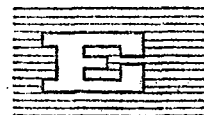


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COMMISSION ON HUMAN RIGHTS

Thirty-eighth session

SUMMARY RECORD OF THE 30TH MEETING

Held at the Palais des Nations, Geneva,
on Monday, 22 February 1982, at 10 a.m.

Chairman:

Mr. GARVALOV

(Bulgaria)

CONTENTS

Human rights and scientific and technological developments

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 international economic order on the economies of the developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms

Status of the International Covenants on Human Rights

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The meeting was called to order at 10.20 a.m.

HUMAN RIGHTS AND SCIENTIFIC AND TECHNOLOGICAL DEVELOPMENTS (agenda item 15)
(continued) (E/CN.4/1982/L.7, L.12, L.14 and L.15/Rev.1)

1. Mr. GAUDREAU (Canada), explaining his delegation's vote, recalled that the Government of Canada had severely condemned the Israeli attack on the Iraqi nuclear installations, which were protected under the International Atomic Energy Agency agreements, and had regretted the further blow which that act of violence had dealt to efforts to reach an overall settlement of the Middle East problems. His delegation had nevertheless been obliged to abstain in the vote on draft resolution E/CN.4/1982/L.12 because that text was virtually unrelated to the work the Commission was supposed to perform. Furthermore, operative paragraph 3 contained an implicit call for sanctions, which was a matter falling exclusively within the competence of the Security Council.
2. Mr. LE BLANC (France), explaining his delegation's votes on the draft resolutions submitted under agenda item 15, said that his delegation had abstained in the vote on draft resolution E/CN.4/1982/L.7 because it considered that the text was not calculated to orient the Commission's action along the right lines. What was needed to make science and technology an instrument for the full attainment of human rights was not to determine which technologies best suited the needs of the developing countries, but to give such countries the necessary inventive capacity. It was of course important for that purpose to take steps at the international level, but that task fell to those entrusted with the elaboration of a new international economic order, and the various specialized agencies, not to the Commission.
3. The Commission had, however, a responsibility to draw up guidelines and guarantees for technologies which, from the standpoint of human rights, might be capable of improper use. His delegation had therefore voted in favour of draft resolution E/CN.4/1982/L.14.
4. By voting in June 1981 in favour of Security Council resolution 487, his country had taken a clear position on a text which strongly condemned the armed attack by Israel and fully recognized the sovereign and inalienable right of Iraq to ensure its development. His delegation had abstained, however, in the vote on draft resolution E/CN.4/1982/L.12, because that text sought to have voluntary sanctions imposed on a Member State, a matter which the Commission on Human Rights was not competent to decide.
5. Lastly, his delegation had abstained in the vote on draft resolution E/CN.4/1982/L.15/Rev.1 because, in its view, that text sought to establish a relationship between human rights and disarmament which was the opposite of the real relationship. It was erroneous to assert that disarmament was a requirement for respect for human rights; it was, on the contrary, respect for human rights, including the right of peoples to live under the régime of their choice, led by local leaders of their own choosing, and the right of peoples to undertake their own development, which would make disarmament possible.

6. Mr. ALVAREZ VITA (Peru) said that his delegation had not taken part in the vote on draft resolution E/CN.4/1982/L.12, because it considered that the content of operative paragraphs 2 and 3 fell largely outside the political and legal terms of competence of the Commission and were, rather, a matter for the General Assembly, which had already taken appropriate steps by adopting resolution 36/27 on 13 November 1981. Peru had supported that resolution because, upholding the principles of international law and respectful of the rules governing relations between States, it considered the use of force prejudicial to the internationally-recognized legal order.
7. Viscount COLVILLE OF CULROSS (United Kingdom) said that his delegation had abstained in the vote on the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind. He still had doubts as to the need for and timeliness of a study on the use of the achievements of scientific and technological progress to ensure the right to work and development, as envisaged in draft resolution E/CN.4/1982/L.7. Neither of those rights had yet been defined with any precision and a working group of the Commission was currently studying the scope of the right to development.
8. His delegation had abstained in the vote on draft resolution E/CN.4/1982/L.12. The matter with which it was concerned, apart from not falling within the scope of the agenda item under consideration, had already been discussed extensively in other, more appropriate fora, such as the General Assembly. His delegation also had some reservations concerning operative paragraph 3 of the text.
9. His delegation had likewise abstained in the vote on draft resolution E/CN.4/1982/L.15/Rev.1. Despite the efforts made by the sponsors, in the course of intensive consultations, to accommodate other delegations' views, his own delegation still had reservations concerning the text which had been adopted.
10. Mr. BURGERS (Netherlands) said that his Government had condemned the premeditated attack by Israel on the Iraqi nuclear installations but its delegation had not been able to vote in favour of draft resolution E/CN.4/1982/L.12 because the question, and particularly the measures contemplated in operative paragraph 3, lay outside the Commission's competence. The link established between the Israeli attack and human rights was unconvincing and artificial.
11. His delegation shared the concern regarding the dangers inherent in the armaments race which was expressed in draft resolution E/CN.4/1982/L.15/Rev.1. However, since the problems relating to disarmament and international security were being studied in depth in other fora and had already been made the subject of several important studies, his delegation considered that the study envisaged in operative paragraph 5 would divert the Sub-Commission's attention from its primary tasks. His delegation had therefore abstained in the vote on that draft resolution.
12. Mr. JAHN (Federal Republic of Germany) said that his delegation had abstained in the vote on draft resolution E/CN.4/1982/L.12 because, in its opinion the question the latter dealt with fell more within the competence of the Security Council and the General Assembly, which had in fact already expressed themselves on the matter, than within that of the Commission.
13. His delegation had abstained in the vote on draft resolution E/CN.4/1982/L.15/Rev.1 for the same reasons, and also because that text referred to the Declaration on the Prevention of Nuclear Catastrophe, against which his country had voted.

14. Mr. GIAMBRUNO (Uruguay) said that his delegation had voted in favour of draft resolution E/CN.4/1982/L.12 in order to express its solidarity with Iraq, the victim of an armed attack by Israel. Nevertheless, like other delegations, it had reservations concerning the provisions of operative paragraph 3: the measure contemplated went beyond the Commission's terms of reference and was not calculated to further the search for a peaceful settlement of the problem. It would have been desirable to have negotiations concerning the text.

15. Mr. SCHIFTER (United States of America) said that his delegation had joined the consensus on draft resolution E/CN.4/1982/L.14 because the protection of persons detained on grounds of mental health raised problems in all countries, including his own, and it was important for the Commission to recognize that such protection should be guaranteed. His delegation looked forward with great interest to the study by Mrs. Daes, and hoped that it would also cover one unique form of violation of human rights which, according to the World Psychiatric Association occurred primarily in the Soviet Union: the commitment to psychiatric hospitals and the torture of perfectly sane persons, simply as a punishment for peaceful dissent.

16. His delegation had abstained in the vote on draft resolution E/CN.4/1982/L.7, which lacked balance, had no relation to the work of the Commission and constituted, in a way, interference in the work of the Sub-Commission. It also distorted the Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind, two principles of which it passed over in silence: first, the need for all States to take appropriate measures to prevent the possibility of infringement of the rights of individuals and groups through misuse of scientific and technological developments, in particular with regard to respect for privacy and the protection of the human personality and its physical and intellectual integrity; secondly, the need for States to take every necessary measure to ensure that the utilization of scientific and technological achievements promoted the fullest realization of human rights and fundamental freedoms. Any draft resolution concerning itself with human rights and scientific and technological developments should focus also on the human beings who brought about those developments, i.e., the scientists, particularly in a world where scientific progress was hampered by the steps taken by certain States which interfered with the personal freedom and peace of mind of scientists, as, for instance, in the case of Mr. Sakharov.

17. His delegation had voted against draft resolution E/CN.4/1982/L.12 because the Commission had no authority to make pronouncements on its subject. The Security Council had, with the support of his country's delegation, adopted resolution 487 (1981), in which it had condemned the Israeli attack on the Iraqi nuclear installation. Furthermore, the call in operative paragraph 3 of the draft resolution for the adoption of sanctions against a Member State was totally beyond the Commission's authority.

18. The United States Government supported general and complete disarmament under effective international control, and participated actively in the work of the competent international bodies. His delegation had been obliged to abstain, however, in the vote on draft resolution E/CN.4/1982/L.15/Rev.1 because the matter did not fall within the Commission's competence. On the subject of the arms race, he pointed out that for a number of years only one country had been running in that race: the Soviet Union. His own country, desiring to achieve a state of balance, had given

the USSR time to catch up in the nuclear field; the USSR had, however, tried to achieve superiority in both nuclear weaponry and in conventional arms. The United States had therefore found itself compelled once again to step up its military expenditure. It had done so for one reason only: to counter the Soviet Union's build-up of its military arsenal and its deliberate and systematic abuses of human rights and fundamental freedoms and of the principles of the Charter of the United Nations prohibiting aggression and the use or threat of use of force. His delegation urged the Soviet delegation to transmit the text of the draft resolution to those in the Soviet Union responsible for formulating armaments policy so that they could take inspiration from the noble sentiments expressed in it. Then only would the world, including his own country, be able to set out on the road to genuine peace.

19. Mr. BHAGAT (India) said that his delegation had voted in favour of draft resolution E/CN.4/1982/L.12 because his country unequivocally condemned the Israeli act of aggression on the Iraqi nuclear installations, which was a grave threat to international peace and security. Its vote did not, however, in any way alter his Government's well-known views regarding the Non-Proliferation Treaty or any other or more general safeguards and their relevance to the issue under consideration.

20. Mr. DYRLUND (Denmark) said that his Government had on many occasions expressed its strong support for any proposals which might contribute to the elimination of the arms race, in nuclear as well as conventional weapons. However, since the subject was a matter for other United Nations bodies, its delegation had abstained in the vote on draft resolution E/CN.4/1982/L.15/Rev.1

21. His delegation shared the concern shown in the resolution for the individual's right to life and it intended to submit a draft resolution on the subject under agenda item 12.

22. Mr. ZORIN (Union of Soviet Socialist Republics) said that his delegation had voted in favour of draft resolution E/CN.4/1982/L.7, which was of considerable political and humanitarian importance, especially at a time when it was important to ensure that scientific and technological developments were used in order to satisfy the aspirations and demands of the masses, including their social and economic rights.

23. His delegation had also voted in favour of draft resolution E/CN.4/1982/L.12, the political implications of which were undeniable. The act of aggression committed by Israel against the Iraqi nuclear facilities, which were being used for peaceful purposes, could not be tolerated. Apart from being a flagrant violation, it also hampered advances in science and technology for peace.

24. His delegation had not wished to oppose draft resolution E/CN.4/1982/L.14, whose underlying idea it supported. It doubted, however, whether it fell within the scope of the item under consideration. Moreover, the study envisaged hardly seemed to be justified: it might indeed be the case that some individuals were detained in psychiatric hospitals for reasons which had no connection with their mental health, but those were isolated cases, such as might be found in many parts of the world. In that connection, his delegation refuted the accusations made against his country by the delegation of the United States of America.

25. His delegation was grateful to the delegations which had taken part in the consultations aimed at improving the text which it, together with others, had submitted in document E/CN.4/1982/L.15/Rev.1. It regretted that that text had not received wider support, especially from the Western countries. What was important, however, was that, by an overwhelming majority, the Commission had recognized that there was no more important question than the maintenance of peace and respect for the right to life.

26. Mr. SOLA (Argentina) said that his delegation had voted in favour of draft resolution E/CN.4/1982/L.12 although it did not subscribe to all its provisions. His country had stated its views on the question at length at the thirty-sixth session of the General Assembly. His delegation had voted in favour of draft resolution E/CN.4/1982/L.15/Rev.1 because it was firmly opposed to the manufacture and use of nuclear weapons.

27. Mr. BETTINI (Italy) said that his delegation had abstained in the vote on draft resolution E/CN.4/1982/L.7, which, in its view, dealt with the question of progress in science and technology in too vague and superficial a way. As his delegation had pointed out during the general debate, scientific and technical research should be closely related to the political, economic, social and cultural situation in each country, and it was up to governments to ensure that the achievements of science and technology were not used against the interests of the individual. The international community could play an important role in that regard, but it was primarily the responsibility of each State to adjust its policy with a view to a balanced and harmonious utilization of science and technology.

28. His delegation had abstained in the vote on draft resolution E/CN.4/1982/L.12 because it considered that its subject matter came within the competence of other international bodies, where his delegation had already made its position known. His delegation had abstained in the vote on draft resolution E/CN.4/1982/L.15/Rev.1 because, in its view, disarmament and all related matters fall within the competence of the Committee on Disarmament. Any manoeuvre aimed at dealing with those questions outside the Committee was only a cloak for demagogic intentions which were contrary to the real interests of the international community.

29. Mr. OGURTSOV (Byelorussian Soviet Socialist Republic) said that his delegation had voted in favour of draft resolution E/CN.4/1982/L.12 because it was very concerned at the act of aggression committed by Israel against the Iraqi nuclear installations in June 1981. By engaging in that act of piracy, with the help of United States aircraft, Israel had violated all the rules of international law, deciding the fate of another people in the most barbarous manner. That act of aggression was a violation not only of a State's sovereignty but also of its right to scientific and technical development.

30. The nuclear installations which had been the target were to have been used for peaceful purposes for the development of Iraq. Israel's act of aggression was also a blow against the nuclear non-proliferation system. In that connection, he drew attention to the fact that Iraq had acceded to the Treaty on the Non-Proliferation of

Nuclear Weapons, unlike Israel, which had rejected any control over its own installations by the International Atomic Energy Agency. The peaceful character of the Iraqi nuclear installations had been frequently confirmed by the Agency's experts. Israel should therefore be condemned for that act of aggression, which constituted an escalation of violence. Responsibility for the act lay primarily with the United States imperialists, who were increasing their assistance to Israel. The draft resolution's call to all States to cease forthwith any moral, material or human assistance to Israel was therefore primarily addressed to the United States.

31. With regard to draft resolution E/CN.4/1982/L.14, which had been adopted without a vote, his Government had certain reservations concerning the desirability of consideration by the Commission on Human Rights, under the present agenda item, of the question of the protection of persons who were interned because of mental illness. It also had serious doubts as to the Commission's competence to formulate principles for every category of patient, inasmuch as patients were cared for in medical institutions and their status was determined solely by the nature of their illness and not by any particular "guidelines" prepared by the Sub-Commission. If the resolution had been put to the vote, his delegation would not have approved it.

32. The CHAIRMAN said that the Commission had completed its consideration of agenda item 15.

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 INTERNATIONAL 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, E/CN.4/1421, E/CN.4/1488, E/CN.4/1489, E/CN.4/1982/NGO/2, E/CN.4/1982/NGO/6, E/CN.4/1982/NGO/8, A/36/462, ST/HR/Ser.A/10)

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

33. Mr. NYAMEKYE (Deputy Director, Division of Human Rights), introducing agenda item 8, said that, as the General Assembly had successively affirmed in its resolutions 32/130, 34/46 and 35/174, the full realization of human rights was impossible without the enjoyment of economic, social and cultural rights, the right to development was a human right and equality of opportunity for development was as much a prerogative of nations as of individuals within nations. More recently, in its resolution 36/133 of 14 December 1981, the General Assembly had reiterated that the establishment of the new international economic order was an essential element for the effective promotion and the full enjoyment of human rights and fundamental freedoms.

34. Under item 8, the Commission had before it a number of documents, including the report of the seminar held in New York in 1981 on the relations that existed between human rights, peace and development. That seminar had adopted important conclusions and recommendations which the Commission would undoubtedly wish to consider. It would also wish to consider the report on the New International Economic Order and the Promotion of Human Rights which had been submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its thirty-fourth session.

35. The Commission also had before it the remaining parts of the study prepared by the Secretary-General on the regional and national dimensions of the right to development (E/CN.4/1488), which was complementary to document E/CN.4/1421. While the report on the international dimensions emphasized the importance of disarmament and the cessation of the arms race, the report in document E/CN.4/1488 undertook to analyse the problem of militarization, which would obviously have to be tackled in an open and objective manner if respect for human rights was to be encouraged. In addition, that study addressed a number of other important issues which had hitherto been rather neglected, such as the structures which gave rise to the inequitable distribution of economic and political power and hence to violations of human rights. It also analysed, as requested by the Commission, the relationship between human rights and the right to development, and it noted that any development strategy which directly involved the denial of human rights constituted a violation of the right to development. The Commission might wish to examine the recommendations contained in paragraph 310 of that document.

36. The Commission was also invited to take note of the report of the Ad Hoc Working Group of governmental experts set up pursuant to the Commission's resolution 36 (XXXVII) (E/CN.4/1489). During their discussions, the experts had emphasized a number of issues, namely: the connection between the establishment of the new international economic order and the enjoyment of the right to development; the importance of full participation at all levels both in decision-making and in sharing the benefits of development; the important link between the right to development on the one hand and the right to live in peace and various proposals relating to disarmament on the other hand. It had been felt that the right to development included two indivisible dimensions, a collective one and an individual one; as well as a number of ethical, political, economic, social, cultural and juridical aspects. Concerning the demands of development, the experts as a whole had agreed that those demands could not justify any derogation from fundamental rights. It had also been held that the promotion of economic, social and cultural rights could in no case justify violations of civil and political rights or any delay in their exercise. While agreeing that it was desirable to prepare a declaration on the basis of all the documents already submitted or to be submitted to the Group, the experts had noted that, in the time available to them, they had been unable to complete all aspects of the mandate which had been given them. It was therefore for the Commission to determine how to proceed in that regard.

37. Under agenda item 19, the Commission had before it the report (E/CN.4/1511) in which the Secretary-General, in compliance with the request of the Commission in its resolution 16 (XXXVII), indicated the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Optional Protocol to the latter, as well as the number of declarations made by the States Parties under article 41, paragraph 1, of that Covenant.

38. In that same document, the Secretary-General informed the Commission concerning the work of the Human Rights Committee which was responsible for monitoring the implementation of the International Covenant on Civil and Political Rights. In its fifth annual report, submitted to the General Assembly at its thirty-sixth session, the Human Rights Committee had given an account of the work accomplished during its eleventh, twelfth and thirteenth sessions, including its decisions concerning the periodicity, form and content of the reports which States parties to the Covenant were required to submit under article 40, paragraph 1 (b). It had also made certain general comments under article 40, paragraph 4. The Committee, which was anxious to see a continuation of the dialogue it had succeeded in establishing with the States parties, had decided that the latter should henceforth report every five years reckoned from the date of the consideration of their initial report or the date on which that initial report had been due, as appropriate. The purpose of the Committee's general comments was to enable all States parties to benefit from the experience gained by the Committee in order to promote the further implementation of the Covenant.

39. The Sessional Working Group on the implementation of the International Covenant on Economic, Social and Cultural Rights had held its third session at United Nations Headquarters from 14 April to 1 May 1981 and had reported on its work to the Economic and Social Council at its first regular session in 1981. By its decision 1981/158, the Economic and Social Council had taken note of the report of the Working Group, had approved the Group's recommendations concerning its composition, organization and administrative arrangements, and had therefore decided to modify the Group's methods of work; by its decision 1981/159, the Council had invited States parties to the International Covenant on Economic, Social and Cultural Rights which had not yet submitted their reports as called for under article 16 of the Covenant and Council resolution 1988 (LX) to do so as soon as possible; lastly, by its decision 1981/162, the Council had decided to further review the composition, organization and administrative arrangements of the Sessional Working Group at its first regular session in 1982. At their next session, in 1982, the Council and its Sessional Group would have before them some 15 reports submitted under the third stage of the programme established by Council resolution 1988 (LX), as well as a few reports under the first and second stages, consideration of which had been postponed from the 1981 session or which had been received by the Secretary-General subsequently.

40. Mr. INCISA DI CAMERANA (Italy) said that the Commission had first concerned itself with the right to development in 1977, when it had requested the Secretary-General to prepare a report on the international dimensions of the right to development as a human right in relation to other human rights, taking

into consideration the new international economic order. The right to development, which still had to be defined, had first been conceived as a right of peoples and individuals, then as an inalienable right and lastly, according to the latest report of the Working Group of governmental experts (E/CN.4/1489), as a right enjoyed by States, peoples and individuals.

41. After five years of work, it was possible to see a classification of the various dimensions of the right to development, a classification in which the right to development of individuals, as a synthesis of all the human rights recognized in international instruments, seemed to be placed after the right to development of States and peoples. Furthermore, the Secretary-General's report on the regional and national dimensions of the right to development as a human right (E/CN.4/1488) dealt mainly with the right to development as a collective right to be exercised only by the developing countries.

42. His delegation did not approve of those two tendencies. The right to development of the individual could not be placed at the bottom of the classification, since most civil and political rights, beginning with the right to life, to which the Director of the Division of Human Rights had dedicated his introductory statement, as well as certain fundamental freedoms concerning economic and social rights, such as trade union rights, were preceptive in nature, regardless of the level of development of the country or the political and social system of the State.

43. Neither did his delegation think that the right to development as a collective right was to be exercised solely or mainly by the developing countries. That opinion, in fact, denied the very nature of development, which was a continuous process of positive evolution of all societies, including those of the developed countries, and which certainly included, but was not limited to, the growth of national income. The Commission for Social Development had worked for years on the concept of social development as a process involving society as a whole and its functioning at all levels, regardless of the country's level of development. The Commission for Social Development had defined two main components of social development: first, a fair distribution of the benefits of development, and secondly the participation of the whole population in the decision-making process. The concept of social development was therefore based on the necessity of structural social reforms wherever they were needed.

44. His delegation noted with satisfaction that the Working Group of governmental experts on the right to development had taken due account of the doctrine of social development, from which the so-called unified approach to development analysis and planning had originated. In fact, one of the few points on which the Working Group had agreed was that the holders of the right to development in its individual dimension were individuals and that States should give all individuals the guarantees necessary to the exercise of civil and political rights, as well as equality of opportunity in their access to the means and resources necessary for the exercise of the right to development, including their effective participation in decision-making and in the distribution of benefits.

45. It would therefore have been preferable to have reversed the order in which the two reports of the Secretary-General had been requested and to proceed from the study on the individual dimension of the right to development to the study concerning its national dimension, and then to that devoted to its international dimension. The Working Group of governmental experts had made less progress in studying the collective dimension of the right to development than on the content and scope of the individual's right.

46. The members of the Working Group had been sharply divided with regard to the degree of importance of the collective dimension of the right to development and of its individual dimension. In that situation, it was necessary to avoid any classification of the various dimensions. The Working Group had also been sharply divided on the question of whether the right to development had any legal aspects. With regard to the collective dimension, there were certainly a number of declarations and resolutions of the General Assembly and the Commission on Human Rights which established political and moral principles concerning the relations among the States Members of the United Nations, as well as international development strategies. However, those principles were not yet codified in peremptory norms in the legal sense of the term. At the individual level, international and national peremptory norms did exist, but only for those human rights which were perceptive in nature, such as civil and political rights, while most of the economic, social and cultural rights were of a programmatic nature, both at the international and at the national level.

47. That being the present status of the codification, stricto sensu, of human rights, any possible declaration on the right to development should be conceived as a step forward in the proclamation of principles of national and international solidarity and not as a set of legal rights. Lastly, in view of the importance and complexity of its task, it was desirable that the Working Group should be able to continue its study with a view to reaching agreement on all aspects of the right to development.

48. Mr. OTUNNU (Uganda) said that the right to life and the right to development were preconditions for other human rights for the majority of the peoples of the world. Although the term "right to development" was new, it covered a concept that was set forth in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, as well as in a number of United Nations resolutions relating to the Declaration and the Programme of Action on the Establishment of the New International Economic Order, the Charter of Economic Rights and Duties of States and the Declaration on the Granting of Independence to Colonial Countries and Peoples.

49. As the Working Group of governmental experts had pointed out, the right to development had a collective and an individual dimension, which were indivisible and which covered much more than economic growth. The right comprised political, social, cultural and legal elements that were essential for the integral development of societies. In order to bridge the gap between aspirations and reality, there was an urgent need for determined and concerted action at the international, national and local levels.

50. There was a need, first of all, to democratize international economic relations. For the developing countries, the existing system was reflected in staggering inflation, a huge balance-of-payments deficit, adverse terms of trade, an alarming debt burden and negative growth rates. Those factors had prevented the developing countries from providing adequate standards of living for their people and were an obstacle to the realization of human rights. As could be seen from the report of the Working Group of governmental experts (E/CN.4/1489, para. 8), emphasis had also been placed in the Group on the connection between the establishment of the new international economic order and the enjoyment by States, peoples and individuals of the right to development.

51. It was therefore extremely disappointing to note that, nearly a decade after the General Assembly's adoption of the Declaration and the Programme of Action on the Establishment of the New International Economic Order, little progress had been made in that direction. At a Conference on Development, Human Rights and the Rule of Law organized at the Hague in April 1981 by the International Commission of Jurists, one of the participants, Mr. Ramphal, had said that the consistent failure of the North-South dialogue was one of the most damaging blows struck against human rights. Another participant had also stated in a working paper that all the dictators and aggressors throughout history had failed to succeed in creating as much misery and suffering as that now caused by the disparity between rich and poor. It was therefore essential to break the deadlock in the North-South dialogue and to launch global negotiations, in the interest of the world economy and of international peace and security. Since countries were interdependent, they must choose between solidarity and collective catastrophe.

52. Although the right to peace was an important element of the right to development, its realization was impeded by a number of obstacles and, in particular, by the arms race. The reckless sale of weapons and the unbridled arms race engaged in by the military powers could only strengthen oppressive and aggressive régimes. The arms race also continued to distort the economies of the industrialized nations and to impede the social and economic development of the third world, to the detriment of human rights. It was intolerable that \$500 billion were squandered every year on armaments when so many people throughout the world were deprived of their rights to health, food, shelter and education.

53. There was no doubt that poverty was largely the product of underdevelopment which, in turn, was the product of a long process of colonial exploitation. The African continent had not yet recovered from the consequences of that ruthless exploitation, of which the slave trade had been the most barbaric form. Reference had been made in the Working Group of governmental experts to the responsibility of former colonial powers to make reparation to developing countries for past exploitation, and some experts had pointed out that the right to development should include compensation for social and economic damages (E/CN.4/1489, para. 9). In his delegation's view, the concept of such reparation deserved careful study.

54. While it was important to take steps at the international level to guarantee the realization of the right to development, steps should also be taken at the national level, firstly to ensure full participation in political and economic life.

Every effort must also be made to ensure an equitable sharing in the benefits of development and to avoid the appropriation of such benefits by an élite. Lastly, steps must be taken to combat corruption, ethnic chauvinism, racial bigotry and religious intolerance.

55. With regard to the proposals for a draft international instrument on the right to development, his delegation would accept the elaboration of a declaration, as an interim measure, pending the conclusion of a binding convention at a later date.

56. His Government hoped that urgent and effective steps would be taken to establish a more democratic and just economic order, that no effort would be spared to achieve general and complete disarmament, and that it would be possible, at the national level, to attain a more democratic and just life in all fields. Without those measures, the right to development could not be realized and the vast majority of mankind would continue to live in poverty and to be deprived of its fundamental human rights.

57. Mr. KOOLJMANs (Netherlands) said that his Government had for some years shown its interest in the right to development, having financed a colloquium on the subject which had been held at The Hague in 1979 under the auspices of the United Nations University and The Hague Academy of International Law. His Government had therefore welcomed the establishment of a working group of governmental experts to study the scope and content of the right to development, and had particularly welcomed the appointment of the Netherlands as a member of the group.

58. On reading the report of the Working Group (E/CN.4/1489), his delegation had not been surprised to note that the Group had been unable to discharge its mandate completely; in view of the complexity of the subject and the amount of work required before specific proposals could be worked out. The study by the Secretary-General (E/CN.4/1488) on the regional and national dimensions of the right to development had made a further important contribution to the work on the subject.

59. The Working Group's report showed that a constructive discussion was under way and that there had already been a consensus on certain points. For example, the experts as a whole had considered that the demands of development could not justify any derogation from fundamental human rights. The Working Group's study of the collective and individual dimensions of the right to development had shown that that right was an evolving right and was regarded by most experts as a concept going beyond economic growth. It had been generally agreed that the right to development, in its individual dimension, covered all the civil, political, economic, social and cultural rights necessary for the full development of the individual and the protection of his dignity.

60. The experts had repeatedly placed emphasis on the aspect of participation, which was essential in the decision-making process and constituted both a means and an end of the individual's right to development. The concept of non-discrimination, to which several references were made in the report, applied to the principle of equality of opportunity for development - a principle also referred to in the study by the Secretary-General.

61. There appeared to be a battle of words with respect to the question of the beneficiaries of the right to development and the distinction between the individual and collective dimensions of that right. Everyone appeared to agree that the ultimate goal was the integral development of the individual. The right to development stemmed from the principle of solidarity, according to which the weak and disadvantaged should be protected. That principle should not apply only within nations, but should apply also at the international level, as was clear from article 28 of the Universal Declaration of Human Rights. If the principle of international solidarity was translated into aid given across borders, it stood to reason that Governments could be the primary beneficiaries. Such Governments should, however, receive such aid for the benefit of the people for which they were responsible. The right to development should never serve as a basis for strengthening the position of a ruling élite who exploited the popular masses. The collective dimension of the right to development could not, therefore, be dissociated from its individual dimension, and that meant that all individuals should be accorded equality of opportunity for access to the means and resources necessary for the exercise of the right to development, including their effective participation in decision-making for development and in the distribution of the benefits resulting therefrom (paragraph 28 of the report of the Working Group).

62. In his delegation's view, the governmental experts should be given an opportunity for further reflection and study to enable them to make specific proposals. His delegation looked forward to the report to be submitted by the Group to the Commission at its next session.

63. Mr. LOPATKA (Poland), recalling the terms of Commission resolution 35 (XXXVII) concerning the establishment and role of the Working Group of governmental experts, welcomed the report submitted by Mr. Chouraqui. He also welcomed the fact that the Working Group had taken account of the conclusions and recommendations of the Seminar on Relations that Exist between Human Rights, Peace and Development, held in New York in 1981, but he regretted that the Group had not drawn on the results of the Symposium on New Human Rights organized by UNESCO and the Matias Romero Institute in August 1980. The Working Group had considered the preconditions for the implementation of the right to development and the many obstacles in the way of its application at the international and national levels, and had described the individual and collective dimensions of that right; it had, however, failed to mention the sacrifices needed to implement that right at the collective and individual levels, had disregarded the relationships between the present and the future and had shown excessive idealism in its recommendations. Bearing in mind that the State had the main responsibility for promoting the right to development, it remained to be seen which social categories favoured development and which were opposed to the realization of that right.

64. With respect to the draft international instrument on the right to development, his delegation shared the view of the Working Group of Experts that a declaration should be formulated for adoption by the United Nations. The draft declaration would be based on all available documents, including the report of the Working Group itself. The working paper submitted by the Cuban experts (E/CN.4/AC.34/WP.5), which contained a well-thought-out draft declaration on the right to development, and the report of the Polish expert, which examined the close relationship between the right to development and the right to live in peace, as well as the question of the universality of such human rights, could also usefully be studied for the formulation of the instrument in question.

65. In any event, his delegation favoured the continuation of that work within the United Nations and was prepared to participate in those efforts.

66. Miss SINEGIORGIS (Ethiopia) referring to agenda item 8, said that the Commission, in its resolution 4 (XXXIII) of 21 February 1977 had recognized the right to development as a human right and had given a decisive impetus to the study of that concept. Since then, the General Assembly, the Economic and Social Council and the Commission had adopted a number of significant recommendations on that subject. A further milestone in the realization in particular of the rights enunciated in article 25 of the Universal Declaration of Human Rights had been the establishment of the Working Group of 15 governmental experts, whose role, under Commission resolution 36 (XXXVII) was to study the scope and contents of the right to development and the most effective means to ensure the realization in all countries, of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights. The report of the Working Group contained in document E/CN.4/1489, was a balanced and clear account of the successful work of the Group under the enlightened guidance of its Chairman.

67. In the opinion of her delegation the right to development, as had been stated in General Assembly resolution 34/46, was one of the fundamental rights of man. It was inalienable and universal since it affected the daily lives of everyone; it was also a complex whole because, in going beyond purely economic issues, it had a multifaceted aspect involving moral, political, ethical, social, economic, cultural and legal matters. It had its basis in the established or assumed principles contained in various instruments, including the Charter of the United Nations, the Universal Declaration of Human Rights, the two International Covenants on Human Rights, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Charter of Economic Rights and Duties of States, the Declaration and the Programme of Action on the Establishment of a New International Economic Order, the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, the Declaration on the Strengthening of International Security, the Declaration on the Deepening and Consolidation of International Détente and numerous resolutions of the United Nations. The realization of the right to development therefore originated in respect for the principles of sovereignty, territorial integrity and political independence of States, self-determination, equality of opportunity of all nations and individuals, non-aggression, non-intervention and non-interference, peaceful settlement of disputes, promotion of social order and universal respect for human rights, and international co-operation on the basis of sovereign equality, to only mention a few.

68. The realization of the right to development necessitated the immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, apartheid, colonialism, discrimination, aggression, coercion, threats of war and interference in the internal affairs of States. Of equal importance were respect for the sovereignty, territorial integrity and political independence of States, equal rights, self-determination, good neighbourliness, succession of States with respect to treaties, promotion of international peace and security, peaceful coexistence, fair trading, full participation in decision-making, equitable sharing of the common heritage of mankind, international social justice, general and complete disarmament, and lastly, a new international economic order.

69. Two major obstacles made it difficult for the developing countries to pursue their paths at the present time: one was the arms race, which placed those countries under a constant threat of aggression, intervention and intimidation, and endangered international peace and security, and the other was the present unjust international economic order. She quoted, in that connection, paragraph 139 of document E/CN.4/1433, and passages from Mr. Van Boven's statement to the Seminar on the effects of the existing unjust international economic order on the economies of the developing countries. It was well known that the existing economic order had been imposed when a great majority of developing countries had still been under the colonial yoke, and that it profited a small number of major Powers and was helping to widen the gap between the rich and the poor. The establishment of a new and more just international order was therefore the first step in any effort to promote human rights. The first requirement was to put an end to the activities of the transnational corporations, which, as had been pointed out in the report of the seminar on effective measures to prevent transnational corporations and other established interests from collaborating with the racist régime of South Africa, were helping to perpetuate the odious apartheid régime, in disregard of the rule of law, the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the two international Covenants. The efforts made to justify the presence of those corporations on the ground that they were beneficial to the peoples of Africa in creating job opportunities and helping to humanize the apartheid régime was a transparent camouflage of the fact that they bore a major responsibility in thwarting the legitimate rights of the peoples of South Africa and Namibia to self-determination.

70. Until recently, an artificial division of human rights and development had been made. At last the international community was invited to recognize, as the Non-Aligned Countries had stated at their Sixth Summit held in Havana in 1979, that all human rights and fundamental freedoms were inalienable, indivisible and interdependent. The aim should be to elaborate a definition of a third generation of human rights in the form of an international instrument, not only to clear up the present confusion regarding the specific meaning of the different rights but to promote the inherent right to development of all peoples. Her delegation considered that progress must be made simultaneously in the implementation of all human rights, without singling out one right as more fundamental than the others. The question of development could not be recognized as one of the central problems of human rights if it was permanently relegated for legal or other reasons. The Commission should tackle the study of the right to development as a matter of priority for the sake of humanity as a whole.

71. Mr. GOMENSORO (Argentina) considered that the right to development, on both an individual and a collective basis, which consisted in giving peoples and individuals the means of benefiting from the rights enunciated, inter alia, in the Universal Declaration, should be regarded as a human right.

72. In its study of the right to development and of the most effective means by which developing countries might realize their economic, social and cultural rights, the Working Group had recognized the collective and individual aspects of that right and had emphasized the need to formulate specific proposals for its implementation. It was essential that the Working Group be authorized to continue its study and be allowed the time and resources it needed.

73. A draft declaration should be prepared and a binding instrument should perhaps be negotiated which could take the form of a universal convention.

74. His delegation welcomed the fact that the participants in the Seminar on relations that exist between human rights, peace and development had taken the view that without peace it was not possible fully to realize human rights and bring about the development of peoples, either materially or spiritually. She drew attention to the particular importance of disarmament in the areas of both conventional and nuclear weapons, which would release resources that could be used to improve the lot of the developing countries. In his study of that question (E/CN.4/1421), the Secretary-General had shown the adverse effect on the level and nature of aid to developing countries of the impasse in the disarmament negotiations between the major industrial powers. His delegation hoped that that concern would be taken into account at the forthcoming special session of the General Assembly on disarmament which was to be held shortly in New York.

75. His delegation was also most concerned at the various barriers to international trade which, together with inflation, unemployment and the deterioration of the world economy, were preventing the harmonious development of peoples and the integral realization of human rights for millions of persons and particularly for the less developed countries. In the areas of its competence, the Commission should spare no effort to promote human rights within the framework of a new international economic order. In that connection, he mentioned the appearance of Mr. Ferrero's preliminary report on the new international economic order and the promotion of human rights, which was expected to be submitted to the Sub-Commission at its next session.

76. Mr. SABOIA (Brazil) said that the study of the relationship between human rights and the problems of development, on the Commission's agenda since 1967, had provided a link between those two important fields of United Nations activities. The Commission, in its resolution 4 (XXXIII), had recognized the concept of the right to development and had taken steps to establish its precise nature and incorporate it in a document of the United Nations. Most of the aspects of that right had already been made clear during those years. It had been established that the right to development was both a collective and an individual human right and that its beneficiaries were States, peoples and individuals. The duty to promote that right was incumbent on each State with regard to national aspects of development and upon the international community as a whole and developed States in particular with regard to the establishment of an international order favourable to development. The right to development was recognized, furthermore, as encompassing all economic, social and cultural rights. It constituted, however, a dynamic concept larger than the aggregate of its components.

77. The formulation of the right to development as a human right was the result of the international community's awareness of the need for a global and structural approach to development which took into account all the aspects of the process. It replaced the concept of mere economic growth which had prevailed until the 1960s. For the observance of human rights certain conditions of a collective nature must be fulfilled.

78. The legal bases of the right to development could be traced to Articles 55 and 56 of the Charter and had been reaffirmed in a number of declarations and resolutions of the United Nations, particularly article 23 of the Universal Declaration of Human Rights, and, more recently in the Declaration on Social Progress and Development, in General Assembly resolutions 32/150 and 34/46 and in the instruments relating to

the establishment of a New International Economic Order. Since 1979 the consideration given by the Commission on Human Rights to that issue had been facilitated by the Secretary-General's studies of the international dimensions of the right to development as a human right, and several studies which the Commission had requested on the national and regional dimensions of the question and, lastly, by the publication of document E/CN.4/1488. Despite their usefulness, however, those studies raised more questions than they proposed solutions. The translation of the concept into a notion capable of providing practical guidance would depend significantly on the future course of action adopted by the Commission. His delegation was convinced that the Commission, having laid the bases of the right to development, must now proceed to its concrete formulation in an international instrument.

79. His delegation endorsed the principle of the indivisibility and interdependence of human rights and was conscious that development must be promoted with a view to the material and spiritual wellbeing of the human being. That aim could be achieved only by having social, economic and political structures which promoted justice, equality of opportunity and participation, at the national as well as at the international level. The Commission should perhaps concentrate its efforts first and foremost on helping to remove international obstacles in the way of development. It needed only to look at the situation prevailing in international trade both in commodities and in manufactured goods, in the flow of investment and of financial assistance, or in the access to technology and culture, to see how developing countries had lagged behind the benefits of progress, as a result of historical patterns and institutional structures which they had not helped to establish and which they were unable to change. In formulating the right to development as a human right it was necessary to put adequate emphasis on its international dimension and the need to promote a new international economic order. Respect for human rights could be achieved at the national level only if there was an international environment which ensured respect for such collective rights of nations and peoples as self-determination, peace and development.

80. The Working Group of governmental experts had made an important effort to define the scope and content of the right to development, with particular emphasis on its collective and international dimensions. Most of the experts had recognized the need for the establishment of a new international economic order by granting as far as possible non-reciprocal preferential treatment to developing countries in all areas of international co-operation and by sharing among States the peaceful benefits of scientific and technological progress. However, despite its interesting contributions and one concrete proposal, the Working Group had not been able to submit a draft declaration on the right to development, which was the most important aspect of its mandate from the standpoint of the objectives pursued by the Commission. The Brazilian delegation therefore recommended that the Working Group's mandate should be renewed, and that the Group should be requested to prepare a draft declaration for submission to the Commission at its next session.

The meeting rose at 1.05 p.m.