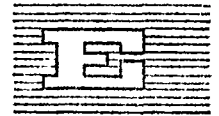


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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 31st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 February 1982, at 4.30 p.m.

Chairman: Mr. KOOLJMANS (Netherlands)
Later: Mr. GARVALOV (Bulgaria)

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Status of the International Covenants on Human Rights

Report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fourth session

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The meeting was called to order at 4.40 p.m.

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

- (a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; THE RIGHT TO DEVELOPMENT
- (b) THE EFFECTS OF THE EXISTING UNJUST ECONOMIC ORDER ON THE ECONOMIES OF THE DEVELOPING COUNTRIES, AND THE OBSTACLE THAT THIS REPRESENTS FOR THE IMPLEMENTATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS (agenda item 8)

(E/CN.4/1334, 1421, 1488 and 1489; E/CN.4/1982/NGO/2, 6 and 8; A/36/462; ST/HR/SER.A/10)

STATUS OF THE INTERNATIONAL COVENANTS OF HUMAN RIGHTS (agenda item 19) (E/CN.4/1511)

1. Mr. MAKSIMOV (Byelorussian Soviet Socialist Republic) drew attention to paragraph 22 of the report of the Working Group of governmental experts on the right to development (E/CN.4/1489), in which the view was expressed that that right was a combination of existing rights recognized by the international community and contributing to the development of peoples and States.

2. The purpose of a system of human rights was to ensure the satisfaction of man's wide-ranging and constantly-growing needs; the entire system of social relations should be subordinated to that end. The nature of the economic bases of society determined the nature, content and level of implementation of the legal norms provided for the citizens of that society. Economic and social rights such as the right to work, the right to leisure, the right to health and the right to housing and social security comprised the fundamental basis of all human rights. Without the realization of those rights, it was impossible to ensure the full development of the individual or the real enjoyment of civil or political rights. Since the material basis of the individual's way of life lay in the level of realization of economic and social rights, efforts to achieve those rights also represented efforts to defend all other rights and freedoms. A person deprived, for example, of such rights as the right to work was unable to enjoy human dignity or self-expression, and the mere proclamation of civil and political rights was of little benefit to him. The unemployment situation in many developing countries and developed capitalist countries was catastrophic. An OECD report published in December 1981 showed that 26.5 million people were unemployed in the 24 member countries of that organization and that the number was expected to increase by a further 2 million in 1982. Young people were particularly affected by unemployment, and no amount of unemployment benefit could remove their feelings of degradation or fears for the future. Governments thus had a unique responsibility for guaranteeing human rights and establishing dignified living conditions for their citizens.

3. The capacity of a State for discharging its responsibilities in the protection of human rights was proportionate to the power of its people and the involvement of its working masses in the formulation and implementation of human rights objectives. In order to achieve success in their efforts in the interest of the people, Governments should seek to free society from archaic institutions that were incompatible with social progress.

4. The principle that the regulation of the rights and freedoms of citizens was an internal matter for individual States was reflected in the Final Act of the Helsinki Conference on Security and Co-operation in Europe. He also drew attention to the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States (General Assembly resolution 36/103, annex), section II (1) of which referred to the duty of a State to refrain from the exploitation and the distortion of human rights issues as a means of interference in the internal affairs of States, exerting pressure on other States or creating distrust and disorder within and among States or groups of States.

5. As reaffirmed in the documents before the Commission, it was generally recognized that the opportunities of many developing countries to implement their sovereign right to development were limited by the existing inequitable international economic order, which reflected the capitalist system of production. United Nations efforts to end that obsolete order ranked next in importance to efforts to establish international peace and security.

6. The problems of developing countries were linked to the growing instability of the world capitalist system. The arms race, the activities of multinational corporations, protectionism, discriminatory Western trade policies and the monetary policies of capitalist countries seriously aggravated the difficulties of developing countries. While the socialist system generated world development, the capitalist system was a source of cyclical economic crises. The dependent status of the developing countries did not end with the elimination of colonialism; those countries had suffered more than any others from the ill effects of the capitalist economic system, which had prevented their workers from enjoying a normal standard of living. The socialist countries therefore supported the legitimate aspirations of the developing countries for the establishment of a new international economic order that would provide the necessary conditions for the fuller enjoyment of economic and social rights, and thus promote development.

7. A broad understanding of the term "development" as including not only basic needs, but also the satisfaction of social and cultural needs was essential. Economic development should be subordinated to social objectives, as reflected in the international development strategy for the 1980s. The right to development could not be reduced to the fundamental requirement of guaranteeing man's physical existence.

8. The individual could not be considered as a subject of international law, which could apply only to States. The right to development was essentially the right to a peaceful, free and independent development and was a collective right of sovereign States or of peoples fighting for their independence. In order to ensure its implementation, it was essential to put an end to colonialism, racism and interference in the internal affairs of States. The establishment of a new international economic order and the realization of human rights were closely linked to the problem of détente and to measures to strengthen international peace and security. He drew the Commission's attention to paragraph 136 of the report of the Seminar on the relations that existed between human rights, peace and development (ST/HR/SER.A/10), in which it was pointed out that the expanding arms race fostered mistrust and tension and impelled countries to subordinate economic requirements to military needs, and that the diversion of a significant percentage of the world's human and material resources to arms delayed and inhibited the elimination of poverty, hunger and economic inequity. The resources released by disarmament could help to accelerate the search for solutions to economic and social problems, particularly those of developing countries.

9. The realization of human rights called for a comprehensive approach taking account of internal and external factors, and required progressive political, social and economic reforms within countries. That principle was reflected in the basic documents for the establishment of a new international economic order and in such instruments as the Charter of Economic Rights and Duties of States. Only through progressive social reform in the interests of the working masses would it be possible to ensure a just distribution of national income and put an end to social inequality, poverty and hunger. Steps in that direction had already been taken by some countries, whose experience could usefully be studied. When the working masses became the genuine owners of a country's natural resources and means of production, they could accelerate development in all sectors of social life. That had been proved by his country's experience and that of the other socialist countries, in which the principles of the International Covenants on Human Rights had been applied even before those instruments had been formulated. Human rights were not only proclaimed but guaranteed by the establishment of the necessary conditions for the free development of the individual.

10. Following the successful implementation of its previous five-year plan, his country had begun a further programme of economic and social development under its new five-year plan. The specific tasks confirmed by the Supreme Soviet of the Byelorussian Soviet Socialist Republic in November 1981 were designed to bring about a steady rise in the material and cultural levels of the population and to improve conditions for the development of the individual through increased productivity. A decisive factor in his country's development was its will to overcome its problems by its own efforts. The fruits of labour were enjoyed by the workers and were not used to provide wealth for the owners of the means of production.

11. His delegation supported United Nations efforts to implement international legal instruments designed to ensure respect for human rights and fundamental freedoms for all people; it hoped there would be more effective co-operation in those efforts. It was regrettable that some countries, including the United States, had failed to ratify a number of human rights instruments.

12. An important condition for fruitful international co-operation was that countries should refrain from interfering in the internal affairs of other States on the pretext of defending human rights, which diverted the United Nations from its efforts to combat mass and gross violations of human rights in a number of spheres, such as racial discrimination, apartheid, colonialism, neo-colonialism, foreign occupation, torture, mass unemployment, hunger, poverty, and persecution of peoples struggling to achieve social progress and freedom. Those were the problems on which attention should be focused.

13. Mr. SALAH-BEY (Algeria), after outlining the historical background to agenda item 8, said that although the right to development existed as a synthesis of other fundamental human rights, its effective enjoyment was impeded by various obstacles, including structural obstacles inherent in the existing international economic order. Commission resolution 36 (XXXVII) stated that the right to development was a human right. It had also been recognized as such by the General Assembly. The establishment of a Working Group of governmental experts to study the scope and contents of the right to development and to draft an international instrument on the subject had set in motion a process which should assist the search for ways and means of ensuring the realization of economic, social and cultural rights, and hence the right to development in all countries.

14. His delegation had made its views known during the Commission's discussion on the question at the thirty-seventh session. It now wished to evaluate the report of the Working Group and help to define a more precise framework for the Group's further work. It regretted, firstly, that the Group had been unable to complete its work and thus enable the Commission to begin a genuine discussion on the substance of the question. It further regretted that, probably for lack of time, the points of agreement or disagreement among the experts had not been well defined. Only in the next phase of its work would there be a possibility of a real meeting of minds on the definition and scope of the right to development and the various obstacles impeding its full realization. Pending that decisive phase, his delegation wished to make some observations which had mainly been inspired by the Secretary-General's study on the regional and national dimensions of the right to development as a human right (E/CN.4/1488).

15. The right to development was undeniably a synthesis of rights since it constituted the total conditions and obligations which in certain countries made possible the effective realization of other fundamental human rights, such as civil, political, economic and social rights. That concept nevertheless raised certain questions. The right to development was systematically violated in a number of countries or regions, and the question arose as to how it could be promoted or realized without the implementation of the various other component rights. Would it be easier to recognize and defend a complex and global right than a simple and elementary right? That question called for a precise analysis of the relationships and interdependence of the various rights, and it must be decided whether there should be some priority in the exercise of certain rights if a possible contradiction among them was inadmissible in principle. It appeared dangerous to make a distinction between rights relating to the dignity or personality of the individual - as in the case of certain civil or political rights - and other more contingent rights which depended on conditions beyond the influence of citizens or their Governments.

16. Some countries recognized the right to development only as a moral expression of the right of every nation or individual to an adequate level of living. His delegation considered it to be a legal norm of international law recognized as such by the international community in the provisions of the Charter, the Universal Declaration of Human Rights, the International Covenants, the Charter of Economic Rights and Duties of States, and other basic texts, resolutions and decisions. By way of example, he cited article 28 of the Universal Declaration, which stated that everyone was entitled to a social and international order in which the rights and freedoms set forth in the Declaration could be fully realized: that constituted a right of individuals and nations to an international order facilitating effective enjoyment of their fundamental rights, and a formal obligation on the part of the international community towards the individual and the national community of which he was a member.

17. One of the fundamental rights set forth in article 25 of the Universal Declaration was the right of everyone to a standard of living adequate for the health and well-being of himself and of his family. According to the 1981 report of the International Bank for Reconstruction and Development, approximately one third of the population of the developing countries, or 750 million persons, had lived in absolute poverty in 1980. The report observed that since the prospects of the poor countries were deteriorating, there also appeared to be less prospect of reducing poverty. According to some estimates, the victims of absolute poverty were likely to number 630 million in the year 2000. The President of the Bank had stated that, even if the most optimistic forecasts were realized, the income gap between rich and poor countries would continue to widen. That tragic situation was a collective responsibility of the entire international community, but particularly of the developed countries, which, in seeking to preserve their privileges, bore direct responsibility for a truly massive violation of human rights. The iniquities of the present international order impeded the effective realization of human rights. The General Assembly had, on a number of occasions, reaffirmed that the realization of the new international order was an essential element for the effective promotion of human rights and fundamental freedoms, including the right to development.

18. In affirming, in General Assembly resolutions 34/46 and 35/174, that the right to development was a human right and that equality of opportunity for development was a prerogative of both nations and individuals, the international community had initiated a large-scale process for coherent action in the development of international law in which the right to development would naturally find its place among the "third generation of rights".

19. In the monetary and financial field, the Bretton Woods institutions, in which the decision-making process was inequitable, appeared as so many instruments for maintaining the dependence of the developing countries and monopolizing for the sole benefit of the rich countries the key areas of money, finance and trade.

20. In addition, the transnational corporations controlled 60 per cent of financial flows and investments, a comparable volume of commercial trade and 90 per cent of technological innovations. Through the negative effects of their methods of intervention, they extended the discriminatory practices of the Bretton Woods institutions.

21. In the field of culture, the attainment by developing countries of national sovereignty, which had coincided with the striking development of communications, should open the way to a greater circulation of ideas and information, encourage understanding among peoples, and provide a source of enrichment and renewal of the common heritage of culture and civilization. Information had an essential role to play in that respect. In the name of so-called freedom of information, information emanating from developing countries remained in the hands of the transnational press, which controlled its collection, treatment and dissemination and took a direct part in the formation and conditioning of public opinion in the industrialized countries. It was that situation which had led the developing countries to campaign for a new world information order that would take account of their needs for access to information, and in particular to transfrontier flows of economic information.

22. The developing countries also claimed their right to make a fruitful contribution to intercultural dialogue, the right to their own historical perspective and the return of their cultural wealth which had been expropriated by the former colonial Powers. Those were but a few examples of the scope of the right to development and its evolutionary nature, and of the obstacles currently impeding the true expression of that right.

23. At the national level, the right to development had two aspects: firstly, the close interdependence of the various fundamental human rights, of which the right to development was a synthesis; and secondly, the intervention of external factors promoting or impeding the realization of that right, and thus the enjoyment of other fundamental rights. It was therefore difficult to separate international and national activities for the realization of the right to development, since they were interdependent.

24. The African Charter of Human Rights adopted by OAU in 1981 paid particular attention to interdependence. Preambular paragraph 7 stated that civil and political rights could not be dissociated from economic, social and cultural rights in their conception and universality and that the satisfaction of economic, social and cultural rights was a guarantee for the enjoyment of civil and political rights. The full realization of the right to development therefore required respect for other rights, and was negated whenever the exercise of its various component parts was impeded.

25. The human being was both the subject and object of development. Being the subject of development implied his participation in the development process. As the object, both the State of which he was a national and the international community were responsible for ensuring his enjoyment of the right in question. Article 9 of the Declaration on Social Progress and Development (General Assembly resolution 2542 (XXIV)) stated that social progress and development were the common concern of the international community, which should supplement, by concerted international action, national efforts to raise the living standards of peoples. The primary responsibility for the development of each State and of the individuals forming it was that of the State itself. That principle was affirmed by the Charter of Economic Rights and Duties of States which, however, also stated that concomitant and effective international co-operation was an essential factor for the full achievement of a country's own development goals.

26. At the international level, the right to development called for a reconstruction of the present institutional framework of international relations, which was incapable of promoting just and peaceful relations among States or accelerating the democratization of international relations. At the political level, such reconstruction called for equitable participation in decision-making concerning the maintenance of international peace and security, which were essential elements for the full realization of the right to development. The maintenance of peace and security also presupposed respect for the right of peoples to self-determination and independence, to permanent sovereignty over their natural resources, to free choice of their own model of development and to non-discrimination.

27. The right to development also implied the halting of the arms race, the reduction of military expenditure and the reallocation of the sums thus released to economic and social development. It further presupposed the elimination of racial segregation and apartheid and of all systems of oppression, exploitation and plunder of indigenous populations.

28. As far as international structures were concerned, the right to development required an ordered and concerted reorganization of the world economy to satisfy the major requirements of the developing countries. That objective was as yet far from being achieved since the decision-making centres governing the world economy excluded the developing countries and continued to divert substantial resources from the third world to the rich countries.

29. Gross violations of certain fundamental freedoms were frequently a manifestation of deeper causes which engendered or prompted them. The Secretary-General had rightly concluded that the removal of inequalities, the redressing of injustice and the acceleration of economic and social development would facilitate the elimination of gross violations of human rights.

30. The Commission had initiated a process which his delegation hoped would be continued. The Working Group of governmental experts established at its thirty-seventh session was engaged in identifying the obstacles to be eliminated and the objective conditions for the realization of the right to development. His delegation sincerely hoped that the Group's mandate would be extended to enable it to submit to the Commission at the thirty-ninth session a draft declaration which would be the first step towards the codification of principles regulating the realization of the right to development.

31. Mr. JAHN (Federal Republic of Germany) said that there was no concept in international usage which was more complex than that of development. In his delegation's view, development in every country depended on the extent to which civil, political, economic, social and cultural rights were enjoyed in practice by every member of the community. Discussion of the right to development represented a response to the obligation set out in article 22 of the Universal Declaration.

32. The object of economic and social development must be to enable every individual to live in freedom, security and social justice. A man could realize his potential only if society provided the economic and social conditions which guaranteed him both his individual liberties and freedom from want. Discussion must proceed from that premise. The world could not be free, as was the general wish, until all men were liberated from hunger and poverty. So far, discussion of development policy in the United Nations had concentrated on the question how wealth could be shared rather than on the basic issue of how wealth could be created. His delegation therefore welcomed the idea of analysing the prerequisites for development more closely from the standpoint of the realization of human rights, particularly in the light of the question how far economic and social development could be assisted through the promotion of the rights enshrined in the International Covenants. The nature of their enjoyment was the decisive factor in determining the development opportunities of the individual and the nation. When human rights were violated, the individual's opportunities of realizing his economic and social potential were decisively limited. Ultimately, such violations were among the constraints on the growth and development of society which were not attributable to economic conditions.

33. His delegation welcomed the discussion on the definition of the right to development and had supported the establishment of a Working Group of governmental experts on the subject. It could not, however, support draft resolutions either in the Commission or the General Assembly which sought to prejudge the outcome of complex investigations and discussion. The Group had set out clearly in its report (E/CN.4/1489) the complexity of the legal problems and the various ways of approaching the issue. However, a contradiction existed throughout the report. It was stated that the right to development was a human right. On that point he concurred, but some experts thought it was also a State right. With that he could not agree. Human rights were always the rights of individuals; States could have only collective rights which defined their place in the community of nations. The difference between those two types of rights determined their respective contents and legal basis.

34. If the right to development was regarded as a human right, it must be precisely enough defined to make it clear to the individual who possessed it what prospects it offered him and how it related to his already recognized rights. So far, the experts had been able to define the individual right to development only as a combination of the rights already enshrined in the various international human rights instruments, from which it might be concluded that the current discussion merely underlined the point that all the recognized human rights must be enjoyed simultaneously in order to ensure the free development of an individual's personality. Thus viewed, the right to development would serve to underwrite and extend the freedom of the individual, instead of limiting it in the interests of the political goals of the State.

35. With regard to peoples, there was the right of self-determination which was set forth at the beginning of the International Covenants. That fundamental right must always be unequivocally maintained. It was the precondition for the obligation of States to co-operate in the economic and social fields in accordance with Articles 55 and 56 of the Charter. The Group should concern itself with the connection between such rights and duties of peoples, on the one hand, and the right of the individual to development, on the other. Clarity was required on that point. Efforts must accordingly be made to define the content of the right to development so clearly that a common basis for its application emerged.

36. The Group had still much work to do. His delegation favoured a renewal of its mandate and hoped that it would be able to arrive by consensus at specific proposals for a draft declaration. That would give the Commission a solid basis for further discussion.

37. Mr. SENE (Senegal) said that development and protection of human rights had for a long time constituted two independent spheres of action. However, the realization that the promotion of economic and social rights required the same attention as that of civil and political rights had served to introduce development into the sphere of human rights. At the same time, experience showed that development involved not merely economic growth but also the well-being of the individual. The recognition by the great majority of the international community of many points of convergence between development and human rights was due to the perseverance of a group of pioneers who had appreciated the growing interdependence of peoples and the need to find an appropriate framework within which to deal with the world-wide problems which existed at the end of the twentieth century. In stressing a global conception of all rights - economic, social, cultural, civil and political, they had arrived at a sort of consolidated right which they called the right to development. The exercise of that right required the combination of support by the international community, joint decision-making and the sharing of wealth. Such ideas would have the merit of imbuing the interdependent world of tomorrow with a humanist content and giving a legal basis to the principle of equal opportunities for development among both individuals and nations. The international community had gradually come to heed the ideas of the pioneers and the Commission had eventually set up a Working Group to study the scope and content of the right to development. He had had the honour of being Chairman of that Group.

38. Enriched by the differences in their approach, the members of the Group had been able to grasp the manifold dimensions of the right to development and to define its scope and content. They had worked harmoniously together and made remarkable progress in fulfilling their mandate, although on certain issues differences of opinion still existed. He wished to review their conclusions, stressing the points of convergence.

39. Most experts had considered that the right to development had both a collective and individual dimension. With regard to the collective dimension, which most experts regarded as more important, the principles of solidarity and interdependence uniting developed and developing countries were stressed as facilitating the enjoyment of the right to development by all States. The object of the collective

right was to establish equal opportunities among all peoples for the full development of the human personality. It was based on international instruments such as the Charter and United Nations decisions such as the resolutions relating to the establishment of the new international economic order. The most commonly held view was that the collective right to development was a combination of existing rights recognized by the international community, but, because of the need for conciseness, the richness of the proposals submitted concerning its content was inadequately reflected in paragraphs 23, 24 and 25 of the Group's report.

40. With regard to the individual dimension of the right to development, the experts agreed that States must provide all the necessary guarantees for the exercise of civil and political rights and the same possibilities of access to the means required for the exercise of the right to development. They thought it comprised all the individual rights enshrined in the Universal Declaration and the International Covenants. The interdependent nature of the collective and individual dimensions of the right was stressed. The views of the experts on the international and national means required for the right to development were set out in paragraphs 35 to 39 of their report. As to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights in general, the experts considered that the main external obstacles were colonialism, racism, apartheid, the arms race, and difficulties in gaining access to financing and the transfer of technology, while the internal obstacles included ignorance, illiteracy, disease, absolute poverty, lack of participation by all sections of the population in the development process, and the unequal distribution of the advantages of development.

41. The Group had not reached agreement on all the points he had mentioned, but they had been in agreement as to their objectives and their method of decision-making. They had not had time to submit a draft international instrument, although they had been in almost complete agreement on the nature of such an instrument. Its importance in the codification and implementation of the right to development was such that the Commission would be justified in considering the renewal of the Group's mandate. All interested States could contribute to its work as observers and submit working papers, in accordance with the rules of procedure of the Economic and Social Council. The Group would be happy to receive such contributions because all its members were well aware of the topical nature of the right to development, which should play an essential part not only in the implementation of human rights but also in the building of peace and international co-operation.

42. Mr. BHAGAT (India), noting that the Working Group had done useful preliminary work, said the concept of the right to development was of recent origin and its status as a human right was still the subject of controversy. But the fact was that, even while the matter was under discussion, 800 million people round the world were living in absolute poverty. For them, human rights remained an abstraction. Their individual personalities were submerged under the dehumanizing term of "masses".

Therefore, to insist that the right to development was a human right was not to create controversy; it was the very essence of efforts to promote human rights. The developmental dimension of human rights was no less important than the human rights dimension of development. Indeed, the various forms of international co-operation to promote development over the preceding 20 years constituted de facto recognition of the right to development.

43. There were complex questions - as yet unresolved - of which all were aware, since the world was a macrocosm of national experiences. India had sought to provide civil liberties along with social justice. Its Constitution embodied both guarantees for fundamental individual rights and directive principles with regard to the pursuit of social welfare policies. An individual should not have to make a choice between food and free speech: each without the other was equally dehumanizing. But society and nations were as interdependent as sets of rights. Economic decisions taken in one place could have critical consequences in distant lands. Development could no longer be autarchic. The general recognition of interdependence must be translated into international action to relate the twin concerns of development and human rights. It was not a case of presenting a charter of demands: as the Brandt Commission had justly observed, an attempt to approach equality of opportunity was also sound self-interest for all nations.

44. Participation in decision-making and equitable sharing of the fruits of development were necessary at both the national and international levels. At the national level such action ensured democracy and social justice, but was it possible without equality and equity at the international level? Inequity bred exploitation, which distorted policies and relationships at both levels. It was a logical extension of the ideals of the French and American revolutions that the countries containing the majority of the world's population should demand participation in determining the world in which they lived, in a planetary new deal.

45. The international system did not bear the primary responsibility for development; as Mrs. Gandhi had stated at the Cancún Summit, development could not be imported. But she had added that the developing countries could not avoid being adversely affected by outside events and that mutuality of interest between nations could be served only by the establishment of a new international economic order. In the global village, no elite - national or international - could sustain itself forever through the perpetuation of an inequitable system. Extravagance amid poverty was a threat to stability in both international and national situations. The international community must realize its responsibility in relation to the right to development of individuals and nations, a responsibility which did not derogate in any way from the responsibility of the State or individual. The tenant farmer who had to hand over the bulk of his produce to a landlord was in the same situation as a country whose export earnings were used essentially to pay for debt-servicing or essential machinery.

46. Mr. BENDIX (Denmark) said that the embodiment in the International Covenants of the right to self-determination and the right of a country to dispose of its natural resources showed that the authors of those instruments had considered the human rights aspects of development as belonging both to the concept of civil and political rights and to the concept of social and cultural rights. The right to development implied that all persons, groups of persons or peoples had a right to space for development. The traditional approach of considering civil and political rights separately from economic, social and cultural rights was inadequate and inappropriate where the concept of the right to development was concerned. True development required a recognition of the indivisibility and interdependence of all human rights. His delegation therefore subscribed to the notion of development as a progressive process designed to create conditions in which every person could enjoy, exercise and utilize all his human rights under the rule of law and thus have the right to participate in decision making and implementation of development programmes and to benefit equitably from development through a progressive improvement in the standards and human quality of life.

47. At the Commission's preceding session, his delegation had emphasized that one of the most important challenges for the United Nations was to translate the interdependence between human rights, peace and development into practical terms. In that process, the human dimension must be made the guiding and controlling principle; development should be given a qualitative dimension.

48. The conclusions of the United Nations Seminar on the relations that existed between human rights, peace and development (ST/HR/SER.A/10) confirmed his delegation's conviction that the absence of peace could not **exempt** a State from its obligation to ensure respect for the fundamental human rights of its nationals or of persons residing in its territory, and that respect for human rights was a prerequisite for the right to development and to human personality.

49. Part two of the study on the regional and national dimensions of the right to development as a human right (E/CN.4/1488) contained a number of views on the human dimension of the concept of development which deserved to be studied by the Commission. The Working Group of governmental experts on the right to development should also study them when it began its work on a draft declaration on the right to development.

50. The redefinition of the content and direction of development which had occurred in recent years had emphasized the need to plan in terms of human development rather than economic growth and the need for a structural approach to development efforts as provided for in article 28 of the Universal Declaration. Articles 19, 20 and 25 of the International Covenant on Civil and Political Rights were also relevant. His delegation supported the idea, reflected in the study by the Secretary-General (E/CN.4/1488), that the Commission should concentrate its efforts on stimulating the political will and determination required for the effective and systematic application of all existing human rights in response to demands for development either from individuals or groups of people in a particular country. That applied, above all, to the response of countries to the needs of underprivileged indigenous or ethnic minorities in their societies.

51. He wishes to express his delegation's appreciation of the work undertaken by the Working Group on the special problems faced by developing countries in their efforts to achieve human rights. Although it shared many of the views expressed in the Group's report (E/CN.4/1489), it was clear that the Group's work was still at a preliminary stage and that the direction of its future work had not been finally established. The fact that it had so far been unable to provide an adequate definition of the concept of the right to development raised doubts as to the feasibility of formulating an international instrument on the subject. The Group should be given an opportunity to complete its consideration of the complex issues involved so that, at its next session, the Commission could discuss the right to development more concisely. The promotion of all human rights was both a means to achieve development and a goal of development. The Commission had a particular responsibility for making the other competent bodies of the United Nations system aware of that fact.

52. Mr. Garvalov (Bulgaria) took the Chair.

53. Viscount COLVILLE OF CULROSS (United Kingdom) said that the decision to combine the discussion on agenda items 8 and 19 was a wise one. The Universal Declaration and the International Covenants were the standards set by the international community. Although they did not form part of the domestic law of the United Kingdom, the European Commission on Human Rights and its Court dealt with cases concerning the United Kingdom referred by individuals or nations, and all such referrals had produced a proper response from the United Kingdom authorities. The precepts of those two regional human rights bodies were very close to those of the International Covenants, and it was therefore a matter of day-to-day practice, legislation, and executive action to abide by the Covenants. His Government, which had thus become used to the internal application of those basic rules, was certainly prepared to react vigorously if it saw them being flouted by other countries, and it was ready to join in criticism directed against any failure to observe the rights set forth in the Covenants.

54. The two Covenants spelt out a series of human rights identified by common consent as belonging primarily to individuals. Since some of those definitive statements set forth rights which could be enjoyed only by a nation as a collection of individuals, his delegation had not been too alarmed by the new ideas which, not surprisingly, had come forward with the growing membership of the United Nations. The report of the Working Group of governmental experts showed signs of a welcome advance in thinking. The Group had begun the process of definition. While the idea of a right to development had its attractions and corresponded with long-identified principles, there had been considerable difficulty concerning the dimensions of the concept.

55. The Group's report (E/CN.4/1489) stated that the collective dimension of the right to development was regarded by many experts as being more important than its individual dimension. His delegation saw no irreconcilable disagreement arising from that formulation. His Government had shown that it was prepared to speak out on any breach of the accepted human right of self-determination as set forth in article 1 of the two International Covenants. He also drew attention to article 22 of the Universal Declaration and article 11 of the International Covenant on Economic, Social and Cultural Rights, which recognized the right of everyone to the continuous improvement of living conditions. The concept of certain rights that could be enjoyed only in common with fellow citizens was thus deeply implanted in the fundamental rules of the international community. No individual could exercise the right to self-determination, or by his own efforts alone enjoy the right to a continuous improvement of living standards.

56. Section IV of the Group's report gave an account of its discussion on its possible future procedure. In his view, there should be no further effort to devise a single, rigid definition of the right to development itself, but further work, either in the form of specific proposals or a draft international instrument, should be directed towards identifying the component parts of an overall term, which could hardly be reduced to a single short proposition.

57. The figures for absolute poverty given in paragraph 4 of the study by the Secretary-General (E/CN.4/1488) presented an abysmal picture. Conditions of absolute poverty were incompatible with the enjoyment of the most basic economic and social rights and served to accentuate the accompanying denial of civil and political rights.

58. The basis of an answer to the problem was given in paragraph 15 of the Secretary-General's study, in which it was stated that the structures required at the national level to facilitate realization of the right to development were those which entitled people to control their own destinies and to realize their full potential.

59. In his comments on southern Africa, he had stressed the British tendency to work in a pragmatic way. The Group would be unlikely to go far astray if it examined the points made in the Secretary-General's study with a view to evaluating them and fitting them into the framework of the right to development. Referring to some of the main points considered in section VII, B, of the study, he observed that there was no simple solution to the problem of the distribution of income and wealth, which was one of the most profound matters requiring consideration by countries. Rural development had proved to be a critical matter in a number of developing countries. It was, however, a matter for individual countries, and not a proper subject for a general statement in the Commission. With respect to population-related issues, many countries had already considered the problem of growing populations and birth control, and had taken decisions suited to their particular circumstances. Where cultural values were concerned, it was part of the richness of the human race that people valued their national identity. Development must not obliterate those

characteristics. Educational problems, the application of science and technology, social policies and general environmental projects must all take account of the cultural background of the peoples concerned, and international efforts to assist in development should never overlook the likely impact on the culture and way of life of the country in question.

60. Referring to the elements listed in paragraph 23 of the Group's report as constituting the right to development in its collective dimension, he said that, in terms of tangible rights, his delegation found it difficult to see how such elements could constitute a human right in familiar terminology. With respect, for example, to the right of peoples to self-determination, one had to consider by whom that right was to be exercised. A valuable clue was given in document E/CN.4/1488, paragraph 98 of which stressed that the full and enduring realization of all human rights must be predicated upon the ability of people to participate in making the decisions which could control or alter the conditions of their very existence. The study went on to discuss the right to hold opinions and to freedom of expression, the right to freedom of information, freedom of association and the right to take part in the conduct of public affairs. When referring to a collective right to self-determination and the right to development itself, those aspects deserved serious consideration. In considering methods and policies for the promotion of the right to development at the national level, it was important to bear in mind the words of Dr. Julius Nyerere, who had said that people could not be developed but could only develop themselves and that a man developed himself by making his own decisions, by increasing his understanding of what he was doing, by increasing his own knowledge and ability, by participating fully in the life of the community, by joining in free discussion and by participating in subsequent decisions. That approach to development, which emphasized the central role of participation, also served to stress the importance of making appropriate structural changes conducive to full participation by the people, whose development could be thwarted by a wide range of domestic or external obstacles.

61. Referring to paragraph 28 of the Group's report, concerning the individual dimension of the right to development, he said it appeared to be self-evident that the holders of that right were individuals. His delegation welcomed the Group's agreement on that point and regarded the principle as fundamental to future discussions on the issue. Even at the collective level, people must, as individuals, have had the opportunity to participate, whether as citizens of countries or members of smaller groups such as communities, villages or tribes. In that sense, his delegation welcomed the principle laid down at the Dakar Symposium in 1978 that performance of the obligation to ensure development was a condition of the legitimacy of Governments. There was an undeniable linkage among all human rights, including the right to development. At the same time, his delegation wholeheartedly supported the view expressed by the Group in paragraph 43 of its report that the demands of development could not justify any derogation from fundamental human rights.

62. With respect to the Group's discussion of the ways and means of ensuring the realization in all countries of the economic, social and cultural rights enshrined in the various international instruments, he had already given his delegation's views on that point in terms of the way in which regional human rights commissioners and courts could make everyday decisions, as they did in Europe.

63. His delegation agreed with the comments in paragraphs 42 and 43 of the Group's report with respect to the obstacles encountered by developing countries. It had an open mind as to what should be done in terms of a draft declaration or other step, although the terms of any international instrument on the subject would require detailed scrutiny by Governments that were not represented by experts in the Group. Any such document would be a milestone on the road to improving human rights, and would require mature consideration ideally leading to consensus.

64. While the matter was receiving proper consideration, there was no need for stagnation. International efforts to raise living standards in developing countries were in the minds of many delegations, including that of the United Kingdom, which participated in aid programmes to the extent permitted by its own economy. In 1981, it had stated its intention to launch a new drinking water and sanitation programme and a campaign against water-borne diseases, as a contribution to the United Nations Decade on the subject. It would do more to promote the rational use of energy in developing countries and to expand its agricultural research activities, and would contribute more to international population programmes. Those four areas of assistance were of broad application and were aimed at helping the poorest countries. Many other bilateral aid programmes were also in hand. He therefore hoped that the United Kingdom's readiness to contribute to the discussion on the right to development and to assist developing countries in projects directly relevant to the practical realization of that right would be recognized.

65. Ms. DERMENDJIEVA (Bulgaria) said that her country supported United Nations activities aimed at achieving the realization in all countries of the economic, social and cultural rights set forth in the Universal Declaration and International Covenants. The issues of social, economic and cultural progress were equally important for the developed and for the developing countries. The solution of existing problems in those areas would create favourable conditions for the enjoyment of all human rights and fundamental freedoms.

66. The maintenance of international peace and security, the development of friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples, and co-operation in solving international problems of an economic, social and cultural or humanitarian character - as proclaimed in Article 1 of the Charter - were key factors for social progress. Increased international tension, conflicts and a high level of military expenditure consumed resources which could otherwise be used for development. The link between disarmament and development was explicitly referred to in article 39 of the international development strategy for the Third United Nations Development Decade. Moreover, article 27 of the Declaration on Social Progress and Development stated that the achievement of general and complete disarmament should enable the resources thus released to be used for economic and social progress, in particular for the benefit of

the developing countries. The Declaration at the same time emphasized that the attainment of social progress and development was feasible only by combining economic growth with changes in social and economic structures. Those conclusions were borne out by the experience of the socialist countries, which showed that the elimination of private ownership of the means of production had created opportunities for conducting a consistent social policy designed to ensure the over-all development of all individuals as free and creative personalities.

67. The experience of her country had clearly proved the advantages of socialism in the realization of economic, social and cultural rights. The Bulgarian people had inherited from capitalism a backward agriculture, an under-developed industry, unemployment and exceedingly low levels of living. The socialist revolution of 1944 had been a necessary prerequisite for the transformation of the whole society in the interests of the working people. Large-scale social and economic changes had been carried out with important consequences for national development such as land reform, nationalization of industries and banks, and the introduction of economic planning. There had also been crucial changes in agriculture, with the voluntary establishment of agricultural co-operative farms and parallel State farms.

68. Economic planning had proved to be the best instrument for ensuring a rational use of the national, human and economic resources of the country. Centralized planning had enabled Bulgaria to overcome its economic backwardness in a short time. It was today an advanced socialist State with constantly rising material and cultural standards, developed modern industries and highly effective mechanized agriculture. The Twelfth Congress of the Bulgarian Communist Party in 1981 had acknowledged the country's achievements in economic, social, agricultural and cultural development during the previous five years and had delineated the trends for the development of Bulgaria during the coming five years.

69. From the foregoing, her delegation's interest in agenda items 8 and 19 would be readily apparent. The Secretary-General's report dealing with the international dimensions of the right to development as a human right (E/CN.4/1334) set forth some interesting views on the concept of development, on the basis of the right to development and its relation with the other human rights and in particular the right to peace, on the requirements of the new international economic order and on specific issues relating to the realization of the right to development in its international dimensions.

70. The report of the United Nations Seminar on the relations that existed between human rights, peace and development, held in New York in August 1981, contained a number of useful conclusions and recommendations which should be taken into account in the Commission's future work on the definition and implementation of the right to development. Her delegation was also impressed by the thoroughness of the approach to the regional and national dimensions of the right to development adopted in documents E/CN.4/1421 and E/CN.4/1488.

71. The study requested in General Assembly resolution 34/46 and contained in document A/36/462 dealt with present international conditions with regard to human rights and proposed possible solutions for eliminating mass and flagrant violations of human rights of peoples and persons suffering all kinds of oppression. Her delegation looked forward to the final report of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the new international economic order and the promotion of human rights.

72. Turning to the report of the Working Group of governmental experts (E/CN.4/1489), she noted that the Group had discussed a number of very important issues, such as the scope and contents of the right to development as a collective and as an individual human right, the most effective means of ensuring the realization in all countries of the rights enshrined in the various international human rights instruments, the obstacles encountered by developing countries in their efforts to secure their enjoyment of human rights and proposals for a draft international instrument on the right to development. Her delegation appreciated that valuable contribution by the Group and favoured the formulation of a draft declaration on the right to development which would take into account all the relevant United Nations instruments.

73. With regard to the status of the International Covenants, she noted that as at 31 December 1981, 71 States had become parties to the International Covenant on Economic, Social and Cultural Rights and 69 States to the International Covenant on Civil and Political Rights. The two Covenants constituted the most comprehensive legally binding international human rights instruments. Their effectiveness depended clearly on their universality and on the implementation by the parties thereto of their obligations under the provisions of the instruments.

74. Her delegation welcomed the fact that more States had ratified or acceded to the Covenants in 1981. It regretted, however, that the Covenants were still very far from universality, since almost half the State Members of the United Nations were not yet parties. It was significant that one member of the Commission which had often declared its strong commitment to the cause of human rights and even went so far as to publish annual reports on the human rights situation in every country of the world had not as yet ratified the Covenants. Clearly, words should be followed by deeds since they would otherwise be considered mere propaganda. Other members of the Commission which had ratified the Covenants had at the same time made reservations with regard to article 1 of both Covenants, which set forth the right of self-determination.

75. There was a clear need for States parties to implement the provisions of the Covenants. That implied not only the recognition of the human rights therein enshrined but also the adoption of legal, judicial, administrative and other measures for the effective realization of those rights. As a party to both Covenants, her Government had submitted a report to the Human Rights Committee in 1978, and a report on articles 6 to 9 to the Sessional Working Group of

the Economic and Social Council on the Implementation of the International Covenant on Economic, Social and Cultural Rights in 1979. The second report, on articles 10 to 12, had been submitted in 1981 and she hoped that it would be considered in 1982. The consideration of the two reports in 1978 and 1979 had shown that Bulgaria provided the material as well as legal guarantees for the effective enjoyment of all human rights and freedoms, and complied with its obligations under the Covenants.

76. Her delegation greatly appreciated the work so far done by the Human Rights Committee, which had established a constructive dialogue with the States parties to the International Covenant on Civil and Political Rights by extending invitations to their Governments to send representatives when the reports of their Governments were considered. Her delegation regarded the review of governmental reports submitted in accordance with article 40 as the main task of the Human Rights Committee. As far as the Sessional Working Group of the Council was concerned, her delegation - as a member of that Group - felt that it had made valuable progress in the consideration of the reports submitted by States parties to the International Covenant on Economic, Social and Cultural Rights. Her delegation therefore supported Council decision 1981/162 regarding the Group.

77. Mr. ALVAREZ VITA (Peru) said that the democratic process which his country was experiencing was of special significance not only because it had resulted in the full enjoyment of human rights but also because of its impact on the progress and maintenance of democracy in Latin America. The new Constitution of Peru had enshrined the principles of the Universal Declaration and many of its provisions were intended to safeguard those rights without discrimination of any kind.

78. It was for the Peruvian people to determine its destiny and, in that spirit, it had reaffirmed its conviction that the attainment of social justice was inextricably bound with the exercise of political democracy and respect for individual rights. Hence the solemn undertaking of the Peruvian Government and people to preserve freedom, respect human rights and construct a truly just society.

79. All trends of opinion were represented in the Peruvian Parliament. Freedom of expression was complete for all sectors of public opinion and in the past 19 months two nation-wide elections for local government bodies had been held; on both occasions, the electorate had expressed its support for the efforts of the Government to create a just and free society.

80. The Government had given trade union leaders an opportunity to participate in the key organs of State information so as to enable them to become aware of economic realities and co-operate in the country's resurgence. To that end, the National Council of Labour and Social Concertation had been set up on a tripartite basis to co-operate in efforts to raise the standard of living of workers, increase production and productivity, and promote national development.

81. At the same time, the right of civil servants to organize their own trade unions had been recognized, thus placing Peru in the forefront of progress in that respect. Peru believed in frank and open dialogue in an atmosphere of complete trade union freedom and had been able to declare with pride at the most recent International Labour Conference that it had not defaulted on any of its obligations under the International Labour Conventions.

82. It was not easy to live in freedom and democracy but Peru was determined to maintain and strengthen its conquests. The full observance of human rights and the sincere search for social justice and progress were the best means of deterring attempts to promote violence and constituted the best guarantee of democratic stability.

83. In line with its internal policy, Peru had become a party to the International Covenant on Civil and Political Rights and the Additional Protocol thereto. Similarly, it had not only ratified the Inter-American Convention on Human Rights but had also accepted the jurisdiction of the Inter-American Court in connection therewith.

84. The history of Peru went back many thousands of years and the origins of its indigenous race and culture lay in the most remote times. That ancestral element had merged admirably over the centuries with the subsequent Christian-Western contribution, to which African and Asian ingredients had been added later. That multiracial and pluri-cultural confluence had produced the Peruvian people with its noble and oecumenical vision of human destiny and with a strong vocation for freedom, democracy and solidarity among peoples. Hence the solemn statement in the Peruvian Constitution rejecting all forms of imperialism, colonialism and racial discrimination and proclaiming solidarity with the oppressed peoples of the world.

85. That solidarity was particularly important at the present difficult time when violence was compounding the difficulties created by socio-economic problems. Peru shared with the peoples of America, Africa, Asia and Oceania the problems of development and naturally sought effective co-operation with all those regions. Such co-operation was particularly important in the efforts to establish a new and just world economic order. In that connection, his country was convinced of the need to strengthen associations of countries producing raw materials and to create new associations which would enable those countries to demand fair prices for their products. The developing countries could not continue their development efforts on the basis of prices which were liable to sudden fluctuations; nor could they continue to increase their indebtedness in order to finance production at a loss. Peru would continue to support all initiatives to give shape to associations of raw material producers

86. From the socio-economic standpoint, Peru was divided into two distinct sectors: one which participated in the economic process and the other - a much larger one - which was deprived of access to legitimate levels of well-being and security and whose earnings were well below the minimum standards. In such a situation, the State should give priority to the formulation of policies conducive to an equitable distribution of wealth. The development strategy must be combined with action at the social level to enable the marginal populations to raise their low living standards.

87. His delegation considered development as a common heritage of mankind and an inalienable right of peoples. Similarly, it held that peace and security could not be the privilege of only one group of nations. In order to ensure that the right to international peace and security was enjoyed by all, it was necessary to ensure respect for all national sovereignties and to reject all forms of discrimination.

88. The developing countries had approved the programme of economic co-operation among developing countries, which had set certain goals in a number of sectors, including money, finance, trade, food, raw materials, energy and technology. Peru supported the global negotiations in the United Nations as the best means of reforming the present unjust international economic order.

89. His country had participated actively in the United Nations Conferences on the Law of the Sea and had been struck by the manner in which the developing countries had been able to uphold their positions and, in many cases, to convince other countries of the justice of their claims, which had initially been rejected as unacceptable. That experience had clearly demonstrated the enormous potential possessed by the developing countries, provided they stood together and used their best efforts to co-ordinate their action.

90. The developing countries continued to absorb without adequate compensation about one third of the exports of the industrialized countries; they also accounted for about 40 per cent of the profits derived by the industrialized countries from their investments. The developing countries were, moreover, experiencing difficulties in their efforts to secure fair terms of trade, at a time when statistics indicated that they would account for some 30 per cent of the increase in world production in the 1980s.

91. The persistence of protectionist policies in many industrialized countries, the problem of falling prices of raw materials due to factors beyond the control of the producing countries, the resistance to the transfer of financial resources to developing countries, the delay in establishing a new economic order, the deterioration of the terms of trade, and the defence of maritime sovereignty and jurisdiction were all problems common to the whole developing world and should be the subject of joint efforts to deal with them. To that end, it was necessary not only to identify them but also to have sufficient decision-making capacity to avoid all sources of division and focus on areas of common interest.

92. It was encouraging to note that the Brandt Commission had been able to perceive the reality of the world situation and its future prospects, and to suggest a set of solutions which, if implemented scrupulously, would make for a fruitful dialogue between North and South and might well open the way towards a more just world.

93. At the same time, his Government viewed with concern the close relationship existing between international tension and the standstill in the process of disarmament. The deterioration in the international situation was being dangerously aggravated by the escalation in the arms race. The institutionalized efforts of the United Nations and a multiplicity of international entities with regard to disarmament were in danger of bureaucratization owing to the absence of support through the political will of the Governments concerned.

94. True to its traditional support for peace, his Government would continue to make its contribution in all areas where disarmament problems were discussed and expressed the hope that the major Powers would consciously discharge their political undertaking to give a creative impetus to the disarmament process, in the interests of world peace and security.

95. Peru considered the right to development as an inalienable and universal human right which had been codified in a number of international instruments and which reflected the aspiration of peoples to live in a world of well-being, peace and social justice.

96. His country upheld respect for the fundamental freedoms of all individuals and the right of peoples to choose their own destiny, and supported the indivisibility of those rights as defined in the international instruments on human rights. In that sense, his delegation considered that individual freedom could exist only in the framework of peaceful coexistence. Accordingly, consideration of human rights could not be divorced from that of progress towards the new economic order, or from the programme of general and complete disarmament: in his delegation's opinion, there could be no peace without development nor development without peace.

97. Lastly, his delegation expressed the hope that, with a view to ensuring better observance of human rights in their entirety, the United Nations should not place such great emphasis on the question of individual freedoms that priority attention was diverted from the rights of peoples and the causes which militated against them, and hence against humanity as a whole.

98. It was in that spirit that his delegation supported the broadening of the mandate of the Working Group of governmental experts on the right to development, and the report on the new international economic order and the promotion of human rights prepared by Mr. Ferrero, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

99. Mr. Kooijmans resumed the Chair.

100. Mr. JERKIC (Yugoslavia) said that the concept of the right to development understandably raised many important political, legal and other questions. The report of the Working Group of governmental experts on the right to development showed the complexity of the subject, the numerous questions that remained unanswered and the many aspects requiring further analysis. It nevertheless also showed that there had been agreement among the experts on many fundamental issues of great significance to further work on the subject.

101. The Group had drawn attention to the indivisibility and interdependence of all human rights and had emphasized that the right to development represented a third generation of human rights, together with the right to live in peace and the right to information. It had also confirmed the importance for the realization of human rights of applying the principles of the new international economic order. His delegation welcomed the fact that the Group had succeeded in arriving at a number of common or similar positions on many other questions raised during the discussion.

102. Particular attention had been drawn to the growing significance of participation within the framework of the elaboration of the right to development. There were two closely linked aspects to such participation: on the one hand, equitable participation of peoples and States in the decision-making process relating to world economic questions and development, which represented the collective dimension of the right to development; and on the other, the participation of the individual in the development process and the process of political and economic decision-making, representing the individual dimension.

103. It was essential to elaborate further the various questions that had arisen so as to reach conclusions that would demonstrate the real value and importance of the right to development. In view of the considerable time required for that task, his delegation strongly urged that the Group's mandate should be extended and that a report on the results achieved should be submitted to the Commission at its thirty-ninth session. Meanwhile, the Group should consider the possibility of formulating an international instrument on the right to development. It might also be useful to examine the possibility of preparing one or more studies on questions of special interest with respect to the right to development, such as the question of participation.

104. His delegation welcomed part two of the study by the Secretary-General on the regional and national dimensions of the right to development as a human right (E/CN.4/1488). Although full use had not been made of the material submitted by Governments and international organizations, the study represented a valuable effort to present the complex subject-matter systematically. His delegation regretted that more States had not forwarded their views on the regional and national dimensions of the right to development to the Secretary-General. The contributions of those that had failed to do so would no doubt have helped to give a more precise idea of that question.

105. Mr. SAKER (Syrian Arab Republic) welcomed the study by the Secretary-General on the regional and national dimensions of the right to development as a human right, which paid particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of that right. He also commended the Working Group of governmental experts for its promising report (E/CN.4/1489).

106. It was clear that human beings could enjoy freedom without fear only if conditions were created in which everyone could enjoy his economic, social and cultural rights together with his civil and political rights. The right to development therefore called for the creation at the national and international levels of conditions for the full promotion and protection of the human rights of individuals and peoples, and included the right of all States and peoples to peaceful, free and independent development.

107. Drawing attention to such instruments as the Declaration and Programme of Action on the Establishment of a New International Economic Order, the Charter of Economic Rights and Duties of States, the international development strategy for the Third United Nations Development Decade and the Declaration on the Strengthening of International Security, he emphasized that all human rights and fundamental freedoms were interdependent and that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights. The international development strategy stated that the ultimate aim of development was the constant improvement of the well-being of the entire population on the basis of its full participation in the process of development and a fair distribution of the benefits therefrom. He reminded the Commission that the Sixth Conference of Heads of State or Government of the Non-Aligned Countries had emphasized the importance of the early establishment of the new international economic order in order to accelerate the development of developing countries, eliminate the inequality between developed and developing countries, and eradicate poverty, hunger, sickness and illiteracy in the latter countries.

108. International peace and security were essential elements in the inalienable human rights to development. Equality of opportunity for development was as much a prerogative of nations as of individuals within nations. States had an inalienable right to the free choice of their economic, political, social and cultural systems in accordance with the will of their peoples, and to the exercise of full sovereignty over their natural resources. It was also essential to ensure that everyone enjoyed the right to health, education, work, food and housing. Individual States had the primary role in, and ultimate responsibility for, ensuring the right to development for their nationals. Human demands and the right to development were unfortunately impeded by many external factors, such as the existing inequitable economic order, colonialism, imperialism, neo-colonialism, interference in internal affairs, racial discrimination, racism, apartheid, denial of the right to self-determination, foreign aggression, occupation and zionist policies and practices in the Middle East, South Africa and other parts of the world.

109. The conclusions and recommendations of the Seminar on the relations that existed between human rights, peace and development were satisfactory. The Working Group of governmental experts on the right to development should be reconvened and given adequate time to formulate a draft declaration on the right to development as a human right.

110. On agenda item 19, his delegation wished to express its appreciation to the new States that had ratified or acceded to the two Covenants. It regretted that many Member States had not yet done so, and particularly deplored the fact that among them were members of the Commission which had often declared their strong commitment to the cause of human rights.

111. Mr. GAUDREAU (Canada) said that, in April 1981, his Government had submitted its report on the implementation of articles 6 to 9 of the International Covenant on Economic, Social and Cultural Rights. The report, comprising several hundred pages, had been prepared in close consultation with Canada's provincial governments, which were bound by the provisions of the Covenant on the same basis as the Federal State. The report was to be studied in April 1982 by the Working Group established by the Economic and Social Council. A delegation of Canadian experts would be in New York to hear the comments and reply to the questions of members of the Group. His Government hoped that the Group would give serious consideration to the report, which had been painstakingly prepared.

112. His Government shared the view expressed by the General Assembly in resolution 34/46 that equal attention and urgent consideration should be given to the implementation, promotion and protection of civil and political, and of economic, social and cultural rights. The Economic and Social Council had so far given insufficient attention to consideration of the implementation of the International Covenant on Economic, Social and Cultural Rights. At its spring session in 1982, the Council was to undertake a review of the Working Group's composition, organization, administrative arrangements and working methods. His delegation would support any efforts to improve that body's work since its consideration of the implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights should be conducted as carefully as consideration by the Human Rights Committee of the implementation of the International Covenant on Civil and Political Rights.

113. His Government was keenly interested in the efforts being made by the Human Rights Committee to discharge its responsibilities more effectively, particularly with respect to article 40 of the Covenant concerning submission of reports by States parties. It was essential that the Committee should establish the basis for an articulate, systematic and continuing dialogue with States parties.

114. His Government welcomed the further ratifications of the Covenants during the past year. Several States which had not ratified the Covenants were still using legal, bureaucratic and administrative pretexts to conceal their reluctance to do so. Fifteen years had elapsed since the adoption of the Covenants and the Commission had a right to ask what was really preventing certain States from ratifying them.

115. All citizens of the world were entitled to demand that their Governments should recognize at least the principle of their civil, political, economic, social and cultural rights. Governments which had not yet ratified the Covenants should take note of the fact that their inactivity had not gone unnoticed by the international community. His Government therefore urged such Governments to ratify the Covenants; although that in itself provided no assurance that human rights would be fully respected, it would at least assure citizens that their leaders recognized that the rights in question existed and should be respected.

116. Mr. HEREDIA PEREZ (Cuba) said that the question of international co-operation in the matter of human rights had its foundations in Articles 1, 2, 55 and 56 of the Charter. In that connection, General Assembly resolution 34/46 had for the first time recognized the right to development as a human right and also the right of nations to equality of opportunity for purposes of development. Subsequently, in resolution 36/133, the General Assembly had proclaimed the inalienable character of the right to development. The concept of that right had been defined as a synthetic one but it was necessary also to stress its dialectical character: that meant that it was in a constant state of evolution.

117. The right to live in peace was also clearly connected with the right to development. In that connection, his delegation fully shared the view expressed by the Peruvian representative that without peace there could be no development and without development there could be no peace. The importance of those two concepts and of their interaction had been stressed in the seminar held in New York in August 1981.

118. It was appropriate to emphasize that the object of the right to development should not be confined to the satisfaction of certain basic needs, important though they were. Its object was the over-all development of the individual in every respect.

119. Another important factor to be considered was that of the individual and collective dimensions of the right to development. In his delegation's view, there should be no contradiction between those two categories. There was a tendency in some quarters to attach exaggerated importance to the duties of the State in that field. In fact, those duties must be seen as intertwined with the need for co-operation on the part of the international community. International co-operation could help a State to fulfil its duties towards its own citizens and to facilitate the twin processes of development and democratization. Another point was that it was not only the developing countries which stood in need of development; in many countries which considered themselves developed there were still millions of poor persons.

120. Lastly, his delegation commended the work of the Working Group of governmental experts on the right to development (E/CN.4/1469) and supported the continuation of the Group's activities; it was essential that it should be given more time to carry out the tasks entrusted to it by the Commission. The matters under consideration by the Group were of the greatest importance not only for many developing countries but also for numerous persons in certain other countries which were not considered to be developing countries but which still had development problems.

121. Ms. WELLS (Australia), referring to the report of the Working Group of governmental experts on the right to development, said that the Group had assumed its responsibilities candidly and confidently. A careful examination of the complex issues involved in the concept of the right to development could in time lay the foundations for consensus. Australia supported the renewal of the Group's mandate and awaited with interest the outcome of its work.

122. Since the adoption of the Universal Declaration, many compelling statements had been made by diplomats and scholars on the vital importance of the realization of human rights and fundamental freedoms for everyone, but there had been little consideration of ways and means of measuring progress or developing useful criteria for identifying the victims of human rights violations and the reasons for such violations. Most delegations shied away from such questions. In her delegation's view, however, the significance of the emerging concept of the right to development as a human right lay in the fact that it made direct confrontation with such questions unavoidable. The Secretary-General's message to the sixty-fifth International Labour Conference made a fitting conclusion to the study by the Secretary-General on the regional and national dimensions of the right to development as a human right (E/CN.4/1488). It was apparent from the sources of information used in that document that the concept of a right to development had excited the interests of a diverse range of thinkers and organizations. The report deserved more thorough study than there was time for in the Commission, and her delegation commended it to the Group which was studying the scope and contents of the right to development. Her delegation would welcome the Group's guidance on the ways in which the Commission might follow up the various recommendations made in the Secretary-General's study, particularly as concerned the studies proposed in paragraph 310. It also hoped that the Sub-Commission would draw inspiration from the suggestions made.

123. Her delegation shared the view expressed in the study that any development strategy which directly involved the denial of fundamental human rights must be deemed to be a systematic violation of the right to development. The implications of that conclusion explored in the study were convincingly argued, not least in relation to the question of the militarization of society.

124. Referring to agenda item 19, she said that Australia treated with utmost seriousness the international obligations it had undertaken in respect of human rights through its ratification of the International Covenant on Economic, Social and Cultural Rights in December 1975 and of the International Covenant on Civil and Political Rights in August 1980. In 1981, the Australian Federal Parliament had enacted legislation to establish a Commonwealth Human Rights Commission, and the Act on the subject had been proclaimed on 10 December 1981 - Human Rights Day. The Commission was to take as its principal point of reference the International Covenant on Civil and Political Rights and was to bring to the attention of the Federal Government and the community at large human rights questions which might require further action. The Commission had also been empowered to undertake inquiries and to investigate complaints.

125. The effectiveness of the international régime for the protection and promotion of human rights as provided for in the two Covenants must in large part depend on the arrangements envisaged in the respective instruments to ensure their implementation. One principal means of monitoring and regulating the implementation of the Covenants was the system of reports of States parties. In that connection the Human Rights Committee performed a most valuable task. The questioning by its expert members was incisive and detailed, and they had established a sound basis for dialogue with States parties. Her delegation looked forward to presenting its first report in 1982.

126. As with all relatively young institutions, the Human Rights Committee was in the process of examining the scope of its proper operations and developing its potentialities. Her Government was encouraged by the progress already made by the Committee through its decisions on the periodicity of reports and its discussions concerning the important issue of the terms in which it should report to the General Assembly on the examination of such reports.

127. The machinery established by the Economic and Social Council for reviewing the implementation of the International Covenant on Economic, Social and Cultural Rights left much to be desired. The cursory examination by a sessional working Group of Experts of the reports of States parties, many of which contained a wealth of detailed information, was far from satisfactory. Her delegation and others would like the Commission to examine that situation. Her delegation would also like the Council to take action under article 19 of the Covenant, which provided that it could transmit to the Commission for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS THIRTY-FOURTH SESSION (agenda item 20) (E/CH.4/1512; E/CH.4/Sub.2/479)

128. Mr. NOLPOINT (Chief, Research, Studies and Prevention of Discrimination Section), introducing the agenda item, said that the Sub-Commission on Prevention of Discrimination and Protection of Minorities had paid great attention to the discussion in the Commission, at its thirty-seventh session, on the question whether and to what extent the Sub-Commission had exceeded its mandate in previous years, particularly during its thirty-third session. He recalled that some members of the Commission had stressed that the Sub-Commission should ensure that it did not exceed its mandate and that it should pay careful attention to the way in which it adopted decisions, particularly those dealing with matters requiring prior approval by the Commission or the Economic and Social Council.

129. He stated that, as could be seen from the contents and revised structure of the Sub-Commission's report on its previous session, pursuant to the provisions of Commission resolution 17 (XXXVII) the Commission's directives had been scrupulously observed. Chapter I of the report contained all the draft resolutions recommended for adoption by the Commission and all resolutions and decisions which required consideration by the Commission in response to the opinion expressed. Referring to an informal document prepared by the Division of Human Rights on the Sub-Commission's role and competence, he described the functions of the Sub-Commission as follows: firstly to undertake studies and submit recommendations

to the Commission concerning the prevention of discrimination and the protection of minorities; those functions had been assigned to the Sub-Commission by the Commission at its fifth session, when the Sub-Commission's initial mandate had been expanded. Secondly, the Sub-Commission should examine, pursuant to Commission resolution 8 (XXIII), information relating to gross violations of human rights, in accordance with Council resolution 1235 (XLII). Thirdly, the Sub-Commission should examine communications submitted to it and government replies and other relevant information with a view to determining whether the Commission's attention should be brought to certain situations which revealed a pattern of gross and systematic violations of human rights - a task entrusted to it pursuant to Council resolution 1503 (XLVIII). Fourthly, the Sub-Commission was authorized to review developments in the field of slavery through its Working Group and to submit recommendations to the Commission. Fifthly, the Sub-Commission could be called upon to perform any other functions entrusted to it by the Commission or by the Economic and Social Council.

130. He then drew the Commission's attention to decision 2 (XXXIV) of the Sub-Commission concerning the role of the Sub-Commission and noted that the Sub-Commission had also adopted a number of other resolutions and decisions which were brought to the Commission's attention and related to various items on the Commission's current agenda and to three draft resolutions which the Sub-Commission recommended for adoption by the Commission under the present agenda item. They dealt respectively with the problem of discrimination against indigenous populations, the question of slavery and the slave trade and the study on the exploitation of child labour, prepared by the Sub-Commission's Special Rapporteur, Mr. A. Boudhiba.

131. Mr. BOUDHIBA (Special Rapporteur on the Exploitation of Child Labour), introducing the study prepared pursuant to Sub-Commission resolution 18 (XXIV) (E/CN.4/Sub.2/479), said that his first aim, under the mandate given to him, had been to assemble the fullest possible documentation in order to prepare a synthesis of the ways in which it was still possible to exploit child labour, with a view to informing the international community of the magnitude of the problem and revealing possible courses of action. It was hoped that the study could lead to a continuing constructive dialogue involving the Commission, the Sub-Commission and other United Nations bodies, as well as relevant non-governmental organizations and government authorities.

132. The facts were becoming more widely known, mainly through the untiring efforts of the ILO and a number of non-governmental organizations. According to ILO figures for the period 1979-1980, the exploitation on child labour affected some 52 million children. That figure was much lower than that suggested by his own findings, which indicated a total figure of between 145 and 150 million; but the ILO calculations were based on a sufficiently consistent approach to enable valid conclusions to be drawn.

133. There were, of course, problems of definition; in approaching them, he had taken into account ILO standards. The minimum working age could perhaps be set at 15 years, but in most parts of the world, children aged between 12 and 15 were at work. In some places, where community work prevailed, children aged 6 to 8 and sometimes even 3 or 4 years, were at work. The definition of work likewise presented a problem since some sorts of task could be regarded as essential to a child's development. The criterion should be exploitation - in other words, the working of children beyond their capacity and education, for purposes of production and profit.

134. Child labour was a problem few countries managed to escape. But whereas in developed countries children usually worked merely to obtain extra earnings, in developing countries they worked out of necessity. According to ILO predictions, the over-all volume of child labour would be less by the year 2000, but the gap between developed and developing countries would remain roughly the same and in Africa the situation would be considerably worse. Quite clearly, therefore, the problem, was closely related to underdevelopment.

135. Studies pointed to the fact that child labour alienated children rather than integrating them into society. As could be seen from the study, an element of discrimination and a predisposition to delinquency were closely related factors. The facts relating to wage payments revealed that children were often paid only one half, or even one third, of what was paid to adult workers.

136. In order to underline the situation, he had attempted to establish a typology based on a number of criteria: the notion of wages; the place of work and the attendant psycho-sociological factors; the means of production; and the nature of the work - whether direct or indirect. An attempt had been made to analyse situations according to whether the child worked as part of the family, in handicraft work for an employer (for example, tourist trade articles), doing minor jobs for his own account, doing work for third parties such as intermediaries who collected a commission, or doing seasonal work as part of a traditional labour pool - often composed of families.

137. It was in the various forms of apprenticeship that the exploitation of child labour appeared at its worst. The "sweat-shop" conditions prevalent in eighteenth-century and nineteenth-century Europe now existed in many third world countries. Conditions were particularly atrocious in the manufacture of goods such as fabrics for large-scale export to developed countries. Another serious form of exploitation was found in the use of children as house servants, sometimes under the guise of adoption. There were cases of very young Indian girls being so employed in Bolivia and Colombia, for example; and in East Africa there were cases in which families sent their own children to school but employed another child to work in the home. In addition, as the Commission was aware, there were cases of real slavery, in which children were actually bought and sold. The most repugnant form of exploitation was child prostitution, which was on the increase because of factors such as growing tourism and the so-called liberalization of morals. A report by one organization showed that in Paris alone some 5,000 boys and 3,000 girls aged between 10 and 14 were involved in the practice, which was prevalent also in Hong Kong, Macao and elsewhere.

138. Studies revealed three basic factors underlying the exploitation of child labour: poverty and underdevelopment; the break-up of families; and failure of the educational system. The whole problem involved legal, social, cultural, political and human aspects, and the international community could not remain unresponsive to it. The task of seeking to establish a new international economic order comprised a struggle against underdevelopment at all levels, including the struggle against the exploitation of child labour. In that task, States themselves had an important role to play. There was sufficient information to show what could be done by the international community, including United Nations bodies, non-governmental organizations and individuals. He had suggested to the Sub-Commission a five-year strategy for action to combat the problem, which affected almost the whole world. There must be a more systematic expression of will to tackle the problem and establish priorities. In addition, States which had not yet done so should ratify ILO Convention No. 138. National trade union bodies, too, could play an important protective role. In his view, there were grounds for special research into the subject, which the United Nations University could possibly undertake.

139. He paid tribute to all those who had assisted him in preparing the study, particularly ILO, UNICEF, the Anti-Slavery Society, the United Nations Secretariat, the Director of the Division of Human Rights and the Chief of the Research, Studies and Prevention of Discrimination Section.

The meeting rose at 8.50 p.m.