

UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL

E/CN.4/1983/SR.17  
18 February 1983

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 17th MEETING

held at the Palais des Nations, Geneva,  
on Friday, 11 February 1983, at 10 a.m.

Chairman:

Mr. OTUNNU

(Uganda)

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Status of the International Covenants on Human Rights

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GE.83-15318

The meeting was called to order at 10.15 a.m.

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

- (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
- (c) THE RIGHT OF POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE REALIZATION OF HUMAN RIGHTS (agenda item 8) (E/CN.4/1983/11; E/CN.4/1334, 1421, 1489; A/37/442)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 19) (E/CN.4/1983/29; A/C.3/35/L.75; A/C.3/35/SR.77; A/36/441 and Add.1 and 2; A/37/407 and Add.1)

1. Mr. HERNDL (Assistant Secretary-General, Centre for Human Rights), introducing item 8, said that the indivisibility and interdependence of all human rights, civil and political as well as economic, social and cultural, had been emphasized from the start of the United Nations human rights programme as reflected in the Universal Declaration of Human Rights, the International Covenants on Human Rights and many General Assembly resolutions. Recognizing the importance of the realization of economic, social and cultural rights, the Commission had decided in 1975 to include that subject in its agenda as a standing item with high priority. Subsequently, work had proceeded on the elaboration of the right to development. Commission and General Assembly resolutions had declared that the right to development was a human right and that equality of opportunity for development was as much a prerogative of nations as of individuals. The Economic and Social Council had decided to establish a Working Group of 15 governmental experts to study the scope and content 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 difficulties encountered by developing countries in their efforts to secure the enjoyment of human rights. The report of the Working Group on its fourth and fifth sessions was contained in document E/CN.4/1983/11.

2. At the Commission's request, two seminars had been organized by the Secretariat: one on the effects of the existing unjust international economic order on the economies of the developing countries and the obstacle that that represented for the implementation of human rights and fundamental freedoms and another on the relations that existed between human rights, peace and development. The reports on those seminars were to be found in documents ST/HR/SER.A/8 and ST/HR/SER.A/10, respectively.

3. The Sub-Commission on Prevention of Discrimination and Protection of Minorities was currently engaged in the final stages of a study on the new international economic order and the promotion of human rights. At its thirty-fifth session, it

had adopted resolution 1982/6 proposing that work be undertaken on technical assistance currently available to States to enable them to strengthen their legal institutions, including relevant educational facilities, in order to enhance respect for the rule of law in the development process, and resolution 1982/7, recommending that a study be prepared on the right to adequate food as a human right.

4. Finally, he drew attention to General Assembly resolutions 37/199, 37/200, 37/225 and, with particular reference to the subitem on popular participation, to resolution 37/55, in which the General Assembly had requested the Commission to consider at its current session the question of popular participation in its various forms as an important factor in development and in the realization of human rights and to submit to the General Assembly appropriate suggestions for more complete realization of human rights.

5. Turning to item 19, he drew attention to the report of the Secretary-General in document E/CN.4/1983/29. The International Covenants on Human Rights had come into force in 1976. The International Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 77 States, and the International Covenant on Civil and Political Rights by 74 States. Since the Commission's previous session, the two Covenants had been ratified or acceded to by Bolivia, Viet Nam, Egypt and Gabon; Afghanistan and the Solomon Islands had acceded to the International Covenant on Economic, Social and Cultural Rights. Bolivia had acceded to the Optional Protocol to the International Covenant on Civil and Political Rights, thus bringing the number of States parties to it to 28. To date, 14 States parties had made the declaration under article 41 of the latter Covenant.

6. The Human Rights Committee had submitted its sixth annual report to the General Assembly at its thirty-seventh session. The report covered the Committee's activities at its fourteenth, fifteenth and sixteenth sessions.

7. The Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights had held its fourth session from 5 to 23 April 1982. It had considered reports submitted by States parties under the first, second and third stages of the programme established by Economic and Social Council resolution 1988 (LX) concerning rights covered by articles 6 to 9, 10 to 12 and 13 to 15 of the Covenant, respectively, as well as the question of the review of its future composition, organization and administrative arrangements and submitted a report to the Economic and Social Council (E/1982/56 and Corr.1). By its resolution 1982/33, the Economic and Social Council had decided that the Working Group should in future be known as "Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights"; that the 15 members of the Group of Experts should be elected by the Council for a term of three years from among the States parties to the Covenant, in accordance with the geographical distribution established by Council decision 1978/10; that the Group of Experts should meet annually for a period of three weeks before the first regular session of the Council to examine the reports submitted by States parties and the specialized agencies; that it should submit to the Council a report on its activities and make suggestions and recommendations of a general nature based on its consideration of reports; that the Secretary-General should provide the Group of Experts with summary records of its proceedings as well as with appropriate conference facilities; and that the Council would review the composition, organization and administrative arrangements of the Group of Experts

at its first regular session of 1985 and subsequently every three years, taking into account the principle of equitable geographical distribution and the increase in the number of States parties to the Covenant. Finally, he referred delegations to General Assembly resolution 37/191 concerning the International Covenants on Human Rights.

8. With regard to the question of capital punishment, he noted that the Commission had decided at its 1st meeting to discuss under item 19 General Assembly resolution 37/192, in which the Commission had been requested to consider the idea of elaborating a draft of a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and to submit a report to the Assembly at its thirty-ninth session. The documents of the General Assembly pertaining to that subject (A/37/407 and Add.1) were before the Commission.

9. Mr. SENE (Senegal), introducing the report of the Working Group of Governmental Experts on the Right to Development (E/CN.4/1983/11), said that the Working Group had attempted to work in a constructive atmosphere by adopting its decisions by consensus. In 1982, it had made progress in its elaboration of a draft declaration on the right to development. At its fourth session, it had worked out 11 articles for the preamble and agreed on the structure of the operative part as well as on the subjects which it should cover. At its fifth session, it had continued to gather proposals relating both to the preamble and to the operative portion in order to compose a comprehensive negotiating document reflecting all points of view and grouping the various proposals by subject. The compilation of proposals was contained in document E/CN.4/1983/11, annex IV. Most of them appeared in brackets, because the Working Group had not had sufficient time for negotiations to arrive at a consolidated text. The proposals covered all aspects of the right to development and provided a clear idea of the shape and content of the future declaration.

10. The draft preamble referred to basic texts such as the Charter and the Universal Declaration of Human Rights. It dealt with the interdependence of civil, political, economic, social and cultural rights, the relationship between disarmament, peace and development, and the role of the individual, the group and the State in the application of the right to development.

11. The operative portion was made up of three parts: the first relating to objectives, principles, definitions and contents of the right to development; the second concerning national and international means to implement the right to development, the role of the international community, the necessary reform of the international economic system, and the role of the State, the community and individuals and the third devoted to general provisions.

12. The Working Group thus had a very broad base of ideas, suggestions and proposals which it could use to make rapid progress in the elaboration of a declaration. There were, of course, many differing views still to be reconciled, but there were also many areas of agreement, and he was sure that, if the Commission decided to renew the Working Group's mandate, future negotiations within it could be productive and decisive. In the meantime, it was open to all proposals and ideas which members of the Commission might advance during the discussion of the item: it was aware of the great interest which all countries had in the subject. It hoped that the Commission would consider favourably the recommendation contained in document E/CN.4/1983/11 concerning the renewal of its mandate, because it believed that it had embarked on an important stage of its work and that it should be allowed to finish what it had begun.

13. Mr. MURARGY (Mozambique) said that his delegation thought that the report of the Working Group of Governmental Experts (E/CN.4/1983/11) was a good basis for the elaboration of a declaration on the right to development, a matter of particular importance to his country, which was a developing State struggling for economic independence. The adoption of such a declaration would fulfil the legitimate aspirations of the peoples of developing countries, as it would be an important legal instrument in the struggle for the establishment of the new international economic order. It would not only realize the objectives embodied in the Charter and other important international legal instruments related to the establishment of the new international economic order and the development of international co-operation, but would also make a valuable contribution to the codification and progressive development of contemporary international law. It was foreseen as an instrument of peace and justice in a world where inequity was becoming more and more pronounced.

14. The right to development was a profoundly human right which went beyond mere individual rights to encompass the nation as a whole. It embodied various political, economic, social and cultural factors which contributed to the full realization of the well-being of peoples. Its effective enjoyment depended upon the recognition of the right of peoples to self-determination and independence and on the elimination of all forms of colonialism, neo-colonialism, apartheid, zionism and other factors threatening international peace and security, and could be made possible mainly through radical changes in international relations and the establishment of the new international economic order.

15. The world was witnessing increased aggressiveness on the part of imperialism which was manifested by its support for the apartheid regime of South Africa, the Zionist regime of Israel and other fascist and dictatorial regimes all over the world. By extending to those backward regimes economic, financial, diplomatic and military assistance, the imperialists were keeping the developing countries in a permanent state of underdevelopment while aggravating their savage exploitation of the peoples of African, Asian and Latin American countries, which they were trying to maintain as eternal suppliers of cheap labour and raw materials and as markets for manufactured goods.

16. In southern Africa, that dependence, which had been brought about by imperialism with the aim of keeping the developing countries under the chains of the racist and apartheid regime and thus safeguarding its economic interests in the area, was being combated by the Southern African Development Co-ordination Conference (SADCC), which reflected the determined aspirations of the peoples of southern Africa to exercise their legitimate right to development. Its positive achievements, particularly in the field of transport and communications, had been of great concern to the racist régime of Pretoria, which engaged in sabotage and destructive acts against the infrastructure and projects which had been set up to promote the economic and social development of the peoples of southern Africa. The elimination of racism, apartheid and colonialism in southern Africa was a historical imperative without which co-operation between the peoples of that region could not be developed. It was the international community's duty to frustrate the aims of the South African regime, and Mozambique called upon the Western countries to co-operate with the nine countries of southern Africa within the framework of SADCC projects.

17. The world was now experiencing an unprecedented economic crisis which had severe negative consequences, particularly for developing countries. That deplorable situation was a direct consequence of the crisis in developed market-economy countries,

which contributed to the maintenance of the status quo in developing countries. His delegation was deeply concerned about the unrestrained arms race which absorbed large amounts of financial and technological resources that were badly needed for the implementation of development programmes. Another source of concern was the persistent refusal of the developed market-economy countries to participate in negotiations aimed at the restructuring of international economic relations. That negative attitude was a serious obstacle to the promotion of the right to development.

18. The declaration on the right to development should envisage the uprooting of colonialism, racism, apartheid and zionism and general and complete disarmament. It should aim at the democratization of international relations through the equitable participation of all members of the international community in decisions on issues relating to international peace and security and in international financial institutions. It should be geared towards ensuring international co-operation as a requirement for establishing a climate of peace among peoples. In accordance with the preamble and Articles 55 and 56 of the Charter, the developed countries had an obligation to contribute to the development of the developing countries.

19. His delegation supported the renewal of the Working Group's mandate.

20. Mr. BEHRENDs (Federal Republic of Germany) said that his Government supported all United Nations efforts to promote the observance of human rights and fundamental freedoms and viewed with an open mind new conceptual approaches to that end, including the new concept of a right to development. It appreciated the thorough discussion within the United Nations with a view to defining the scope and contents of such a right exactly and hence the establishment of the Working Group of Governmental Experts to elaborate a draft declaration on the subject.

21. The report of the Working Group (E/CN.4/1983/11) reflected a wealth of ideas and some points of convergence. Further conceptual clarification was required, however, in view of the great number of divergent views that had emerged. His delegation therefore supported the renewal of the Working Group's mandate.

22. His delegation had particularly welcomed the spirit of co-operation and compromise that had prevailed at the Commission's thirty-eighth session regarding the further work of the Group of Experts and hoped that such a spirit would again be in evidence at the current session so that common ground might be found for a resolution on the subject that his delegation could support.

23. Together with other international instruments on human rights, the International Covenants were the cornerstone of the human rights system. While the number of States parties to the Covenants had increased over the past year, fewer than half of the States Members of the United Nations had acceded to them to date. Accession to the Covenants must be encouraged in order to promote the world-wide achievement and protection of human rights. More publicity should be given to United Nations activities in that field, in particular to the work of the Human Rights Committee. One way to attract more publicity was to hold sessions of that Committee away from Headquarters; his Government had hosted a session of the Committee in Bonn which had not only provided the Committee with valuable experience but had also increased the public's interest in intergovernmental action to protect human rights.

24. His delegation supported the suggestion to include in the agenda of meetings of States parties to the International Covenant on Civil and Political Rights a discussion on the activities of the Human Rights Committee. Such a discussion should help to make it more efficient.

25. An important step forward in the promotion of economic, social and cultural rights had been taken with the review of the composition, organization and administrative arrangements of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights. That reorganization would improve the procedure for monitoring States parties' implementation of their obligations under the Covenant.

26. As the author of a draft optional protocol to the International Covenant on Civil and Political Rights concerning the abolition of capital punishment (A/C.3/35/L.75), his Government had welcomed General Assembly resolution 37/192 which requested the Commission to consider the drafting of such a protocol and to report back thereon to the General Assembly at its thirty-ninth session. His delegation realized that, for religious, historical or legal reasons, some countries could not take steps to abolish capital punishment and while his country believed that it should be possible to dispense with capital punishment, it was far from wishing to **pronounce** judgement on those legal systems that maintained it. Rather, its aim was to create an international instrument for those countries that wished to make an open commitment to abolish capital punishment or not reintroduce it. It respected each State's sovereign decision as to whether or not to accede to the proposed optional protocol. Those that did not do so would not be placed at any legal disadvantage. It simply urged those that could not accede to it not to oppose the drafting of such a protocol.

27. His country had always concurred with the approach adopted by the United Nations towards capital punishment, an approach which encompassed not only its criminological aspects but also its human rights aspects. From a very early stage, the United Nations had sought ways of restricting the use of the death penalty and milder methods of applying it, the main objective being to progressively restrict the number of offences for which the death penalty might be imposed. Article 6 of the International Covenant on Civil and Political Rights not only guaranteed the right to life but also made it clear that nothing in that article should be invoked to delay or to prevent the abolition of capital punishment by any State party.

28. Capital punishment deprived man of his most precious asset. His country was convinced that the forces of society, in particular its educational, penal and correctional system, ought to be sufficiently powerful for the State not to need to deprive individuals of their lives in order to protect it. Statistics in many countries showed that the abolition of capital punishment had no detrimental effect on the crime rate. On the other hand, miscarriages of justice and abuse of the death penalty created irrevocable situations. There was also ample proof that capital punishment did not act as a deterrent. His country had no intention, however, of imposing that view on countries which did not wish to abolish capital punishment.

29. His delegation hoped that, after substantive discussion at its thirty-ninth and fortieth sessions, the Commission would be able to pronounce itself in favour of the elaboration of the proposed second optional protocol to the International Covenant on Civil and Political Rights.

30. Mr. MAVROMMATIS (Cyprus) said that he wished to make a number of comments in his personal capacity but based on his experience as Chairman of the Human Rights Committee.

31. In the six years of its existence, the Committee had examined approximately 52 initial and 10 supplementary or other reports as well as scores of communications involving hundreds of individuals. It afforded a unique example of close co-operation and friendly working relations and a continuous effort to achieve consensus. It had never had to resort to a vote and only in a very few cases had a dissenting view on an individual communication been appended to its final views. It was his belief that, by working in such a fashion, independent experts could more effectively promote human rights and fundamental freedoms.

32. Soon after its establishment, the Committee had issued guidelines regarding the initial reporting obligations of States parties and later for their periodic reports. In their reports, States parties not only had to refer to their constitutions, basic laws or substantive provisions but must also show how human rights were effectively protected and promoted in practice in their countries. States parties invariably sent high-level delegations to the Committee to answer a wide range of questions necessary to an understanding of the system of human rights protection in their country. Members of the Committee not only asked questions but also explained the reasons for their questions, their individual views and any inconsistencies which they felt existed between the laws of the State concerned and the provisions of the Covenant. The whole process represented an effective means of establishing a friendly and ongoing dialogue between the Committee and the State concerned, through the latter's representatives, to permit the monitoring of compliance with the Covenant and, where necessary, make improvements or eliminate misunderstandings.

33. The general comments elaborated by the Committee in order to help promote and protect human rights and encourage international co-operation in that sphere were very useful to all States. They made the experience of one State available to all, drew attention to inadequacies, gave universally applicable interpretations and promoted more effective reporting procedures. To date, the Committee had published general comments on articles 2, 3, 4, 6, 7, 9 and 10, and more comments were expected to emerge from its forthcoming session.

34. Unfortunately, some problems still remained in connection with the reporting obligations of States parties, for instance non-submission of initial reports, insufficiency of content or non-compliance with the guidelines. More rarely, such problems involved the inability of States parties' representatives to answer adequately or at all the questions put to them. The Committee was fully aware of the difficulties which some Governments faced as a result of the proliferation of reporting obligations and hoped that the report of the Secretary-General requested in connection with the work of the Committee on the Elimination of Racial Discrimination (CERD) would suggest means of overcoming such difficulties. Fortunately, it was extremely rare that a State ratified the Covenant or even the Optional Protocol without doing the necessary preparatory comparative work and without fully appreciating the implications of its obligations. There were a few cases of countries that, due to poverty and lack of qualified personnel, did not have the necessary experience or know-how to even draft a report and did not have enough lawyers or judges. Such countries deserved not only economic but also technical assistance and the advisory services of the Centre for Human Rights could, if requested, prove invaluable in that respect. It was not fair to go on calling only for more ratifications; efforts must also be made to create the economic and other conditions necessary to make ratification possible and implementation a reality.

35. A frequent problem with regard to individual communications was that the response of the State party concerned to allegations was received late or not at all or was unsatisfactory. Governments' reactions to the Committee's "ordinary" interlocutory and final views had been quite positive but, in cases concerning political detainees, a disturbingly high number of the Committee's final views had been ignored and follow-up action had had to be considered. Even in such cases, however, there had been many welcome instances of the release of detainees or of improvements in their conditions of internment.

36. In bringing such problems to the attention of participants, he hoped that his comments would be transmitted to Governments with strong recommendations for remedial action, where necessary.

37. There were two other matters of some concern to the Committee. Firstly, conditions must be created for holding Committee meetings elsewhere than in New York or Geneva. The Bonn session had proved both successful and very useful, especially from the point of view of publicity. The Committee hoped that future meetings might be held in developing countries where there was an urgent need for people to become acquainted with the mechanisms for human rights protection. Awareness of one's rights and of the domestic, regional or international procedures available for their protection was a sine qua non for the promotion of human rights and was usually best achieved through the widest possible publicity. The economic obstacles impeding the holding of meetings in developing countries must therefore be removed.

38. The second matter concerned the publication by the United Nations of annual bound volumes of the work and documentation of the Committee and of a digest of cases. Both publications were urgently needed and a decision on that subject must be taken by the General Assembly. He hoped that members of the Commission would help to secure such a decision without reference to existing resources.

39. With regard to the work of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights, the first steps had been taken to improve the Working Group's highly unsatisfactory procedures. Experts would participate in the Group's work for the first time at its forthcoming session, and he hoped that high-calibre work and substantive progress would be the result. He appealed to all Governments to send real experts both as members and as representatives, when reports came to be considered. In two years' time, any further steps that might be needed to improve the Working Group's operations would have to be taken. It should be remembered that developing countries had everything to gain and nothing to lose from the Covenant's implementation.

40. He wished to appeal for more co-operation and co-ordination between the various United Nations bodies dealing with human rights. Currently, there was not only a lack of co-ordination but also often duplication of work, sometimes with conflicting results which did nothing to enhance prestige or credibility. For instance, the first individual communications under the procedures of CERD were due shortly and the experience of the Human Rights Committee could be useful to that body and also help to avoid overlapping. It was not enough simply to make some of the documentation of some of those bodies available to certain others. The various bodies must meet periodically to review their experience and difficulties and to decide how to enhance their effectiveness and methodology in order to avoid duplication of work. The Centre for Human Rights provided the necessary focal point for such an exercise and for making the various bodies more effective and more convincing.

41. Viscount COLVILLE OF CULROSS (United Kingdom) said that his delegation was willing to support practical proposals for disseminating the contents of the International Covenants on Human Rights to all the peoples of the world. It also welcomed the co-operation between States parties to the International Covenant on Civil and Political Rights and the Human Rights Committee and urged those Governments which were not co-operating fully with the Committee to reconsider their position. The valuable comments made by the representative of Cyprus should be given thorough consideration. All efforts to reinforce the Covenants at regional level, by such instruments as the European Convention on Human Rights must be encouraged. Like the representatives of the Federal Republic of Germany and Cyprus, he welcomed the re-organization of the Sessional Working Group on the Implementation of the International Covenant on Economic, Social and Cultural Rights and believed that the more closely the Group adhered to the practices of the Human Rights Committee the more effective it would be.

42. The right to development was not an alien concept but had grown out of the rights previously identified in the Covenants. What was now needed was a further effort by the Working Group to refine the thinking on that right, and his delegation urged the Group to strive to produce results which could be accepted by consensus. A firm point of departure for the Group's work lay in the strategy for the Third United Nations Development Decade, which defined the final aim of development as the continuing increase of the well-being of the entire population of countries on the basis of their full participation in the process of development and a fair distribution of the benefits. In that connection, the Brandt Report provided a persuasive analysis of the reality of interdependence and the need to give it practical recognition in Government policies. Nations' survival depended on working collectively for a better functioning world economy in which poverty would be progressively overcome. The Brandt Commission had recently stressed the need for urgent action in that connection.

43. The present discussion therefore hinged on the need to clarify how individuals and societies would share the benefits of development. A number of ideas had been put forward in document E/CN.4/1489 and most recently in document E/CN.4/1983/11. His delegation believed that the merits of those different ideas should not be discussed in plenary at the current session, so that the Working Group could proceed in complete freedom. The Working Group's mandate should be renewed and it should strive to produce a balanced text that was acceptable to all.

44. Pending the elaboration of a new international instrument on the subject, practical measures to help the developing countries continued to be required. Despite the recession at home, the United Kingdom remained in the forefront of those countries which were providing assistance to the developing countries. It gave substantial assistance not only to the Commonwealth but to a total of 130 countries. Such assistance took the form of schemes of the type which, for instance, directly improved the quality of local agriculture, health and sanitation, and infrastructure. In that approach, his Government was following the recommendation of the Brandt Report that in poor rural areas investment and expertise were more appropriate than food aid.

45. His country realized the importance of recognizing the widely differing conditions, attitudes and cultures of various countries and therefore the counter-productiveness of attempting to impose foreign models. What was needed was an understanding of the human dimension of development and the way in which projects affected the daily lives of recipients. It was wise therefore to leave the choice of priorities to the Government of the receiving country. Indeed, any imposition of external ideas about what would be good for the people could rightly be classed as neo-colonialism.

46. In that connection, the Working Group would do well to study document E/CN.4/1488, in particular paragraph 175 thereof, which spoke of the need for countries to set their own priorities and to be guided therein by human rights criteria. Such priorities must be respected and the formulation of the right to development must not be so narrow or rigid that it could not be applied flexibly to suit the circumstances of the particular individuals and peoples that were intended to enjoy it.

47. The draft declaration in document E/CN.4/1983/11 made some reference to existing international economic and financial institutions. While his delegation was always ready to discuss improvements, he hoped that the Commission would not underestimate the present value of those institutions. Despite the recession, the United Kingdom had still managed to make extra funds available to the IMF, which was a major source of credit for rescuing the developing countries, among others. The developing countries now had 40 per cent of the votes in the IMF and the World Bank, and both institutions had modified their practices in order to take account of the deeper structural problems facing those countries in particular. Such an approach had his Government's full support, as did the efforts of the international financial system to reschedule debts and give emergency support.

48. The United Kingdom had recently taken the lead in filling a gap in the finances of the International Development Association, thereby encouraging others to follow its example. It contributed to the highly efficient and cost-effective Commonwealth Fund for Technical Co-operation and like all EEC members, played its part in providing access to European Community markets and aid. It supported the Southern African Development Co-ordination Conference (SADCC) and contributed its full share to the development agencies of the United Nations. It therefore urged the Working Group, in considering that aspect of the right to development, to build on the achievements already made.

49. His delegation's observations were made in a well-meaning and constructive spirit. The United Kingdom welcomed a dialogue between North and South, focused on real problems and based not on rhetoric or theories but on the reality of interdependence; it supported its words with positive action and money. However the right to development might evolve, the concept could be put into practice forthwith, by those who understood its importance.

50. Popular participation had been the subject of an international seminar held during 1982 at Ljubljana, Yugoslavia; on that country's initiative the General Assembly had adopted resolution 37/55. The United Kingdom wholeheartedly accepted the premise of popular participation as an important factor in development and in the realization of human rights, as a reflection of the International Covenants, and as a factor fundamental to enjoyment of many of the rights set forth in those Covenants and in the Universal Declaration of Human Rights, such as the rights of self-determination, education, freedom of association and the formation of trade unions. The theme was one of enormous scope and of great importance for development. The Commission had no time, at its current session, to study the topic in depth; but Yugoslavia had taken a welcome step in bringing it to the Commission's attention. It hoped that the Commission would consider how to proceed with the topic, and that its relevance to the tasks of the Working Group would be considered by the latter.

51. Mr. COLLIARD (France) observed that the concept of the right to development had not yet been clearly defined, and it could be debated whether it was an individual or a collective right. The fact that it was regarded, in the work of the Commission and its subsidiary bodies, as a human right did not simplify the matter; and its place in the spectrum of human rights had not been determined. It was presented by some as a right of solidarity, and some saw it as belonging to a new category of human rights, distinct from the economic and social rights currently recognized. A number of international forums had been faced with the resultant uncertainty; the international community must continue its efforts, therefore, to present constructively the various dimensions of basic human rights, and strive to formulate the concept of the right to development as one to be duly acknowledged in international relations and as a principle of current international law. The Commission would be unable to carry out that task, however, in the time available to it for consideration of agenda items 8 and 19. The experts on the right to development must continue their efforts so as to enable the Commission to determine how the right to development, as a human right, was to be defined and exercised.

52. Referring to General Assembly resolution 37/55 relating to the concept of popular participation, he said that the concept was highly important and warranted consideration since human rights were meaningless unless they could be exercised by the individual. It was important, therefore, to define such participation as an indispensable element in all aspects of the individual's social, political and economic affairs.

53. Progress in developing the notion of the right to development had been slow, but slow progress was not without its advantages. The proclaiming and defining of the right to development would have meaning only if backed by a very wide measure of international agreement; the adoption of a formal resolution by a small majority would provide no useful solution. The voting pattern on the relevant resolutions at the Commission's two previous sessions showed that the gap between viewpoints had been gradually closing. It was important, therefore, not to upset the progress already made. Appropriate procedures should be followed and any hasty action avoided. In his delegation's view, it was essential to renew the mandate of the Working Group of Governmental Experts, which would be a particularly appropriate forum in which to continue the task and draw up specific proposals with a view to arriving at a draft declaration on the right to development. No such draft yet existed; the text in annex IV to document E/CN.4/1983/11 was merely a compilation of proposals, and most of it remained within parentheses, indicating a lack of discussion or agreement. It was precisely such matters that the Working Group should look into, as well as any other questions which the Commission might see fit to mention in a further relevant resolution. The results of the Group's further work should be dealt with as a matter of priority by the Commission at its fortieth session.

54. Mr. BEAULNE (Canada) said that the draft declaration submitted by the Working Group of Governmental Experts on the Right to Development (E/CN.4/1983/11, annex IV) appeared to be a patchwork of controversially worded phrases in parentheses. He hoped that most of the preambular items could be pruned and that the references in what remained would be clearly understandable. He failed to see the value of an interminable preamble full of allusions which meant little except to a few initiates. The compilation made by the Working Group did, however, contain a nucleus of positive elements.

55. A question to be answered at the outset was what the right to development was. To judge from the text, the experts had failed, after more than two years of deliberations, to agree on a definition. Mr. M'Baye of Senegal had done the spadework in 1980, and during the Commission's thirty-seventh session the ground had been further cleared by Mr. Soyer of France. As the latter had pointed out, the right to development, although it related to peoples and the States they had founded, was in the last analysis a human right. Therefore, it would be an abuse of trust for a State, the immediate beneficiary of the right to development, to withhold the benefit from the individual.

56. In matters of civil and political rights the international community's task was simply to observe whether States were fulfilling the obligations they had assumed. But in matters of economic, social and cultural rights, each State party to the International Covenant on the subject undertook, pursuant to article 2, to take steps, individually and through international assistance and co-operation, with a view to achieving progressively the full realization of the rights recognized in that Covenant. The State's own efforts were mentioned before international assistance and co-operation. Mr. Soyer had envisaged the establishment of world solidarity, but had pointed out that there were limits to what the international community could reasonably be expected to achieve. The draft declaration contained too many simplistic assertions about the distribution of wealth. What was needed was a mechanism to facilitate the realization of economic, social and cultural rights for all. The right to development would thus be the practical expression of the moral duty of solidarity between North and South. The human dignity of the great majority would be at risk if it were not sustained by spiritual as well as material development.

57. There were three points to be borne in mind concerning the report of the Working Group of Governmental Experts. Firstly, the Commission's role was to deal with human rights, not the regulation of international trade and investment. Secondly, the right to development being a human right, the subject was the individual and not the State - although the latter, given its duty to uphold human rights, had an essential role to play in the development process in its collective and individual aspects alike. Thirdly, human rights were indivisible; to suggest that the exercise of economic, social and cultural rights was a prerequisite to the exercise of civil and political rights would provide any regime which ruled by force with a pretext for its deeds - an unacceptably retrograde step. As Pope John Paul II had said, ethics had an essential part in international relations; every State and Government was founded on individuals invested with spiritual dignity and with constant, inalienable rights and duties, and the human person was the criterion of all policy measures, even international ones.

58. The Canadian delegation appreciated the work of the governmental experts in their difficult task, which would doubtless take a good deal of time to complete. The Working Group's mandate should be extended, for until it reached agreement on a definition and on clear basic ideas, the Commission would be unable to arrive at a better understanding of the concepts covered by the right to development.

59. In conclusion, he hoped that the Commission would give due attention to the issues dealt with in General Assembly resolution 37/55, concerning popular participation, and would heed the advice and recommendations given by the representative of Cyprus.

60. Mr. SABOTA (Brazil) said that the world had undergone considerable change since the establishment of the Commission. With the increase in the membership of the United Nations, the Organization's outlook had become more universal. In the field of human rights, that change had entailed a shift towards a wider, global conception of human rights. The accession to independence of many new States had influenced the process of defining human rights by introducing historical and collective approaches where previously an individualistic approach had prevailed.

61. That widening scope of human rights was clearly illustrated in the process of defining the right to self-determination. Although included in Article 1 of the Charter as one of the purposes of the United Nations, the right to self-determination had not been specifically contemplated in the Universal Declaration of Human Rights. A political effort, beginning with General Assembly resolution 421 D (V) and culminating in the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples, had been necessary to fill that gap and spell out the content and significance of self-determination, which was now universally recognized as a prerequisite to the enjoyment of all human rights.

62. In discussing the question of self-determination, some speakers had stressed that that human right also had individual dimensions. However, in the process of defining self-determination in United Nations resolutions and declarations, the emphasis had been put on the collective, international aspects of self-determination because they were instrumental to the achievement of the full exercise of that right. That was why article 1 of both International Covenants on Human Rights defined the right of self-determination as a right of peoples.

63. A comparison with the evolution of the concept of the right to self-determination helped to understand the nature of the difficulties that still remained in seeking to define the right to development as a human right and to determine its nature and content. Economic, social and cultural rights had found their initial expression mainly as individual rights in the Universal Declaration but, in the drafting of the International Covenants on Human Rights, they had not received the same treatment as civil and political rights. Since States were subject to economic constraints, the Covenants had established a different system for implementing economic, social and cultural rights. While civil and political rights had been conceived of as enforceable rights, not subject to derogations except in very special and limited circumstances, economic, social and cultural rights had been treated rather as aims to be realized as historical conditions permitted. There thus existed a serious imbalance between the two sets of rights, which was not in keeping with the indivisible and interdependent nature of human rights.

64. In order to rectify that imbalance, a new concept had been needed, that of the right to development, to give a wider scope and a dynamic content to economic, social and cultural rights. The new concept had also been necessary to establish a link between the struggle to free mankind from poverty and the ideal of inalienable human rights. The concept of the right to development stemmed from the conviction that the enjoyment of human rights and respect for human dignity could be ensured only if a more just and equitable international order was established.

65. His delegation recognized the complex nature of the right to development, as a right having both collective and individual dimensions. It also held that development could be achieved only through social, economic and political structures which promoted justice, equality of opportunity and participation at the national and international levels. It believed, however, that the main thrust of the right to development was collective and dynamic, emphasizing the struggle of peoples, nations and States for the elimination of obstacles which impeded development.

66. He commended the Working Group of Governmental Experts on the Right to Development on its efforts to fulfil its mandate but noted that the very conciseness of its report (E/CN.4/1983/11) prevented the Commission from having a more accurate understanding of the nature of the discussions in the Working Group and of how opinions were divided on the several aspects of the right to development. It was regrettable that the Working Group had not been able to complete the preparation of a draft declaration on the right to development, and the compilation of proposals for a preamble and operative part of a draft declaration annexed to the Working Group's report gave the impression that many differences remained regarding some of the more important aspects of the right to development. It was to be hoped that an effort would be made to reconcile divergent views, and the Working Group might find it useful in that connection to take into account the views expressed in the Commission during the discussion of the item. The Working Group should also, to the extent possible, avoid introducing too many elements into the draft declaration. A relatively concise document emphasizing the essential question of development and the means by which international co-operation should contribute to it would have a greater impact than a text which attempted to cover too much ground.

67. His delegation was in favour of renewing the Working Group's mandate and hoped that it would complete work on a draft declaration in time for the Commission's next session.

68. Mr. KNIGHT (Baha'i International Community) said that the right to development was unique in that it encompassed all other human rights and was more than the sum total of all those rights by virtue of the dynamic element which it must necessarily contain. However, the major significance of the right to development, and of the declaration in which it was to be embodied, resided in the universality of participation required to secure that right for all peoples and individuals.

69. Whereas the existing major human rights instruments were almost exclusively concerned with the reciprocal rights and duties of States and their citizens, and hence called for implementation at the purely national level, the realization of the right to development could be achieved only through global efforts and the involvement of all sectors of human society. As indicated by the Secretary-General in the study he had submitted to the Commission at its thirty-seventh session (E/CN.4/1421), the realization of the right to development required the fulfilment of duties by the international community, international organizations, States - in particular industrialized countries and former colonial Powers - regional and subregional State groupings, other transnational entities and individuals.

70. The declaration which was being drafted would not only recognize the rights to which all men and women were entitled but also emphasize to a greater degree than ever before the obligations which they owed to their fellow human beings throughout the world. Such an approach represented a significant step in the advancement of humanity towards that true world unity which would signify mankind's coming of age and usher in an era of peace and justice for all.

71. At the current time, however, the quest for development was motivated less by a search for world unity than by various other considerations, such as the relatively pragmatic view that the promotion of the realization of the right to development was in the best economic, social and political interests of all States, the altruistic view that the international community had a fundamental duty to promote that right in order to comply with the terms of the Charter of the United Nations, and the view that the former colonial and other Powers had a moral duty to make reparation to the developing countries for past exploitation.

72. The approach of the Baha'i International Community to the whole question of development was based on the recognition of the organic oneness of the human race. It regarded mankind as a family in the true sense of the word, in which all members must be equally cared for and cherished. Although commentators agreed that the fundamental purpose of development was to benefit the individual and that every development strategy should be considered as a means towards that end rather than as an end in itself, it was all too easy to lose sight of the individual. Even policies of development motivated by purely altruistic considerations were susceptible to depersonalization simply because, although based on sound moral values, they might view individuals as abstractions and lose all sight of their human personality and aspirations. An eminent international jurist had emphasized that the "basic needs" approach to development might be a convenient excuse for asserting that obtaining the minimum necessary for subsistence was the only real problem for developing countries. The nature of the human being required fulfilment of the whole range of his needs, and the development of the individual - the basic unit of society - could not be viewed in isolation, or as an end in itself, but must be regarded as an essential prerequisite for the harmonious development of the society to which he belonged. The Baha'i International Community was firmly convinced that all development strategies should be directed towards serving the individual, and that the individual's development needs should be regarded not in abstract or limited terms, but in the same spirit of concern and personal involvement with which everyone viewed the needs of the members of his own family. Development undertaken in that spirit would surely result in the achievement of national and international goals, as well as individual goals.

73. The oneness of humanity was a reality, and only when that fact was universally recognized and acted upon would the final obstacles to development be removed and the full realization of the right to development be secured for all.

74. Mr. MacDERMOT (International Commission of Jurists) said that for some years the International Commission of Jurists had been holding a series of third world seminars bringing together interested lawyers, development experts and grassroots activists to discuss ways in which human rights could promote human development.

75. The most recent seminar had been held at Lucknow, India, on the subject of rural development and human rights in South Asia, organized jointly with the Human Rights Institute of Lucknow and attended by 40 participants from Bangladesh, India, Nepal, Pakistan and Sri Lanka. The basic issue discussed had been socio-economic structures at the village level.

76. A typical village in the region was one where the majority lived in abject poverty while being dominated by a wealthy farmer who was at the same time the money-lender and trader. The poor farmers and landless labourers were ruthlessly intimidated and exploited by him, and his own employees were frequently bonded labourers. The law enforcement authorities were under his sway and powerless to protect his victims.

77. The participants in the seminar had been unanimous in holding that, while a strong political will was needed to change such a pattern of exploitation and poverty, nothing could be achieved unless and until the rural poor organized themselves to create a countervailing force to that of the merchants-farmers-money-lenders. Where that had been done, real progress had been made.

78. That fact showed the vital importance of including in the formulation of the right to development a clear statement that, at the national level, the right included the right of individuals, and in particular the right of the poor, to organize themselves (rather than to be organized) in order to protect and further their interests. In addition, it was not sufficient for the poor to participate in the formulation of development policies; they must also participate meaningfully in the application and monitoring of policies. To do so they must have access to all relevant information. Such points were crucial and should find their place in the formulation of the right to development.

79. It was a striking feature of the Working Group's report (E/CN.4/1983/11) that virtually the whole of the preamble and the operative part of the draft declaration were devoted to the international aspects of the right to development, while very little was said about the national aspects. Important as the international aspect was, it was surely at least equally important to ensure that the right to development of the individual and of the disadvantaged communities in a society should receive equal emphasis in the draft declaration.

80. The seminar had also reached a number of other conclusions. Firstly, many well-intentioned agricultural and economic policies had benefited the rich and middle-class peasants rather than the rural poor, owing to prevailing power structures. Secondly, the exploitation of bonded and other landless labourers was increasing and spreading from rural to urban areas in spite of progressive legislation outlawing that slavery-like practice. Thirdly, the exploitation of many millions of indigenous peoples, known as "tribals", and of the almost wholly unorganized migrant workers was spreading. Fourthly, the exploitation of women continued and was becoming more violent. Fifthly, while the need for population control was recognized, programmes for it needed to be more flexible, and would not succeed until increased social security and health services removed the main incentive to large families. Sixthly, the emphasis of health services in rural areas should be on preventive medicine, and more respect should be shown towards

traditional medicine. Seventhly, the violence prevalent in rural areas would not be overcome unless there was a recognition of the violence inherent in the existing social, political and economic structures. Eighthly, legal aid and legal resources for the rural poor should be directed first and foremost to co-operation between concerned lawyers and grassroots non-governmental organizations so as to inform the poor of their rights and train legal aides to help them to assert and defend those rights.

81. At the end of the seminar the participants had decided to establish a regional organization to promote such co-operation, called the South Asian Association for the Right to Development (SAARD).

82. The recommendations of the seminar were relevant to the formulation of the right to development, and he would be glad to make copies of the report of the seminar available to all interested parties.

The meeting rose at 12.45 p.m.