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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS

Report by the Secretary-General

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INTRODUCTION

1. By its resolution 1986/14 of 10 March 1986, entitled "Popular participation in its various forms as an important factor in development and in the full realization of all human rights", the Commission on Human Rights requested the Secretary-General to submit a report containing comments on the study on popular participation in its various forms as an important factor in development and in the full realization of all human rights (E/CN.4/1985/10 and Add. 1 and 2) made by Governments, United Nations organs, specialized agencies and non-governmental organizations, for consideration by the Commission at its forty-third session.

2. Accordingly, in a note verbale of 25 June 1986, the Secretary-General invited Governments which had not yet done so to make comments on the above-mentioned study, if possible by 15 October 1986. Likewise, the Assistant Secretary-General for Human Rights, by a letter of the same date, invited United Nations organs, specialized agencies and non-governmental organizations to do the same. A copy of Commission resolution 1986/14 was transmitted with each note verbale or letter.

3. In accordance with Commission resolution 1986/14, the present report by the Secretary-General contains the comments on the above-mentioned study received as of 1 November 1986 from Governments, United Nations organs, specialized agencies and non-governmental organizations.

I. REPLIES RECEIVED FROM GOVERNMENTS

BAHAMAS

[Original: English]
[27 October 1986]

The relevant Bahamian authorities are in general agreement with the ideas expanded in the study. In the Bahamas the concept of popular participation is well portrayed through the freedom of trade unions in labour administration and the utilization of volunteers, Church and community leaders in youth developments.

SPAIN

[Original: Spanish]
[30 September 1986]

Spain has, by the will of its people, constituted itself a social and democratic State under the rule of law. All power emanates from the Spanish people, in whom national sovereignty is vested (Constitution, article 1, paras. 1 and 2). The democratic thrust of the Spanish political system leads logically to the attribution to popular participation of vital importance in the various aspects of the organization and functioning of the country's institutions and, therefore, in the development of the fundamental rights. Article 10, paragraph 1, of the Constitution proclaims in this respect that "human dignity, the inviolable rights that are inherent therein, the free development of the personality, respect for the law and for the rights of others are fundamental to political order and social peace". This fundamental principle is expounded in the Spanish Constitution of 1978 and has been supplemented by legislation.

Article 9, paragraph 2, of the Constitution confers upon the public authorities competence to "promote conditions that will ensure real and effective freedom and equality for the individual and the groups to which he belongs" and "to remove the obstacles that prevent or hinder their full enjoyment and to facilitate the participation of all citizens in political, economic, cultural and social life".

Article 6 provides that "the political parties shall be the expression of political pluralism, contribute to the formation and manifestation of the popular will and be a fundamental instrument for popular participation. Their establishment and the performance of their activities shall be free, subject to respect for the Constitution and the law. Their internal structure and their operation must be democratic".

On the basis of article 1, paragraph 1, of the Constitution, which proclaims political pluralism to be one of the supreme values of the country's legal order, the law applicable in this regard is Act No. 54/1978, of 4 December.

In addition to the expression of popular participation through the political parties, citizens' participation in public affairs is recognized as a fundamental right in article 23 of the Constitution, according to which "citizens have the right to participate in public affairs, directly or through

representatives freely elected in periodic elections by universal suffrage". The same article recognizes to all citizens "the right to accede on equal terms to public office, subject to the requirements prescribed by law". The only persons to be excluded from this fundamental right are foreigners, who are so excluded except as may, according to criteria of reciprocity, be provided by treaty or law with respect to the right of active suffrage in municipal elections (Constitution, article 13, para. 2).

These basic principles of the State are further amplified within the Constitution by provisions that have given rise to numerous rules of law aimed at making citizens' participation real and effective. Thus, article 29, paragraph 1, of the Constitution provides that "all Spaniards shall have the right to individual and collective petition, in writing, in such manner and to such ends as shall be prescribed by law" and Act No. 92/1960, of 22 December, governs the right of petition in so far as that right is consistent with the Constitution.

Among the guiding principles of social and economic policy, article 48 of the Constitution provides for the promotion of "conditions for the free and effective participation of young people in political, social, economic and cultural development".

Article 92 states that "political decisions of special importance may be submitted to all citizens in a consultative referendum". The same article provides for an organic law to regulate the conditions and procedure for the various types of referendum recognized in the Constitution and, in that connection, Organic Law No. 2/1980, of 18 January, on the "regulation of the various types of referendum" to which the Constitution refers deals with the conditions and procedure for, voting in and claims arising from referendums. Under Organic Law No. 3/1984, of 28 March, on the initiation by the people of legislation, citizens are able to participate directly in law-making as it pertains to themselves through the submission of 500,000 signatures, but shall at the same time respect to the maximum extent possible the institutional role of the political parties as organs for the expression of the popular will and fundamental instruments of political participation.

The direct participation of citizens in the administration of justice is recognized in article 125 of the Constitution, which states that "citizens may bring a people's action and participate in the administration of justice through the institution of the jury in such manner and with respect to such criminal cases as the law may determine and in the consuetudinary and traditional courts". The possibility for any citizen to bring a people's action enables him to become a party to any criminal proceedings, even when he has not been personally injured by the offence. A jury act is currently in preparation. Popular participation in public administration is provided for in article 129 of the Constitution with regard to social security and the activities of the public bodies whose functions directly affect the quality of life or the general welfare. With regard to the forms of participation in companies, article 129 states that "the public authorities shall efficiently promote the various forms of participation in companies and shall encourage co-operative societies by means of appropriate legislation. They shall also take steps to facilitate access by workers to ownership of the means of production" (Royal Decree No. 27/1978, of 16 November 1978, approved the regulations for co-operative societies).

Finally, with reference to the management of publicly-funded teaching institutions, Organic Law No. 11/1983, of 25 August 1983, which deals with university reform, views universities as a public service in the general interest of the entire national community and its respective autonomous communities and, with that in mind, provides for the establishment of a Social Council to guarantee the participation in university management of the various social agents so that the interests of society are represented and the teaching staff and students take responsibility for the performance of the university with a view to making it an "effective instrument of social change, at the service of freedom, equality and social progress so as to make possible the fuller realization of the dignity of man".

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: RUSSIAN]

[7 February 1986]

At the present stage, the strategy for the development of the political system of Soviet socialist society is to improve Soviet democracy and promote the ever fuller exercise of socialist self-government by the people on the basis of daily, active and effective participation by the workers and their work collectives and organizations in the resolution of the questions of the life of the State and society.

In this connection, attention is being concentrated on ensuring the consistent implementation in the management of society and the State of the principles of socialist self-government by the people, that is, on ensuring not only that government is exercised in the interests of the working people but also that it becomes in orderly fashion, step by step, the direct affair of workers who, in the words of V.I. Lenin, are subordinate to "no authority other than the authority of their own alliance". Soviet man has every opportunity to express and realize his civil will and interests and enjoys all the benefits conferred by socialism.

This is corroborated in article 2 of the USSR Constitution, which proclaims that "all power in the USSR belongs to the people. The people exercises State power through the Soviets of People's Deputies, which constitute the political foundation of the USSR. All other State bodies are under the control of, and accountable to, the Soviets of People's Deputies".

Article 5 of the Constitution is similar in content to article 2. It states that "major matters of State life shall be submitted to nation-wide discussion and be put to a nation-wide vote (referendum)". In other words, article 2 of the Constitution concerns the standing machinery of representative democracy, and article 5 concerns direct democracy, democracy with no intermediaries: the expression of the people's wishes concerning the most important questions of State life by means of nation-wide discussion or voting.

Pursuant to article 48 of the Constitution, "citizens of the USSR have the right to take part in the conduct of State and public affairs and in the discussion and adoption of laws and decisions of all-Union and local significance. This right is guaranteed by the opportunity to elect and be elected to Soviets of People's Deputies and other elective State bodies and to take part in nation-wide discussions and votes, in people's control, in the

work of State bodies, public organizations and local community groups, and in meetings of work collectives and meetings at the place of residence".

This article of the Constitution is crucial to the entire system of Soviet socialist democracy, for, as V.I. Lenin remarked, under socialism "the mass of the population lifts itself for the first time in the history of civilization to the level of direct participation not only in votes and elections but also in day-to-day management".

The right of Soviet citizens actively and effectively to participate in the day-to-day conduct of all State and public affairs and in the discussion and adoption of laws and other decisions of all-Union and local significance is secured in various ways and means, the substance of which is, in most instances, defined in the USSR Constitution. The role of Soviets of People's Deputies, and the right of citizens to elect and be elected to those bodies and the rights and obligations of Deputies are the subject of article 2 and articles 89 to 107 of the Constitution. For example, article 94 provides that "the activities of Soviets of People's Deputies shall be based on collective, free and business-like discussion and decision-making, openness and regular reporting to the Soviets and the population by the executive, administrative and other bodies created by the Soviets, and the broad involvement of citizens in their work. Soviets of People's Deputies and the bodies they create shall systematically inform the population of their work and their decisions". This provision of the Constitution underpins the system of genuinely democratic principles of the organization of the Soviets' work: the business-like and free discussion of all issues, the collective elaboration and adoption of decisions, the openness, the maintenance of close links with the masses, the broad involvement of citizens in the activities of the Soviets and the regular reporting by all the bodies that the Soviets establish.

The right to elect and be elected to other elective State organs is the subject of, for example, article 152 of the Constitution, which concerns the electiveness of judges and people's assessors. The holding of nation-wide discussions and votes is governed by articles 5, 108 and 114. Citizens' right to form public organizations and the role and place of such organizations in the life of society are described in articles 6, 7 and 51 of the Constitution.

Pursuant to a further provision of the Constitution (article 8), the broad masses of the working people are able actively to participate through their work collectives in the discussion and resolution of State and public affairs, the planning of production and social development, the training and placement of personnel, and the discussion and resolution of matters relating to the management of enterprises and institutions, the improvement of working and living conditions and the use of funds allocated for the development of production or for social or cultural purposes or the provision of financial incentives.

Article 97 of the Fundamental Principles of Labour Legislation of the USSR and the Union Republics provides that manual and non-manual workers shall participate in the management of production through trade unions and other public organizations, organs of people's control, general meetings, production meetings, conferences and other forms of action.

More detailed information on the rights of work collectives can be found in an earlier response by the USSR to a request from the United Nations Secretary-General (see E/CN.4/1985/10/Add.1).

The Soviet Union is consistently pursuing a policy of enriching the forms of democracy, promoting massive participation by all population groups in the management of the State, and combining State and public involvement in its system of management of society. Many questions relating to the life of society are resolved by State bodies in the light of the opinion of, or jointly with public organizations. These organizations participate in the monitoring of the State bodies. Under article 113 of the Constitution, public organizations have the right to institute legislation through their all-Union bodies.

Trade unions in the USSR enjoy extensive rights and opportunities to participate in the discharge of economic, social and cultural tasks.

The trade unions have technical and legal inspectorates endowed with the powers of State organs. They are also able to conclude collective contracts and convene standing production conferences and other meetings of workers and have extensive powers as regards the defence of workers' rights. In accordance with the Regulations on the rights of factory, works and local union committees that were ratified by a Decree of the Presidium of the USSR Supreme Soviet on 27 September 1971, such committees have the right to participate in the elaboration and realization of plans and to hear reports from managers on the implementation of the State plan and of obligations under collective contracts; they are also empowered to demand the making good of deficiencies and, if necessary, to raise before the appropriate bodies the question of the removal or sanctioning of senior staff who fail to discharge their duties under collective contracts or breach labour law. No worker can be dismissed by a manager without the prior consent of the enterprise's trade-union committee. The State bodies settle all matters relating to the legal regulations concerning labour, holidays and wages with the participation of the trade unions; in conjunction with them and in the light of their opinions. The trade unions themselves have extensive scope for action to protect the health of and arrange holidays for workers and also run a State insurance scheme.

The trade unions adopt their own statutes, elect their own governing bodies from the bottom to the very top and define the forms and methods of their own action. Their rights are laid down in and guaranteed by the USSR Constitution (articles 7, 51 and 113), the Fundamental Principles of Labour Legislation of the USSR and the Union Republics, and the Labour Codes of the Union Republics. Article 51 of the Constitution establishes citizens' right to form trade unions and guarantees the conditions for the discharge of the functions defined in the Union's statutes. Article 7 provides for the participation of trade unions in the conduct of State and public affairs and the resolution of political, economic, social and cultural issues. Article 10 protects the property that trade-union organizations require for the performance of their statutory tasks (buildings, printing works, sanatoria, sports grounds, hotels, vehicles, etc.).

Other bodies which play an active part in the life of Soviet society and the Soviet State are the co-operative organizations (the collective farms and the consumer and housing co-operatives), the unions of creative artists, and

the other voluntary societies that operate within a legal framework established by the Constitution and other laws. Their work is based on the voluntary efforts, the self-administration and the initiative of their members.

People's control, one of the forms of participation in the conduct of State and public affairs most accessible to the broad masses of the workers, is an important tool of socialist democracy. The organization and the procedure for the work of organs of people's control are defined in the Act on People's Control in the USSR that was adopted by the USSR Supreme Soviet on 30 November 1979. Pursuant to the Act, people's control bodies are formed by the relevant Soviets of People's Deputies or by work collectives.

Thus, the pattern for the development both of the public and of the State constituents of the political system in the USSR is, fundamentally, the same: it consists in the maximum promotion of the activity and initiative of the working masses. This is reflected in article 9 of the USSR Constitution, which states that, "the main thrust of the development of the political system of Soviet society is towards the further growth of socialist democracy: ever-broader participation by citizens in the conduct of State and public affairs, the improvement of the machinery of State, the stimulation of public organizations, the strengthening of people's control, the consolidation of the legal foundation of State and public life, the promotion of greater openness, and constant responsiveness to public opinion".

The above quotations from Soviet law show that the predominance of socialist property and the socialist economic system in the USSR creates the necessary substantive requirements and opportunities for every Soviet citizen to participate effectively and with full and equal rights in the management of the nation's assets. By way of example, mention may also be made of article 39 of the Constitution, which provides that "citizens of the USSR enjoy to the full the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the USSR and by Soviet laws. The socialist system ensures the development of citizens' rights and freedoms and the continuous improvement of their living conditions in keeping with the implementation of social, economic and cultural development programmes".

Among these rights are the right to work, that is to guaranteed employment paid in accordance with the quality and quantity of the labour furnished and at no less than the State-established minimum (article 40); the right to leisure (article 41); the right to health care with the provision by State health institutions of free, skilled medical aid (article 42); the right, which is guaranteed by a social insurance system, to material security in old age and in the event of illness, full or partial disability or the loss of the breadwinner (article 43); the right to housing, which is guaranteed by the development and upkeep of State and socially-owned housing (article 44); the right to education, which is guaranteed by the free provision of all forms of education and by the existence of universal, compulsory secondary education for young people (article 45); the right to enjoy cultural benefits (article 46), and other rights.

The USSR Constitution guarantees political freedoms to every citizen: freedom of speech, of the press, and of assembly, meetings, street processions and demonstrations (article 50); freedom of conscience, that is the right to profess or not to profess any religion (article 52). The citizens of the

USSR are guaranteed inviolability of the person (article 54) and of the home (article 55). Respect for the individual and the protection of citizens' rights and freedoms are incumbent upon all State bodies, public organizations and officials (article 57).

In view of the legal status of the individual in the Soviet Union and of the unity of the fundamental interests of socialist society and its members, mass participation by the population in the conduct of the entire range of social and political affairs is effectively guaranteed.

II. REPLIES RECEIVED FROM UNITED NATIONS BODIES AND SECRETARIAT DEPARTMENTS

UNITED NATIONS DEPARTMENT OF TECHNICAL CO-OPERATION FOR DEVELOPMENT

[Original: ENGLISH]
[7 October 1986]

The United Nations Department of Technical Co-operation for Development (UNDTCD) is concerned with the implementation of technical assistance projects in a variety of substantive areas and does not deal in practical terms directly with the issue of human rights per se, as does, for example, the Centre for Human Rights. However, the notion of human rights underlies technical assistance activities, and more specifically, UNDTCD projects in the field of integrated rural development, concerned with the improvement of socio-economic and living conditions in rural areas, based on the concept of community and popular participation in all aspects of decision-making, as well as in the implementation of practical activities affecting their lives. In this connection, UNDTCD held an interregional workshop in Geneva last December on the subject of a community-based approach to rural development.

UNDTCD remains committed to the notion of popular participation in its various forms as an important factor in development and in the full realization of human rights.

UNITED NATIONS UNIVERSITY

[Original: ENGLISH]
[15 July 1986]

The United Nations University (UNU), in its major project on "Peace and global transformation" has identified "Human rights and cultural survival" as an important area for research. The major project, in particular, studies the interlinkages between human rights and cultural survival, on the one hand, and the process of militarization, the role of the State, the global economic crisis, conflicts over natural resources and the role of science and technology, on the other.

Research in UNU networks shows that there is an increasing global trend towards the violation of economic, social and cultural rights of many communities, groups and minorities. Such rights are being abridged in the name of national security and nation-building. They are also curtailed in the process of "development" since, in a large number of cases, the development strategies adopted are inappropriate for the societies where they are

implemented. The extraction and export of natural resources from areas inhabited by tribal populations, for example, leads to the violation of economic, social and cultural rights of the tribal peoples. Lastly, the introduction of modern science marginalizes and even delegitimizes the knowledge systems of the indigenous peoples and modern technology deprives them of their livelihood and their ways of life.

However, studies made under the UNU project also show that a counter-trend is emerging. The victims of violations of rights are becoming increasingly organized in a whole range of grass-roots movements, particularly in the countries of the third world. At present, such movements are often single-issue movements which tend to be isolated from one another, but the people are becoming more and more aware of the interlinkages among the causes that lead to the violation of rights. The UNU major project seeks to make the hidden interlinkages visible and to suggest the most efficacious ways of reversing the trend towards the violation of economic, social and cultural rights.

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WORLD FOOD PROGRAMME

[Original: ENGLISH]

[10 October 1986]

The World Food Programme (WFP) regards popular participation as a crucial and integral element of both its development projects and emergency operations, it being understood that the success of actions aimed at improving the material and social conditions of the poor ultimately depend on strengthening self-reliance at the grass-roots level. The extent to which the poor themselves are mobilized to bring about and sustain improvements in their material and social conditions is increasingly becoming a routine focus of WFP project design, monitoring and evaluation activities.

Examples abound of WFP support to the participatory and self-reliant initiatives of the poor. One typical approach in WFP-assisted projects is the "self-help scheme". The project can be built entirely around self-help schemes (as in a low-income housing project in the Dominican Republic) or the approach can be used in components of larger projects such as settlement or multi-purpose projects.

The types of self-help schemes supported through the diverse uses of food aid include low-income housing and upgrading of community sites and services, construction of water and sanitation facilities, construction of other social infrastructures such as health clinics, day-care and community centres, the establishment of village fuel wood lots and construction of small irrigation networks, land clearing and improvement. In all these self-help schemes, labour is mobilized on a voluntary basis to work on a collective or individual activity that directly benefits both the individual household and the community at large. Food aid, in these schemes, is provided as an incentive for community action or as a form of valorization of labour time expended or incomes forgone. In WFP-assisted settlement projects, for instance, food aid is provided to tide farmers over until their own plots or community-held land become productive, as well as to develop social and economic infrastructure and services.

Other examples of WFP support for popular participation include the formation or strengthening of co-operative organizations and community associations for small farmers and the landless. Within such projects, organizing women into their own associations or integrating them in existing co-operative structures are increasingly becoming explicit objectives in their design.

In Bolivia, for example, WFP assistance to Mothers' Clubs originally had a nutrition improvement objective, but the project gradually evolved into support for small-scale enterprises. A revolving fund was created through the sale of food aid to Club members at one third the prevailing market price in order to provide a credit source for productive and service group enterprises such as bakeries and laundries for the urban poor, construction of community centres and an oil pressing plant, group purchase of agricultural land for crop cultivation, small animal husbandry, dairy farming and fisheries. Of the 120 Clubs (representing a membership of 54,000 women) assisted by WFP, 25 now have legal status as co-operatives. In another example, in Turkey, food aid is provided to encourage female membership in the existing rural co-operative movement and to train women in co-operative management skills.

In Mauritania, food aid supports the establishment of urban and rural women's grass-roots organizations and pre-co-operatives. Training is provided in a range of basic productive and management skills and a revolving fund has been established to support child-care services and to finance input supplies and other production-related costs. In India, the backbone of a WFP-assisted dairy project were 2 million female small-scale producers, many of whom were organized into milk-producing co-operatives.

WFP, in co-operation with ILO and the Government of Norway, supports a number of projects known under the umbrella name of ACOPAM, which operate in five countries members of the Permanent Inter-State Committee on Drought Control in the Sahel (CILSS) (Burkina Faso, Mali, Mauritania, Niger and Senegal). The projects aim to strengthen co-operative organizations and their activities. It is planned to extend such support to the remaining CILSS members: the Gambia, Guinea-Bissau and Chad. A consultation held in Oslo on the ACOPAM project concluded that "the effective participation of the people in the development of the Sahel was ... indispensable for self-reliant and self-sustained growth (and) in that context, women had a vital role to play". Co-operative activities in land and water management and food self-sufficiency through self-reliance and interrelated development problems constitute the main focus of the ACOPAM project in the Sahel.

Apart from extensive support to refugee populations arising out of man-made or natural disasters, WFP is also concerned with other population groups affected by insidious trends.

Protecting the poor and vulnerable against the inflationary pressures of the global recession, or during the implementation of structural adjustment programmes (as well as in the face of drought and other crises) WFP is attempting, with a significant measure of success, to use food aid in price omission stabilization schemes that shelter the poor rural and urban consumer while at the same time maintaining incentive prices for farm producers. Such support for ensuring household food entitlements (through increasing the purchasing power of the poor and the crop yields of small farmers) upholds a basic human right: the right to the means of survival. A WFP/UNICEF-

sponsored seminar examined other effective ways in which food aid can, at the same time, shelter and strengthen the poor, especially women and children, through self-reliant and self-sustaining action in the face of prolonged economic hardships.

WFP emergency operations also depend for their effectiveness on the traditional or spontaneous strategies of vulnerable households for coping with man-made or natural disasters. In Chad, for instance, women established bakeries using some of the food aid as raw material inputs to ensure continued supplies of bread to affected population groups. On the Thai-Kampuchean border, the Khmer Women's Association took charge of the distribution of donated food and establishing social and health services for the care of children, the disabled and the elderly.

WFP is committed to strengthening the effectiveness of its emergency assistance and to helping establish the necessary conditions for averting or mitigating the effects of crises on the poorest and most vulnerable. To this end, WFP is studying the range of issues along the emergency/development interface, within which a deeper understanding of household survival strategies and the pre-identification of the location, socio-economic characteristics and requirements of vulnerable households are essential concerns.

Reports on the emergency/development interface have been submitted to the WFP governing body and the issue was the subject of several reports presented at a WFP/African Development Bank (AfDB) seminar on food aid in sub-Saharan Africa recently held in Abidjan.

WFP also relies heavily on co-operation with local and international non-governmental organizations and participates in the Panel on People's Participation of the Task Force on Rural Development of the Administrative Committee on Co-ordination.

III. REPLIES RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

WORLD PEACE THROUGH LAW CENTRE

[Original: ENGLISH]
[9 July 1986]

Although the formulation of a universal definition of "popular participation" is difficult, the World Peace through Law Centre believes that the study has effectively defined the concept and its ramifications for all nations at all stages of development. The study also points out the importance of popular participation for the well-being of the people and the nation. The World Peace through Law Centre considers popular participation a means to ensure peace and to protect human rights.