operation covering all aspects of intellectual and creative activities relating to education, science and culture.

237. In accordance with this objective, studies were undertaken and programmes of action put into execution to facilitate general access to the world cultural heritage. They include a journal of world history, studies of African, Asian, Latin American and European cultures and, more recently, the convening of an intergovernmental conference on cultural policies in Europe.

238. Since the enjoyment of culture depends on its diffusion, mention may be made here of the UNESCO "Programme to promote the free flow of information and ideas" which has been in force for several years. While the suggestions made to Governments under this programme have no formal regulatory character, they are undoubtedly effective in furthering the realization of the right to culture.

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239. In addition, UNESCO finances a number of institutes dealing with the theatre, music, art, literature, architecture and African culture. It also continues the printing of its Index-Translationum and its series of publications towards world-wide dissemination of knowledge in all aspects of art.

240. An important factor in the exercise of cultural rights is general access to museum collections. Here, too, UNESCO is active in promoting international co-operation, involving the training of specialists and the regular exchange of information and experience.

### 3. Science

241. The right to participate in the progress of science and technology is, in UNESCO, supported by its comprehensive programme of international scientific co-operation and, more specifically, by its contribution to the application of science and technology to development, in which the entire United Nations system participates under the over-all guidance of the Advisory Committee on the Application of Science and Technology to Development (see paragraph 23).

#### E. Advisory and development assistance activities

##### 1. Education

242. In general, UNESCO's advisory and development assistance work is financed by its own budget, by trust funds contributed by individual Governments for special purposes and by UNDP. In 1971, the funds allocated from this last source amounted to about \$US 37 million. In addition, the organization co-operates in IBRD projects that have an educational component.

243. UNESCO's "Participation programme", makes it possible for a number of developing countries to obtain expert services on such problems as the application of research methods to special education, the training of teachers for handicapped children and other similar needs. Technical assistance is also provided under UNDP for such purposes.

244. UNESCO co-operates with UNRWA in the education of refugees from Palestine by providing textbooks and assisting in the organization of school-leaving examinations. It similarly helps UNHCR and the Organization of African Unity in giving educational assistance for African refugees and other peoples struggling to liberate themselves from colonial domination and all forms of apartheid.

245. To reinforce the educational infrastructure as a necessary basis for the enjoyment of the right to education, UNESCO organizes seminars, meetings of experts, and special conferences designed to facilitate the exchange of information and experience. It also supports permanent organs such as its Institute of Education in Hamburg and the International Commission on the Development of Education.

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246. Under a co-operative programme with IBRD and IDA, UNESCO participation is directed at (i) the formulation of basic standards for national systems of education and their development, (ii) the preparation of "country profiles" of national educational systems, (iii) the programming of specific projects for IBRD financing, (iv) the preparation of technical papers relating to particular aspects of educational development, and (v) the provision of technical assistance for the implementation of projects financed by IBRD and IDA.

## 2. Culture

247. In addition to its promotional work in the cultural field, UNESCO develops a substantial advisory and assistance activity through its Clearing House and Research Centre for Cultural Development.

248. Under its participation programme, UNESCO also gives assistance to member States for the conservation of their cultural heritage, through the organization of expert meetings, publications, the provision of equipment and research for exhibitions and the presentation of museum collections.

249. Assistance is similarly made available for the preservation and development of sites, monuments and works of art. Countries assisted recently in this way have included Indonesia, Pakistan, Egypt, Afghanistan and Italy.

## 3. Copyright

250. An African study meeting on copyright (Brazzaville, 1963) was convened jointly by UNESCO and the International Union for the Protection of Literary and Artistic Works (see paragraph 273) to assist African States in defining the general principles applicable in their respective territories to the protection of authors. A subsequent meeting of African experts (Geneva, 1964) was organized by UNESCO and BIRPI to study a draft model law on copyright for African countries. As it was recognized that the existence of national copyright legislation and the adherence of a country to a multilateral copyright convention were not sufficient in themselves to safeguard effectively the moral and economic interests of creators of intellectual works, and that a necessary complement would appear to be the creation of a national society or association of authors, an African Committee of Experts (Abidjan, 1969) was convened by UNESCO and BIRPI for the purpose of drafting model statutes for societies of authors in African countries.

251. Similarly, UNESCO organized in 1966, in co-operation with the International Confederation of Societies of Authors and Composers, an international meeting of copyright experts to study national legislation and make recommendations for its improvement.

252. UNESCO also continued to participate, upon request, in the activities of member States by assisting them in matters concerning the national and international regulation of copyright, particularly by allocating fellowships for the training

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of copyright specialists, by sending experts to assist the States concerned in formulating their national legislation or in bringing the existing laws into line with international standards, in setting up local societies of authors and in improving ways and means of collecting and distributing royalties.

253. Finally, studies have been undertaken aimed at improving the status of translators, with a view to determining whether it is advisable to adopt an instrument for the international regulation of protection for this category of intellectual workers. Similar consideration has been given to the technical and legal aspects of the photographic reproduction of copyrighted works, in particular, to the desirability of adopting an international regulation concerning such reproduction, on the possible scope of a regulation in this area and on the method that should be adopted for this purpose. UNESCO, in co-operation with other interested intergovernmental organizations, has also continued its studies on problems in the field of copyright and the protection of performers, producers of phonograms and broadcasting organizations raised by transmissions via space satellites. Two committees of governmental experts, convened jointly by UNESCO and WIPO, met in Lausanne in 1971 and in Paris in 1972, respectively, to make a thorough study of the problems involved and to formulate recommendations calculated to resolve them. A third committee of experts is scheduled to meet in 1973 to examine further the problems raised in this area. UNESCO, jointly with WIPO, has also undertaken a study of the copyright problems arising from the use of electronic computers and other types of technological equipment.

254. Pursuant to the recommendation of the International Copyright Joint Study Group (Washington, 1969), an International Copyright Information Centre has been established in UNESCO, designed to afford developing countries greater access to works protected by copyright. Some of the main functions of the Centre are to collect copyright information on books that can be made available to developing countries on terms as favourable to them as possible, to arrange for the transfer to developing countries of rights ceded by copyright holders and to study ways and means of securing copyright and other rights where foreign currency is not available.

#### 4. Science

255. Advisory services to member States in the planning of science policy and the organization of research include experimental evaluation of research units, staff missions and the planning of national centres for scientific and technological research.

256. Assistance is also provided to requesting Governments for the development of science education. Under UNESCO's participation programme, aid missions to that end have been assigned to a number of developing countries.

257. In the training of technicians, assistance is provided to numerous countries in the form of expert missions, fellowships and study grants. Similar action is undertaken in respect of engineering education and training in the engineering sciences.

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## V. WORLD HEALTH ORGANIZATION (WHO)

258. When it was written in 1946, the constitution of WHO anticipated the formulation of the right proclaimed in article 12 of the Covenant in enunciating the principle that "The enjoyment of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition".

259. WHO's contribution to human rights does not, however, take the form of international legal instruments creating binding obligations. Its role is rather to act as the directing and co-ordinating authority on international health work, to stimulate and advance programmes for the eradication of epidemic, endemic and other diseases and for training and teaching in health, medical and related professions, to establish and stimulate international standards for all products relating to health and to foster activities in mental health.

260. Norms creating subjective rights are left to national legislation. At the international level, formal standards can be found in the conventions and recommendations on social security, which have already been reviewed in section II above, on the ILO.

261. WHO co-operates closely with the other organizations of the United Nations system. It naturally assumes primary responsibility for all health matters arising at that level. It participates in human rights seminars and other similar activities. It is concerned about the effects on human rights of advances in science and technology, particularly in biology, medicine and biochemistry, and of the continued increases in the cost of medical care.

262. WHO's activities include the control of communicable diseases, improvement of environmental health, research, education and training. Advisory assistance is provided to requesting Governments on the planning of their public health services, either on an independent basis or as a part of wider schemes of economic and social development. In this respect the organization plays a major role in the implementation of the conventions and recommendations concerning social security. In addition, WHO runs a number of world-wide services, such as the notification of communicable diseases and the compilation of an international pharmacopoeia.

263. In this way WHO bears the main burden at the international level for the creation of the conditions required for the enjoyment of the right to the highest standards of health.

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## VI. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (IBRD)

264. The International Bank for Reconstruction and Development (IBRD) and its affiliates, the International Development Association (IDA) and the International Finance Corporation (IFC), play an important role in the United Nations system in promoting the realization of the economic conditions required for the enjoyment of the rights recognized in the Covenant.

265. Among the purposes of the World Bank Group is the encouragement of international investments for the development of productive resources, thereby assisting in raising productivity, standards of living and conditions of labour.

266. Recent reviews of the Group's activities show that its concern has over the years broadened to include areas of direct interest to the exercise of economic, social and cultural rights, such as urban and rural development, nutrition, education and population, which all involve rights recognized in the Covenant.

267. The problems of urban growth in developing countries, for example, led IBRD to find more effective approaches of help in promoting the provision of home sites and public services for families in the lower income brackets. In the field of nutrition, the Group is now concerned with the action undertaken to fight protein deficiency and has become a sponsor of the Protein Advisory Group. In education, it is giving assistance to the development of primary, secondary and technical education. In the financial year ending 30 June 1972, the total outlay (loans and credits) of the World Bank Group totalled some \$3,100 million, as compared with \$2,600 million for the previous year.

268. These and other examples show that problems such as income distribution and other factors affecting the quality of life are receiving growing attention in the planning, execution and evaluation of the Group's work. Indeed, as stated by its President before the Board of Governors in September 1972, the Bank Group is resolved to shift its emphasis into different sectors and different geographical areas. In a developing world in which hunger is chronic, which is darkened by functional illiteracy and which is caught up in the threat of unmanageable population pressures, this means intensifying the Group's operations in agriculture, expanding its efforts in education and facing up to the complex and controversial strains which the runaway population growth may create both at the family and the national level for any country struggling with the task of improving the lot of its people.

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VII. OTHER ORGANIZATIONS OF THE UNITED NATIONS SYSTEM

269. The other agencies of the United Nations system participate less directly in the realization of economic, social and cultural rights, although they all make, within their own sphere of competence, contributions to it.

270. The Universal Postal Union (UPU) and the International Telecommunication Union (ITU), for instance, in facilitating international communications, assist in the promotion of the free flow of information and ideas which is essential to the full enjoyment of cultural rights; the International Civil Aviation Organization (ICAO) and the Inter-Governmental Maritime Consultative Organization (IMCO) deal with the transport of persons and goods which is the prerequisite for the exercise of many of the human rights; IMCO is also engaged in the formulation of rules for occupational safety of merchant seamen and of seamen on board fishing vessels, thereby contributing to the improvement of their conditions of work; the General Agreement on Tariffs and Trade (GATT) works towards the development of trade with a view to raising standards of living and fostering full employment.

271. Thus, while the activities of all the components of the system are directed at the improvement of economic, social and cultural conditions throughout the world, and more particularly in developing countries, it may suffice to note here that their work is instrumental in providing, at the international level, the concrete framework for the efforts undertaken in the United Nations to ensure the full realization of the rights set forth in the Covenant.

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## VIII. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

272. The World Intellectual Property Organization is the only world-wide intergovernmental organization outside the United Nations system that makes a significant contribution to the realization of economic, social and cultural rights. In this field, as in others, it co-operates closely with the relevant units of the system, more particularly with UNESCO.

273. WIPO came into being in 1970 as the successor to the United International Bureaux for the Protection of Intellectual Property (BIRPI), which had been in existence for over 80 years. WIPO is responsible for the administration of the International Union for the Protection of Industrial Property and the International Union for the Protection of Literary and Artistic Works, each founded on a multilateral treaty. WIPO's field of action, intellectual property, comprises industrial property, chiefly in the form of inventions, trade marks and designs, and copyright, chiefly in the form of literary, musical, artistic, photographic and cinematographic works.

274. The organization thus plays an important part in "ensuring the right of everyone... to benefit from the protection of the moral and material rights resulting from any scientific, literary or artistic production of which he is the author" (article 15 of the Covenant). In providing for the conditions required for scientific, technological and cultural creation, it parallels, but with a higher degree of specificity, certain aspects of the activities of the ILO and UNESCO concerning the protection of authors and performers. Altogether, by the establishment of legal norms internationally recognized, WIPO promotes access on reasonable terms to the results of scientific, literary and artistic production.

### A. International instruments and their implementation

275. A major part of WIPO's work consists in the preparation and administration of international treaties and agreements. Ten such instruments are at present in force. Others await the necessary number of ratifications to become applicable. In acceding to them, the contracting parties accept binding obligations. To a greater extent than any of the other international organizations reviewed, WIPO acts through the medium of positive international law.

#### 1. Industrial property

276. The main instrument in this field is the 1883 Paris Convention for the Protection of Industrial Property. Revised in 1900, 1911, 1925, 1934, 1958 and 1967, it applies to industrial property in the widest sense and provides for (i) the granting to non-nationals of the same protection as is given to nationals, (ii) the right, within a prescribed period, to priority in all contracting parties for the protection given in one of them, and (iii) common rules for the granting of patents, trade marks and other similar protective measures.

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277. Agreements complementing on more specific points the provisions of the Paris Convention include: the 1891 Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods; the 1891 Madrid Agreement concerning the International Registration of Marks; the 1925 Hague Agreement concerning the International Deposit of Industrial Designs; the 1957 Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; the 1958 Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, and the 1968 Locarno Agreement establishing an International Classification for Industrial Designs.

278. In the same field, a Patent Cooperation Treaty was signed in 1970 by 35 States but is not yet in force. It will provide for a central registry of inventions where protection is sought in several countries. The Strasbourg Agreement of 1971, which also still lacks the required number of ratifications, will place the International Patent Classification under WIPO's administration.

## 2. Cultural property

279. The 1886 Berne Convention for the Protection of Literary and Artistic Work sets forth three main principles: (i) extension of equal protection to all contracting parties for works protected in one of them, (ii) automaticity of that protection, without the need for any formality, and (iii) independence of that extended protection from the continued existence of the protection afforded in the home country.

280. The Convention covers "every production in the literary, scientific and artistic domain, whatever may be the mode or form of expression". Developing countries may, under certain conditions, depart from the prescribed minimum standards of the protection with regard to the rights of translation and of reproduction.

281. The Universal Copyright Convention of 1962 has already been mentioned in the section concerning UNESCO. It was prepared jointly with WIPO and provides that its Director-General, as well as the Director-General of UNESCO and the Secretary-General of the Organization of American States (OAS), may attend in an advisory capacity the meetings of the Intergovernmental Copyright Committee established by that instrument.

282. In the related field of the protection of performers, the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations has already been mentioned in the sections relating to ILO and to UNESCO. By the terms of the Convention, WIPO, jointly with these two agencies, has the responsibility for its administration. The 1971 Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of their Phonograms, which has been signed by 31 States but is not yet in force, entrusts WIPO with the task of providing its secretariat.

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283. Implementation of the standards set forth in these various instruments includes advice to Governments on legislation compatible with the provisions of the conventions which they have ratified. It also takes the form of servicing their operation. The organization accordingly maintains three international registration services for (i) trade marks, with the publication of a monthly bulletin, "Les marques internationales", (ii) international deposit of industrial designs, with the publication of a monthly bulletin, "Les dessins et modèles internationaux", and (iii) international registration of appellations of origin, with occasional distribution of a bulletin, "Les appellations d'origine".

#### B. Promotional activities

284. WIPO initiates new projects and carries on existing projects for the promotion of increased international co-operation in the field of intellectual property. It is, for example, now preparing the operational phase of the Patent Cooperation Treaty, the revision of the Madrid Agreement concerning the International Registration of Marks, and possible international measures for the protection of signals transmitted by communication satellites and computer programmes.

#### C. Advisory and assistance services

285. WIPO assists developing countries in the promotion of their industrialization through the modernization of their industrial property systems. It prepares model laws for their possible use, offers traineeships to their nationals, organizes seminars, finances assistance for them by experts and, mainly under the Patent Cooperation Treaty, will attempt to meet some of their problems in scientific documentation and the transfer of technology and know-how. In addition, jointly with the ILO and UNESCO, WIPO has started work on a model law to deal with the related rights of the protection of performers, producers of phonograms and broadcasting organizations.

## IX. ORGANIZATION OF AMERICAN STATES (OAS)

286. As the first regional organization created at the intergovernmental level, the Organization of American States was also the first regional organization to concern itself with questions of human rights. In the initial decades of its existence, it dealt mostly with civil and political rights. Immediately following the Second World War, it directed its attention to the new field of economic, social and cultural rights. Here, its normative action covers (i) the American Declaration of the Rights and Duties of Man, (ii) the Inter-American Charter of Social Guarantees and (iii) the preparation of a draft Convention on Human Rights. Its institutional creations are (i) the Inter-American Commission on Human Rights and (ii) the Inter-American Commission of Women.

A. Normative Action1. The American Declaration of the Rights and Duties of Man

287. This Declaration, approved at Bogotá in 1948 by the Ninth International Conference of American States, defined a set of principles designed to govern the position and policies of the organization's members. In so far as it has a bearing on economic, social and cultural rights, it proclaims the right to equality before the law, without any distinction as to race, sex, language, creed or any other factor; to the protection of the family; to the preservation of health and well-being; to full equality of opportunity in education, with free primary schools; to the benefits of culture and science, including protection of the moral and material interests of authors and inventors; to work, including free choice and fair remuneration; to leisure and free time; and to social security, covering old age, unemployment and disability.

2. Inter-American Charter of Social Guarantees

288. This instrument, adopted at the same 1948 Conference, is broadly directed at the need for social and economic development. But it also gives a more concrete content to the objectives listed in the American Declaration, which are not of a binding nature. In terms of the economic, social and cultural rights listed in the International Covenant, they may be summarized as follows:

(a) The right to work

289. Labour is described as a social function and duty which require special protection. The workers' rights, which may not be renounced, include free choice and fair conditions of employment and vocational guidance. Employment should provide guarantees of stability, with due regard to the nature of the work, and arbitrary dismissals should open the right to indemnification.

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290. Workers are supposed to have the right to a remuneration providing a decent existence; to equal pay for equal work; to a minimum wage, fixed in consultation with the employers' and workers' organizations concerned; to an annual bonus, determined on the basis of the number of days worked; and to a fair share of profits. Wages and social benefits should not be subject to attachment, except in cases of support ordered by a court.

291. The normal working hours should not exceed 8 per day and 48 per week (9 and 52, respectively, in agriculture), with appropriate reduction for night work. Weekly rest periods should be established by law, and remuneration should continue during civil and religious holidays as well as during annual vacations.

292. The right to form and join trade unions should be ensured, without restrictive formalities. The right to strike is to be respected, subject to the conditions specified by law.

293. Each State should establish a special system of labour courts and promote conciliation and arbitration procedures for the settlement of labour disputes.

(b) Social security

294. Workers should have the right to a compulsory system of social security, designed to attain the following objectives: (i) elimination of the hazards that might deprive wage earners of their ability to provide the necessary means of support for themselves and their dependants; (ii) rapid and complete restoration of their wage-earning capacity lost by accident or illness, and (iii) provision of means of support in the case of termination or interruption of their occupational activity, of maternity, old age, unemployment and death.

295. In the absence of a social security system, employers should be made responsible for providing the benefits that would be covered by it.

(c) Standard of living

296. Workers should have the right to share in an equitable distribution of the national well-being and to obtain food, clothing and housing at reasonable prices.

(d) Family protection

297. No child labour should be allowed under the age of 14, or above that age within the period of compulsory education. Hazardous or unhealthy occupations should be altogether prohibited for children.

298. Dangerous or injurious work should similarly be banned for women. Maternity should open the right to paid leave of 6 weeks before and 6 weeks after confinement.

299. As already stated, this charter is by no means an instrument of a binding character. In fact, it is no more than a declaration of intention and a common standard of achievement.

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### 3. Inter-American Convention on Human Rights

300. In addition to adopting the American Declaration, the 1948 Bogotá Conference decided to entrust a body of jurists with the task of preparing a draft Inter-American Convention on Human Rights, which would embody in terms of strict legal obligations the principles proclaimed in the Declaration. The jurists' work resulted in the approval in 1959 by the Fifth Meeting of Consultation of Ministers of Foreign Affairs of a final draft. Its chapter II deals, inter alia, with the right to work, to form and join trade unions, to social security, to family protection and to education. After several postponements, the Inter-American Conference considered this draft in 1965 and decided to submit it to Governments for observations and suggestions. The Convention was finally signed at San José, Costa Rica, on 22 November 1969.

#### B. Institutional action

##### 1. Inter-American Commission on Human Rights

301. In 1959, the Fifteenth Meeting of Consultation of Ministers of Foreign Affairs decided to create an Inter-American Commission on Human Rights. According to its statute, adopted in 1960, the Commission is an autonomous organ, composed of seven members elected for four years in their personal capacity. Its task is to develop awareness, to make recommendations, to collect information and undertake studies, and to serve as advisory body to OAS in all matters pertaining to human rights as defined in the American Declaration.

302. In addition, the Commission was given the competence to receive and examine communications and complaints, to ask Governments to furnish pertinent information relating to them and to recommend measures for the effective observance of the rights.

303. Broadly speaking, the activities of the Commission may be divided into three groups: (i) continued review of the human rights situation in the member States, (ii) consideration of communications and complaints, and (iii) preparation of studies and reports.

304. The second of these groups deserves particular attention as involving a specific process of implementation. If, after considering the complaint and ascertaining its validity, the Commission finds that rights have been violated, it can make appropriate recommendations to the Government concerned. Should the latter fail to take action, the Commission can report to the Inter-American Conference or to the Meeting of Consultation of Ministers of Foreign Affairs. If neither of these bodies objects, the Commission may publish its report and recommendations.

305. Thus, there is here, as in other cases, a process of independent scrutiny, followed by consideration at the political level, with publicity as the ultimate sanction.

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## 2. Inter-American Commission of Women

306. As in the United Nations system, women's rights occupy in OAS a special place in the general picture of human rights. An Inter-American Commission of Women was created in 1954 to deal with all social and economic problems relating to women. It is composed of one delegate from each member State.

307. In respect of human rights, the Commission's functions include: (i) extension of the civil, political, economic and social rights of women, (ii) reports to the Council of OAS on its activities and (iii) reports to the Inter-American Conferences on civil, political, economic and social rights and on the problems that need to be considered in respect of them.

### C. Promotional action and advisory services

308. Under standards approved by the Inter-American Commission on Human Rights, the Romulo-Gallagos fellowship programme offers to requesting Governments technical advice in the form of fellowships granted to experts and public officials dealing with questions relevant to the exercise of human rights. Candidates are proposed by their Governments and selected by the Commission's standing sub-committee.

309. A seminar on trade-union freedom was held in the summer of 1972 in Venezuela to provide for an exchange of information and experience among experts in labour or public law or officials who, by reason of their position, deal with matters related to high-level activities of trade unions.

310. Among the activities of the Inter-American Commission of Women, the following seminars which it has recently organized or planned may be mentioned as relevant to economic, social and cultural rights:

Sixth programme for the training of women leaders (Caracas, Venezuela, May-June 1971);

Second seminar on the incorporation of rural women in community development (Asunción, Paraguay, June 1971).

311. Continued concern with the rights of the child is expressed by the activities of the Inter-American Children's Institute. It convened the Fourteenth Pan-American Congress of the Child, held in Port-au-Prince in June 1972, to deal with the world-wide protection of children and adolescents in abnormal situations. The Institute also carried out a number of activities, among which the following may be viewed as having relevance to economic, social and cultural rights:

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Inter-American course for the teaching of children with difficulties in learning (in co-operation with UNICEF) (Buenos Aires, Argentina, April 1971);

Third Inter-American seminar on recreation for children (Managua, Nicaragua, May 1971);

Seminar on children and nutrition (Oruro, Bolivia, June 1971);

Course on the organization of sanitary and social services for infants (Buenos Aires, Argentina, October-November 1971);

Participation with a team of experts in the Tenth Central American Congress of Pediatrics (Tegucicalpa, Honduras, November-December 1971).

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## X. COUNCIL OF EUROPE

### A. Regional instruments and implementation machinery

312. At the European regional level, the organization dealing with the protection of human rights is the Council of Europe, which consists of 20 member States. Its statute of 5 May 1949 provides, in article 3, that every member of the Council "must accept the principles of the rule of law and the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms and collaborate sincerely and effectively in the realization of the aims of the Council".

313. Under the Council's sponsorship, a Convention for the Protection of Human Rights and Fundamental Freedoms was concluded in 1950. It has now been ratified or acceded to by 15 States. <sup>8/</sup> Though mainly devoted to civil and political rights, it also covers some of the economic, social and cultural rights, notably in prohibiting forced labour (article 4.3) and discrimination "on any ground" (article 14), and in affirming the right of everyone to enjoy freedom of association, "including the right to form and join trade unions for the protection of his interests".

314. In addition, a Protocol of 1952 prescribes that "no person shall be denied the right to education", and that the right of parents to ensure for their children a teaching in conformity with their religious and philosophical convictions must be upheld.

315. The provisions concerning implementation are worth consideration. They are contained in the Convention itself and in related protocols and constitute the most advanced process of this kind in any intergovernmental system. They establish two permanent organs, the European Commission for Human Rights and the European Court for Human Rights.

316. The Commission consists of independent persons in the same number as that of the Council's membership, selected by the Committee of Ministers from a list proposed by the Bureau of the Consultative Assembly. It may receive complaints from any contracting party and petitions from any person, group or non-governmental organization, provided the Government concerned recognizes the Commission's competence. By the end of 1971, 11 States had done so. <sup>9/</sup>

317. The Commission determines the facts alleged in the complaint or petition and attempts to make a friendly settlement of the dispute. If it fails, it draws up a report stating its opinion on the validity of the case and submits it to the Committee of Ministers and to the States concerned. The Committee of Ministers may then make such proposals as it sees fit; if the question is not referred to the Court within three months, it must decide, by a two-thirds majority, whether there has been a violation of the Convention, prescribe a time-limit for corrective measures and, if none are taken, publish the report.

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<sup>8/</sup> Austria, Belgium, Cyprus, Denmark, Federal Republic of Germany, Iceland, Ireland, Italy, Luxembourg, Malta, Netherlands, Norway, Sweden, Turkey and United Kingdom of Great Britain and Northern Ireland.

<sup>9/</sup> Austria, Belgium, Denmark, Federal Republic of Germany, Iceland, Ireland, Luxembourg, Netherlands (also for Surinam), Norway, Sweden and United Kingdom of Great Britain and Northern Ireland. /...

318. The Court, whose mode of composition is similar to that of the Commission, is competent to deal with all cases of interpretation and application of the Convention, but only after the efforts of the Commission to achieve a friendly settlement of the dispute have failed. Any member of the Council may declare that it accepts as compulsory ipso facto the Court's jurisdiction. Eleven States have done so. Where such compulsory jurisdiction has been recognized, cases may be brought before the Court by the Commission or by any of the contracting parties. The Court's judgement is then final.

319. An Agreement Relating to Persons Participating in the Proceedings of the European Court and the Commission on Human Rights was concluded on 2 September 1949 to provide for immunity from legal process of any person appearing before these bodies in respect of statements made before them, and to ensure free correspondence and travel.

320. A further implementation method is offered by article 13 of the Convention, which states: "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity". This provision deserves close attention: not only does it ensure access to national courts, it also precludes the excuse that the violation has been committed in an official capacity.

321. But only a few of the economic, social and cultural rights are handled in the Convention. The Council of Europe has taken the view that such rights essentially belong to a separate instrument. This instrument, the European Social Charter, was drafted by a European Tripartite Conference in 1959 and signed on 18 October 1961. In part I, it lists the economic and social rights to be protected and realized. They include all the economic and social rights proclaimed in the Covenant and, in addition, the right to vocational guidance and orientation, the right for everyone to engage in lucrative occupations and the protection to be given to migrant workers (as a major element of the European labour market).

322. In part II, the Social Charter recognizes that the rights enumerated in part I can be realized only progressively. It determines those to which priority should be given. They are the right to work, the right to form and join trade unions, the right of collective bargaining, the right to social security, the right to medical and social assistance, the right to family protection and the right of migrant workers to protection. Also in part II, the Charter goes into some detail of certain of the rights to be protected, recommends policies of full employment and prescribes standards for minimum wages, holidays with pay and the age of admission of juveniles to employment.

323. The implementation process provided by the Social Charter is similar to that of the ILO. It requires biennial reports from Governments on the effect given to its provisions, the submission of these reports to a committee of independent experts which, in its turn, comments upon them for the benefit of a representative body (a sub-committee of the governmental Social Committee) and of the Consultative Assembly, with final consideration by the Committee of Ministers, which makes appropriate recommendations to the contracting parties concerned.

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324. The Charter came into force on 26 February 1965. It has now been ratified by nine and signed by five more States. 10/ The first cycle of supervision of its application resulted in a report of the Governmental Committee which, as a useful innovation, was transmitted by the Committee of Ministers to the Consultative Assembly so that it could express its opinion on its contents.

325. Cultural rights are not included in the Social Charter. They are, however, recognized in the European Cultural Convention of 19 December 1954 by its broad objective of promoting and facilitating the participation of individuals in cultural life. 11/

#### B. Promotional activities

326. Promotional activities are in the Council of Europe naturally directed at the realization of the rights proclaimed in these various instruments. Yet, the Council has not neglected world-wide requirements. It contributed to the celebration of the International Year for Human Rights in 1968 by recommending to its members that they participate fully in the manifestations organized on that occasion. More recently, on 8 July 1971, the Consultative Assembly, after discussing problems arising out of the coexistence of the European and United Nations standards and instruments (see paragraph 359 below), recommended that the Committee of Ministers invite the member States which had not yet done so to ratify the International Covenants on Human Rights.

327. On the regional level, a Parliamentary Conference on Human Rights was convened by the Consultative Assembly to enable parliamentarians to compare the trends in legislative programmes regarding the protection, promotion and development of human rights, and to draw up a programme of joint action to be carried out in the near future by harmonizing action within the Council of Europe, other international organizations and national parliaments. The Conference met in Vienna from 18 to 20 October 1971. It adopted a final resolution in which it drew attention, inter alia, to the transformations that had taken place in society since the signature of the European Convention, and to the need to give individuals more effective protection by the establishment at the national level of organs authorized to receive and examine individual complaints, with the right of access to the files of government departments, functioning on the lines of the ombudsman as known in Scandinavian countries.

328. 1971 also marked the tenth anniversary of the signing of the European Social Charter. Many ceremonies of commemoration were organized on that occasion. They provided a suitable opportunity for stock-taking.

10/ Ratifications: Austria, Cyprus, Denmark, Federal Republic of Germany, Iceland, Ireland, Norway, Sweden, United Kingdom of Great Britain and Northern Ireland. Signatures: Belgium, France, Luxembourg, Netherlands, Turkey.

11/ This Convention entered into force on 5 May 1955. So far, 21 ratifications or accessions have been registered.

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## XI. LEAGUE OF ARAB STATES

329. Many of the activities of the League of Arab States are devoted to problems related to civil and political rights and fundamental freedoms, but the League has not neglected consideration of matters related to economic, social and cultural rights. Within the framework of the International Year for Human Rights, it convened in 1968 an International Arab Conference to discuss, among other topics, "Arab practice in the protection of human rights in the social, cultural, legislative and economic fields", and to review "Arab League activities in various areas of human rights".

A. Regional standards and instruments<sup>12/</sup>1. The right to work

330. The League has developed standards on the right to work in its Charter for Arab Labour, which affirms the need to raise the living standards of the workers in the Arab world and, with the assistance of the Arab Labour Organization, to unify labour standards among Arab countries.

331. The Agreement on Labour Standards, more particularly, formulates in article 8 the following requirements:

(a) The protection determined by labour standards must be equal, without discrimination among workers as to race, origin, colour, religion or political belief;

(b) The legislation of each State should regulate the hiring of workers who are citizens of Arab countries;

(c) Every Arab State should aim, as far as possible, at providing labour and social security legislation that would ensure the workers mentioned above all benefits and rights provided in that legislation.

332. In addition, according to article 42 of the Agreement, working women should be guaranteed equal pay for equal work.

2. The right to an adequate standard of living

333. The Economic Unity Agreement, which came into force on 30 April 1964, aims at the economic liberation of the Arab and at the improvement of his standard of living. It provides for freedom of movement, residence, work and participation in economic activities on a basis of equality. It requires the States parties to co-ordinate legislation on labour and social security matters. Its implementation is entrusted to the Arab Economic Unity Council.

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<sup>12/</sup> These instruments are declaratory in character.

### 3. The right to education

334. The Arab Cultural Unity Pact, concluded in 1964 and replacing an earlier agreement, requires, in article VI, the States parties to co-operate for the development of their educational systems and to work for the implementation of compulsory education in the elementary stages and for the elimination of illiteracy. They should also provide opportunities of access to higher and technical education.

335. Article IX of the same instrument invites agreement on the advancement of co-education, in conformity with religious principles, Arab values and modern scientific progress.

### 4. The right to participate freely in cultural life

336. The Arab Cultural Unity Pact similarly provides, in article XXI, that the member States shall work for the adoption of legislation that will protect scientific, artistic and literary ownership and copyright.

### B. Promotional activities

337. In addition to its efforts to promote the application of the general principle of equality and non-discrimination, the League has, in the more specific context of economic, social and cultural rights, organized a number of seminars on social problems with particular reference to the following topics: (i) social welfare in relation to health, education, economic and social development; (ii) social reform in rural areas; (iii) social cohesion in the Arab-Islamic society; (iv) social welfare in relation to the situation of labour in both the agricultural and industrial sectors; (v) advancement of the local society within the framework of national planning; (vi) the Arab family in the society, including study of motherhood and childhood.

338. From these seminars emerged a series of recommendations which, from the angle of economic, social and cultural rights, may be summarized as follows:

(a) Consideration, in the planning of economic development, of the need to provide employment to all individuals able to work;

(b) Protection from occupational hazards and diseases, with compensation for their victims; rehabilitation of the handicapped;

(c) Establishment of a minimum wage;

(d) Enactment of adequate social security systems, with guaranteed assistance in case of old age, sickness and incapacity;

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(e) Protection of the rights of the child and of the family; prohibition of night work and limitation of hours of work for women and juveniles; adoption of a minimum age for admission to employment; provision of maternity leave with pay on a percentage basis, and creation of institutions for child care.

339. The League also continued its efforts to remove discrimination based on sex and to raise the status of women in the Arab world. It prepared a number of studies on the rights of women and on the most suitable occupations open to them. It has devoted particular attention to raising the standard of women in rural areas.

340. In the promotion of the right to the highest attainable standard of physical and mental health, the League, through its secretariat, has been engaged in making studies of health problems and their solution in the Arab world, including the need for exchange of information and for co-ordination of efforts and resources within the League and with other countries. To that effect, the secretariat has also organized seminars on such matters as liquor and drugs, food and nutrition, child care and health, provision of health experts, health in rural areas and workers' health.

341. On education, the League has held several conferences, dealing with such subjects as school examinations, textbooks, the teaching of history and geography, co-education, and education planning in Arab States. Other meetings, seminars or conferences were concerned with compulsory education and the eradication of illiteracy. On this last point, the most important recommendation calls for the establishment of Arab regional departments and the creation of a joint Arab fund. In addition, a conference on vocational and technical education was held in 1966 and seminars were organized to further the spread of vocational and technical education in the Arab countries, and to consider problems of higher education.

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## XII. CONCLUDING REMARKS ON INTERNATIONAL AND REGIONAL ACTION

342. As shown by this brief review of international and regional action, approaches to the realization of economic, social and cultural rights take a variety of forms. For the purposes of this analysis, they might be classified by (a) their scope, (b) their mode of operation, and (c) their implementation process.

### A. Scope

343. The United Nations bill of rights and the regional instruments are all intended to guarantee better conditions of economic and social well-being and are a comprehensive body of rights applicable to all. The instruments of the specialized agencies and WIPO, by contrast, aim at specific goals generally directed at definite categories of rights and beneficiaries.

344. This difference in approach between the general and the specific reflects, of course, the divergent character of the organizations concerned. The United Nations and the regional organizations, on the one hand, pursue objectives of an over-all nature, and the specialized agencies and WIPO, on the other, are concerned with the specific subjects which they were created to deal with.

345. Thus, while the standards and scope of action of the United Nations bill of rights and of the regional instruments are, or can be, inclusive in character, those of the other organizations, directed as they are at particular sectors of the human landscape, may leave gaps of unprotected humanity. This situation clearly emerges from the consideration of the ILO Conventions on social security or of certain WHO programmes, where priority pressures dictate well-defined, and therefore limited, objectives. This apparent drawback is, however, compensated by a higher degree of effectiveness.

### B. Mode of operation

346. The modes of operation here include (i) standard-setting, (ii) promotional activities, and (iii) advisory services.

#### 1. Standard-setting

347. In standard-setting, the ILO and WIPO, among the world-wide organizations, are foremost in using formal instruments. But there are differences between them: the ILO Conventions essentially prescribe norms of national conduct that are deemed to possess universal validity. They are, as they have been called, "law-treaties". Their observance or non-execution in one country does not affect the others, except indirectly. The WIPO Conventions, on the other hand, are, by their objectives, in the nature of international contracts, anchored in the need to balance divergent national interests by the way of reciprocal national obligations. Violations, here, are of direct concern to the other Governments, as well as to individuals.

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348. At the other end of the spectrum, other organizations of the United Nations system, like FAO and WHO, use the more direct method of assisting Governments in the formulation of policies and in the building-up of the infrastructure, which are both designed to provide the necessary conditions for enjoyment of economic, social and cultural rights.

349. UNESCO, as befits its extensive mandate, is more eclectic. Its instruments are, in the field of culture, rather specific, and, in the field of education, of a more comprehensive character. Some of the former, exemplified by the Recommendation on means of prohibiting the illicit movement of cultural assets, tend to rely on a contractual type of obligation, while in the latter group the Convention Against Discrimination in Education may serve as an illustration of the legislative treaty type.

## 2. Promotional activities

350. Promotional action is used in all the organizations reviewed. But, as is natural, in those which rely upon the formal instrument approach, it is mainly directed at the application and improvement of these instruments, while in others promotion is the primary mode of operation.

351. In addition, promotional activities are strongly reinforced by the existence of permanent representative bodies specifically created to foster the realization of human rights. Such is the case in the United Nations, where the presence and action of the Commission on Human Rights has a powerful influence on developments throughout the world. The same can be said of the ILO Committee of Experts and the ILO Committee on Freedom of Association, which, in addition to their implementation functions, contribute, albeit in a more limited field, to the protection and understanding of trade-union rights.

## 3. Advisory services

352. Depending on the mode of operation, advisory services may be designed to assist Governments in the application of the international or regional standards which they have accepted, or, within the framework of the organization's over-all objectives, in solving their own policy and institutional problems. The distinction between these two types of service is, however, mostly academic. Most advisory programmes are intended to permit exchanges of information and experience or directed at the satisfaction of concrete needs in the receiving countries, whether or not they result from the acceptance of formal instruments or from the demands of general policies. In all cases, advisory services are meant primarily to help the less developed countries, which are in the process of removing imbalances in the economic and social fields and of building up the required infrastructure for the real enjoyment of human rights and fundamental freedoms.

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C. Implementation process

353. The realization of standards devised at the international or regional level depends in the final analysis on the readiness of Governments to carry out the obligations which they have assumed. Even in the more advanced mechanisms created by the Council of Europe, there is no true coercive power to ensure compliance.

354. The ILO implementation machinery, for instance, which is the most elaborate of the United Nations system in providing for successive stages of scrutiny by independent and quasi-judicial organs, ends up at the political level, where it becomes the responsibility of representative or executive bodies. And where the International Court of Justice becomes involved, its decisions are, if not carried out, referred to the ILO Conference for "such action as it may deem wise and expedient to secure compliance therewith".

355. UNESCO also provides in some cases for referral to the International Court, but it is, as in the Convention against Discrimination in Education, for an advisory opinion only. The Universal Copyright Convention, in which WIPO is also concerned, goes one step further in stating, in one of its attached Protocols, that any dispute that is not settled by negotiation is to be brought before the Court for determination by it.

356. The fact remains, however, that in all these cases, the Court's jurisdiction may be rejected and the sanctions applied to the inobservance of accepted standards may possess a moral force only. Yet, their influence should not be underrated; especially when accompanied by appropriate publicity, they have proved in many cases to constitute a reasonably effective instrument.

357. For the developing countries, the problem is above all one of economic and social advancement. The legal and institutional provisions are nothing but a necessary framework. They are of little value if they are not given concrete substance by policies and action that create the conditions required for the enjoyment of the rights prescribed by the international and regional instruments. It is for that reason that article 3 of the Covenant accepts the idea, shared by the European Social Charter, that economic, social and cultural rights can be realized only progressively.

358. Economic and social development is, of course, one of the main concerns of the United Nations system. In formulating rights and advocating their implementation, the international and regional organizations have added a new dimension to development. They can, however, only propose standards and, where these are adopted, endeavour to ensure their observance. The burden of translating them into actual rights remains with the national authorities within the means and resources available. They are the instrument through which the high principles of the United Nations bill of rights can become a reality.

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359. A further point remains: the coexistence of standards and instruments at both the international and regional levels may give rise to problems. This question was examined, at the level of the Council of Europe, by the Council's Consultative Assembly in July 1971. In recommendation 642 (1971), the Assembly noted the conclusions reached on this subject by its Committee of Experts on Human Rights and agreed that the measures indicated by the Committee as necessary to remove possible difficulties would indeed enable the Council's members to ratify the International Covenants on Human Rights without their position under the European Convention being affected.

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