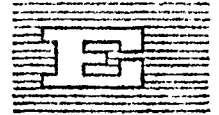


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SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,  
on Friday, 11 February 1983, at 3 p.m.

Chairman: Mr. GONZÁLEZ DE LEÓN (Mexico)

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The meeting was called to order at 3.10 p.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND 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) (continued) (E/CN.4/1983/11, E/CN.4/1334, E/CN.4/1421, E/CN.4/1489 and A/37/442)

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

1. Mr. THWAITES (Australia) said, with regard to agenda item 8, that there could be no question that the aim of development, as of that of work to promote human rights, was to ensure to every human being a life of freedom and dignity, based upon physical well-being and freedom from want. Nor could there be any question that the resources available to a State, in accordance with its level of development, greatly influenced its capacity to implement its obligations in respect of human rights.
2. As far as Australia was concerned, it was working in accordance with article 11 of the International Covenant on Economic, Social and Cultural Rights, for changes in the international economic environment which would promote development and allow developing countries greater scope to improve the living conditions of their citizens.
3. That being said, all States, as sovereign and equal Members of the United Nations, were bound by the same obligations under the Charter and, in many cases, by the international instruments which underpinned the work of the Commission and which would not be altered by the efforts currently being made to expand understanding of the interrelationship between human rights and development. Moreover, that relationship would not be enlightened if the members of the Commission confined themselves to restating their positions on the structural and technical issues of international economic development.
4. His delegation welcomed the endeavours of the Working Group of Governmental Experts on the Right to Development (E/CN.4/1983/11), and appreciated the manner in which it had implemented its mandate. The draft Declaration on the Right to Development demonstrated the dimensions of the task entrusted to the Working Group and the distance that had yet to be traversed before a consensus could be achieved on the scope and content of the right to development and its implications for States.

5. Such a consensus was crucial. Respect for the right to development depended, in fact, on the free acceptance of common standards and mutual responsibilities. A consensus was also necessary if the Commission was to continue to transcend, in certain respects, the traditional limitations of State-to-State relations and address itself to humanitarian problems of direct concern to individuals. It was thus essential to consider the purposes of the United Nations and the interests of States from a long-term standpoint, which implied a degree of international co-operation and trust close to the ideals expressed in the Charter, which remained at the core of the Commission's work for human rights.

6. After noting that some persons referred to the right to development as a collective right or a right of peoples, he warned the members of the Commission against the danger of neglecting thereby the fundamental rights of individuals. The ultimate purpose of development must be the well-being of every individual. To recognize the right to development as a human right was to make it a right of the individual. That being said, the right to development could have certain collective aspects. It might well be that its exercise was best guaranteed by collective action. But it was individuals who were the possessors and beneficiaries of human rights. In particular, any suggestion that a human right could be possessed or exercised by a State would be nonsensical.

7. It was generally accepted that human rights were interdependent and indivisible. His delegation was convinced that the discussion of the right to development could continue to be a stimulus in the Commission's search for the best means of ensuring respect for human rights. Once it had been clearly defined, that right might well find its proper place among the human rights standards accepted by United Nations Members. As with those rights, its exercise could not be used to justify the denial of other rights.

8. An agreement on that new right would eventually be found. His delegation considered that the discussion of that issue in recent years had introduced a necessary perspective on the relationship between human rights and development, and it supported the extension of the mandate of the Working Group.

9. Referring to the question of popular participation, he recalled that, on the occasion of the consideration of item 9, his delegation had put forward certain ideas on the subject of the enjoyment of the right to self-determination by all peoples so that they might exercise control over their affairs through regular and direct participation in elections and in the conduct of local and national affairs. The concept of popular participation was thus entirely compatible with that concern.

10. Mr. KOOLJMANS (Netherlands) said that development, like other human rights, was given more honour in rhetoric than in reality and invited the members of the Commission to avoid rhetoric and to be as practical as possible.

11. In view of the complexity of the problem, the Working Group had not yet succeeded in defining the essence of the right to development as a human right. Its mandate should therefore be extended.

12. In his delegation's view, it would be better if the Working Group prepared a relatively short draft rather than a long declaration covering all relevant aspects of the question. The Commission would certainly fail in its task if it sought to solve, by drawing up a declaration on the right to development, major problems which had so far defied solution in other forums.

13. Since it had been decided to approach the question of development from the angle of human rights, the Commission should focus on the humanitarian aspect. The right to development must serve human rights in their indivisibility; development must aim at the promotion of human dignity and not solely at economic and material well-being.

14. The question was not so much to determine whether the right to development was an individual or collective right. The question might be asked whether, in the current instance, it was not a matter of responsibilities: responsibility of the State towards the individual, and responsibility of the international community towards its members. In any event, the collective dimension was linked to the individual dimension, because the responsibility of the international community was in the final analysis, directed towards the enjoyment of all human rights by all members of the human race. Just as the principle of solidarity, which lay at the root of the right to development, was reflected in relations between human beings and in relations between collectivities, so the right to development could also be conceived in that dual sense. However, the collective dimension must always be conceived against the background of the individual dimension. Inasmuch as the principle of solidarity led to the provision of assistance, Governments received such assistance not for their own benefit but for that of the people for which they were responsible.

15. In conclusion, his delegation hoped that another period of reflection and discussion would enable the governmental experts to reach agreement on the draft text to be submitted to the Commission.

16. Mr. BOZOVIĆ (Yugoslavia) said that he intended to concern himself mainly with agenda item 8 (c). It was noteworthy that a large number of countries had introduced various methods to enable the people to participate in the management of the most varied aspects of national life and had achieved positive results in their application. Others were preparing for the adoption of broader forms of participation of citizens and workers in the management of economic and social affairs, while the few remaining countries which had not yet done so were becoming more and more aware of the need for popular participation in all areas of the country's life and development.

17. The participation of people and workers in management on a broader basis was linked directly to the efforts of more rapid socio-economic and cultural development, modernization and innovation. That had been the orientation of many countries. States were also becoming increasingly interested in research into the possibilities and effects of participation and were endeavouring to improve the forms of participation.

18. The international organizations had already collected a considerable body of knowledge on the practice and opportunities of developing participatory forms of management. The endeavours of the United Nations to develop and promote the participation of the people and workers, particularly in management, had yielded positive results, by encouraging such trends at the international level and in regional and national structures. The United Nations agencies had also helped to make such forms of participation understood and accepted in the world.

19. In response to the requests of the General Assembly, a seminar on the question had been held at Ljubljana in May 1982. It had decided to review national policies and experiences within the context of the definition of popular participation given by the Economic and Social Council in its resolution 1929 (LVIII). As the report on the Seminar (A/37/422) had been circulated, he would confine himself to drawing the Commission's attention to some of its most characteristic findings.

20. First, there had been a general consensus among the participants that popular participation was a historical phenomenon but that its inherent complexities were creating implementational problems in view of the lack of an exact definition of the relationships and functions of various actors and of the continuously evolving situations. Secondly, the participants had recognized that every State had the right to choose the institutions and policies for popular participation best suited to its national circumstances and its socio-political dynamics. Thirdly, it had been stated that a distinction had to be made between the right to participate and actual participation by all citizens. Citizens at the grass-roots level could not be expected to participate actively unless there were concrete advantages in doing so and their experience in the course of participatory activities confirmed their hopes. As long as people felt that they were agents in control of their own destiny rather than objects of manipulation or passive recipients of development, they could accept sacrifices and disruption of their way of life. The Seminar had also devoted a great deal of attention to the role played by the United Nations system in promoting development and participation.

21. Popular participation was not a recent or isolated phenomenon. It had long since found a very important place in a large number of countries. It concerned, of course, different forms of participation in various areas of public life which most frequently included workers, farmers and those employed in the managing of economic and social development. There was no reason, therefore, to distinguish between popular participation in the management of territorial and local political communities, on the one hand, and participation in economic and production units, on the other, regardless of the system of ownership.

22. The broadening of the participatory bases of social, political and economic systems and the diversity of requirements, experiences, trends and historical conditions, also explained the difficulties involved in defining and conceptualizing popular participation. That was why approaches to the question range from regarding popular participation as a strategy for the mobilization of national human resources for development to viewing it as a specific transfer of social power directly to the people and the introduction of the people into the decision-making process concerning affairs relating to its well-being. Consequently, popular participation did not have the same values and goals in all countries.

23. First of all, popular participation denoted popular contribution to development efforts, an equitable sharing of the fruits of those efforts and the making of decisions regarding the setting of goals, policy formation, and the planning and implementation of social and economic development programmes. There was a general conviction that social progress and economic growth were directly dependent on popular participation in management whether it was a matter of participation in the

planning of development and production, or participation in the allocation of the fruits of labour, in directing the raising of the standard of living and social standards as well as general living conditions. However, different attitudes towards the introduction of various forms of participation in the management of economic, political and social life presupposed the modernization and development of contemporary social, economic and political organization, improvement of labour productivity and economic performance, "humanization" of human relations and awareness of the dignity of the human person, and motivation on the part of those concerned to participate in the promotion of society in the broad sense. Those achievements and goals were part of the formulation and practical realization of basic human rights in contemporary social systems. They were also a prerequisite for the whole corpus of basic human rights.

24. It was essential that account should be taken of human rights and of the different forms of popular participation in management in development plans and programmes and that their introduction should be encouraged in keeping with national conditions, structures and characteristics. Since national management structures were to a large extent conditioned by international circumstances and relations, the international community should promote the introduction of popular participation and the participation of workers in management and self-management at the national level. Although every country created its own institutions and processes for the improvement of participation, the goals and strategy should be the same. To that end, the General Assembly and other United Nations organs should facilitate the exchange of experience on the forms of popular participation at the national and international levels.

25. The United Nations had already done much in that regard, since it had referred to participation in instruments which, even if they did not always directly concern human rights, proceeded essentially from them (e.g. paragraph 42 of the International Development Strategy for the Third United Nations Development Decade). In approaching the question of participation from the standpoint of human rights, two documents must be mentioned in particular: the Proclamation of Teheran, adopted in 1968, and the Declaration on Social Progress and Development. After referring to the pertinent passages of those instruments, he also mentioned articles 8, 13 and 15 of the International Covenant on Economic, Social and Cultural Rights and articles 19, 21, 22 and 25 of the International Covenant on Civil and Political Rights.

26. In view of the fact that many countries had recognized that popular participation in the management of economic and social affairs had a positive effect on the strengthening of the economy, and on the improvement of industrial, social, political and - most important of all - human relations, it could only be concluded that the concept of universal participation, however varied its form and scope, was more or less accepted not only as part of the prevailing structures but also a basic human right at the national level and that it should also be accepted, in the not too distant future, at the international level.

27. In some countries, such as Yugoslavia, popular participation had developed into a comprehensive system of self-management. The views of a State on the legitimacy and limits of popular participation depended partly on its socio-political system, its concept of development and its policy choices concerning economic growth, use of scarce resources and the role of planning and markets. It was also influenced by certain biases of bureaucracies and technocracies that conditioned the functioning of a State, sometimes hampering its ability, despite its commitments, to promote autonomous and innovative popular participation.

28. The issue was a very complex one, requiring exchanges of experience and comparisons of pertinent policies and institutions. Consequently, the Commission would probably be unable, for lack of time, to make suggestions with a view to facilitating the exercise of that right, as it had been requested to do by the General Assembly. The Commission should therefore request the Secretary-General to prepare an over-all and comprehensive study on the question of popular participation and workers' participation in management and self-management in the countries where they existed, with particular reference to the human rights aspect, and to submit a preliminary report to the Commission at its fortieth session and a final report at its forty-first session. The Secretary-General should take full account of the work done by the competent United Nations organs, specialized agencies and national institutions, where they existed, as well as of any information that might be submitted to him by Governments or non-governmental organizations. At a later stage, he might also be requested to prepare a comparative study on standards regulating popular participation in all its forms in the different countries, based on information furnished by Member States.
29. His delegation had prepared a draft resolution on the question which would be circulated informally. It would welcome any suggestion on the subject.
30. Mrs. TIRONA (Philippines) said that her delegation attached much importance to the realization in all countries of economic, social and cultural rights and to the study of the problem which developing countries faced in that respect. Those issues were at the heart of the full enjoyment of all human rights; her delegation therefore supported the principle of the interdependence and indivisibility of economic, social and cultural rights, on the one hand, and of civil and political rights, on the other. There could be no effective enjoyment of human rights without a level of economic development that guaranteed the satisfaction of basic needs in a system of social justice. Similarly, development efforts should go hand in hand with genuine changes in the social, economic and political structure.
31. States should adhere to a set of minimum rules which were generally recognized by the international community. In the Philippines - the oldest republic in South-East Asia - society was centred on the individual, in respect of whom the State had an obligation that was both legal and moral. The nation was based on the values of justice and democracy, associated with family values and the love of God. Freedom had no other purpose than to enable man to develop his potentialities and capabilities to the fullest extent.
32. Her delegation was convinced that, in a truly free country, the worst enemies of freedom were poverty, ignorance, illness, inequitable distribution of common resources and inequality of opportunities, all of which hampered the development of spiritual and physical potentialities.
33. In the Philippines, economic development was considered to be meaningless, if it was not linked to the well-being and security of the people, which justified the importance given by the authorities to social development, improvement of education, development of public health services - particularly in rural areas - and an increase in the productive capabilities of the people, as well as to the encouragement of values and attitudes conducive to the establishment of a viable and humane social order.

34. Education, which was essential to the success of her country's national development plan, was the largest item in the budget, accounting for 30 per cent of the whole. Her delegation took legitimate pride in the country's literacy rate, which was currently 97 per cent.

35. The main resource of any country was its human potential and to neglect the population factor could give rise to a social instability that might negate economic development efforts. Her country's authorities were thus endeavouring to develop human resources and to give every Filipino the opportunity to work and to live, if not in affluence, at least in dignity; ignorance, lack of education, unemployment or subservience to an employer ran counter to that dignity. As a result of that conviction, her country's authorities had undertaken a large-scale agrarian reform programme as well as a long-term programme of child education more responsive to national needs; they were also placing stress on the training and placement services.

36. Development in the Philippines was premised on self-reliance, private enterprise and social justice. It was within itself that a nation should seek the strength, resources, competence and energy essential for its development. Moreover, in the view of her Government, development was not an end in itself but should serve the individual, ensuring his dignity and material comfort.

37. The participation of the people in decision-making was for the Philippines a constitutional right which protected and promoted freedom of expression and information and the right to take part in the management of public affairs. Her delegation had taken part in the International Seminar on Popular Participation, which had had the merit of proposing a new definition of development and of human rights, and the Philippine authorities had begun to implement some of the strategies that had been recommended. The Seminar had also focused to a great extent on the role of women in development: in her delegation's view, the right to development was universal and suffered no discrimination, particularly in the context of rapid modernization and technological advances, and the economic role of women, which should be given the greatest possible support, should be strengthened to the maximum.

38. Her delegation supported regional co-operation schemes among the developing countries and was in favour of a pragmatic strategy for the establishment of the new international economic order. The regional commissions of the United Nations should address issues of development in the context of human rights and fundamental freedoms. In that connection, it was important not to lose sight of the need to preserve cultural values and the identity of certain communities and peoples, an aspect of the right to development which was an important component in the national development plans of her country's authorities. In the United Nations, technical co-operation should be strengthened and financial institutions should help to promote respect for the right to development, which should be regarded as a criterion in the assessment of the United Nations strategy for international development.



39. Her delegation endorsed the concept put forward by the Working Group of Governmental Experts on the Right to Development: the right to self-determination; the right to live in peace; the right of every State to choose its development model and its political, economic and social system; the permanent exercise of sovereignty over the country's wealth; the right of the population to participate in decision-making; and the right to active and peaceful coexistence.

40. Her delegation was in favour of extending the mandate of the Working Group so as to enable it to complete the formulation of a draft Declaration on the Right to Development.

41. Moreover, it should be recalled that, at the thirty-seventh session of the General Assembly, the Philippines had submitted a draft resolution on the moral aspects of development. Her delegation was convinced that the completion of the studies on the right to development and the elaboration of a declaration on the subject would help to establish a specific relationship between development and human rights.

42. Her Government was concerned at the increase in military expenditure, which diverted considerable resources from the satisfaction of the essential needs of the people. The fact that some vestiges of colonialism and also neocolonialism continued to exist were two further factors which hampered the development of the developing countries, which did not have the opportunity of participating in major decisions. The establishment of a new international economic order was an essential condition for the exercise of the right to development of countries and peoples. Attention should be drawn to the efforts being made within the United Nations to prepare a set of principles and rules of international economic law relating in particular to the legal aspects of the new international economic order. In that connection, her delegation welcomed the progress made by UNITAR in compiling a list of norms of international law relating to the new international economic order. Those rules would constitute a useful contribution for the draft Declaration on the Right to Development.

43. Mr. BOZOVIC (Yugoslavia) said that he would devote the second part of his statement to agenda item 8 (a). The right to development was one of the fundamental rights of the individual and of every people and promoting and applying that concept was tantamount to working to ensure respect for all human rights in the years to come.

44. The current status of international relations, particularly economic relations, showed that mankind could survive only if it succeeded in opening up real prospects for the achievement of comprehensive development. The existing system of inequitable international relations had caused a further widening of the gap between developed and developing countries. The crisis in international economic and other relations and the stagnation in world development had had a particularly negative impact on the economic and social situation of millions of already disadvantaged persons.

45. While it was not the task of the Commission on Human Rights or other bodies concerned with the cause of human rights to seek solutions to the world economic and political situation, those bodies had none the less the duty to draw attention to all the problems

that underlay the violation of human rights or prevented their exercise - or that, at any rate, postponed the realization of such rights. It was therefore necessary to work in the direction which the Commission had indicated in defining the content and scope of the right to development, whose aim was to bridge the artificially created division between development and human rights.

46. The right to development was a collective right: on the basis of that right, States had to determine their form of political government and their economic, social and cultural development and decide, in full sovereignty, how all their resources were to be deployed. It was also an individual right which comprised all the rights of man. The individual should, of course, enjoy all the benefits accorded him by the international instruments relating to human rights and fundamental freedoms, but it was also necessary for him to have genuine opportunities of participating in development, in the adoption of decisions relating to development and in their application and of enjoying an equitable allocation of the fruits of development.

47. The Working Group of Governmental Experts should give careful consideration to ways and means of guaranteeing the right to development, the exercise of which was hampered by such phenomena as mass and flagrant violations of other human rights, in particular those stemming from apartheid, racial discrimination, foreign occupation or the threat of foreign intervention. Moreover, the right to development could not be realized if other basic rights were denied, such as the right to self-determination or the right to dispose of natural resources. War and international tension as well as the arms race also constituted obstacles to the exercise of that right.

48. The draft Declaration on the Right to Development should also contain specific proposals concerning measures aimed at a more rapid realization of that right: for example measures relating to the strengthening or introduction of institutions which would enable the individual to participate actively in the making and implementation of decisions concerned with development and ensure a just allocation of the fruits of development.

49. The Working Group of Governmental Experts on the Right to Development had already successfully carried out a substantial part of the work entrusted to it and had prepared in particular a preliminary text for the draft operative part of the Declaration. It should be given an opportunity to continue its work.

50. Mr. DIAGNE (Senegal) said he noted with pleasure and satisfaction the new accessions to the two International Covenants on Human Rights. However, he considered that such progress was not sufficient, particularly in respect of the number of countries that had made the declaration provided for in article 41 of the International Covenant on Civil and Political Rights. As for his own country, it had not been inactive. It had ratified both Covenants and the Optional Protocol, and had made the declaration recognizing the competence of the Committee to receive and consider complaints. The ratification of international instruments was not, of course, sufficient for the defence of human rights, but it certainly constituted a necessary condition of such defence. However, while it was undeniable that conflicts could arise between national legislation and treaty provisions, such an obstacle was in no way insurmountable since States, in so far as they had the political will to do so, could bring their domestic law into line with international law, it being quite understood that they could not demand the contrary.

51. In that connection, it seemed to his delegation that the bodies entrusted with the task of ensuring the implementation of the Covenants should have greater freedom to communicate with Governments, through the Secretary-General, without such action being regarded as interference in their internal affairs, and to furnish the necessary assistance to Governments.
52. His delegation wondered what were the reasons underlying the failure of certain countries, which were actively devoted to the cause of human rights in other respects to ratify the relevant international instruments, and did not see what fears such a commitment could arouse in them. It hoped that the appeal which the Commission was to make once again at the current session would be heard.
53. Referring to the work of the Human Rights Committee, he welcomed the time-limit of four years set for the submission of periodic reports, which would give the States all the time they needed to prepare those reports.
54. With regard to the publicity to be given to the work of the Human Rights Committee, his delegation was convinced that the annual publication of the reports of that body was an amply justified project and that financial considerations should not prevent it from being carried out; indeed, the elements of caselaw contained in those reports provided considerable information on the place and role of human rights. His delegation would even go so far as to state that the Human Rights Committee would not be genuinely credible until its work was known to the public at large. It wished, in that connection, to thank the Government of the Federal Republic of Germany for the invitation it had extended to the Committee. It was to be hoped that other initiatives of that type would be forthcoming.
55. The Government of Senegal had demonstrated its profound respect for the activities of the Human Rights Committee by taking account of the comments and suggestions that it had made in connection with its examination of the report of Senegal. For example, the Committee had taken the view that the obligation to obtain an exist visa and to deposit a repatriation guarantee that had been imposed on every Senegalese wishing to leave the national territory was not strictly in accordance with the provisions of the Covenant regarding freedom of movement. Although it had thought that that comment was a legally debatable one, his Government had abolished the two measures. Similarly, on a recommendation of the Committee, it had abrogated article 3 of the Senegalese Constitution which limited the number of political parties thereby enlarging the democratic breakthrough by the introduction of an unlimited multiparty system: there were currently 14 political parties in Senegal. Lastly, as he had already pointed out, Senegal had made the declaration provided for in article 41 of the International Covenant on Civil and Political Rights.
56. No one contested the indivisibility of human rights, which was why his delegation also attached considerable importance to the activities of the Working Group of the Economic and Social Council entrusted with the task of ensuring the implementation of the International Covenant on Economic, Social and Cultural Rights. Although he was happy that it had become a group of governmental experts, its authority would be enhanced if it were made up of independent experts, who were initially nominated, of course, by their Governments but were then elected. Just as there could be no hierarchization of human rights, so there could be no hierarchization of the bodies entrusted with the task of ensuring respect for civil and political rights, on the one hand, and respect for economic, social and cultural rights, on the other. In his delegation's opinion, the efficiency and activities of the Group of Governmental Experts in question were far from

commensurate with the expectations of States and individuals; it was necessary to review not only its functioning and methods of work but also and, more importantly, its nature and structure. Nothing could justify relegating the Group to second place, after the Human Rights Committee. The latter's great experience and the positive results it had achieved were extremely valuable and the Group of Governmental Experts should be guided by them in order effectively to ensure the protection of economic, social and cultural rights.

57. Mr. ZORIN (Union of Soviet Socialist Republics) said that the question of the enjoyment of economic, social and cultural rights was a central element in the work of the Commission. The realization of those rights presupposed the establishment, at the national and international levels, of a number of conditions. Furthermore, it was entirely legitimate to seek, as did the developing countries, to link those rights to the right to development properly so-called.

58. The relevant resolutions adopted by the Commission and other bodies and the draft Declaration on the Right to Development laid stress on the fact that, in order to implement their economic, social and cultural rights, countries had to attain a certain level of economic development. Unfortunately, such economic development was hampered by certain tensions and by a number of obstacles, in particular the senseless military expenditure of some countries. United States military expenditure for example, was no longer in millions or billions but in trillions ( $10^{12}$ ) of dollars. It was not difficult to see that such squandering was possible only to the detriment of economic, social and cultural programmes, particularly in the developing countries, where 40 per cent of the population remained in a state of absolute poverty. In 1980, 50 million persons had died from hunger in the world, 15 million of whom had been children. Military expenditure also constituted a danger to the international situation in general. Steps must therefore be taken to eliminate the risk of war, to strengthen security and to halt the arms race.

59. The idea of restructuring economic relations in order to render possible the development of national economies and to establish a new international economic order had been put forward in the Soviet Union in 1917 within the framework of the socialist revolution, one objective of which had been to ensure the equality of all countries, strong or weak, and the development of their co-operation. However, according to the United Nations Centre on Transnational Corporations, countries which had recently become independent obtained only 16 per cent of the total value of their raw materials and, during the 30 years which had followed the collapse of colonialism, the United States and other imperialist countries had taken more from those countries, in terms of real value, than the latter had received in 300 years of colonialism. The countries responsible for colonialism, apartheid and racial discrimination should be required to reimburse the developing countries for all the damage that had been caused them.

60. The Soviet Union had on several occasions stressed the fact that the implementation of economic, social and cultural rights depended essentially on the efforts made by countries themselves, which should lay a solid economic foundation and build a just and democratic system for the distribution of the national wealth so as to ensure their own future. By applying those principles, the Soviet Union had succeeded in guaranteeing economic, social and cultural rights

which were not only enshrined in the Soviet Constitution but also translated into reality: elimination of unemployment for the past 50 years, free medical care and education, the right to a pension, stable prices of basic foodstuffs for the past 15 years, and stability of rents and rates charged for communal services. Transportation fares had not increased in 40 years and in 1982, 10 million persons had been able to find accommodation in more satisfactory conditions.

61. In December 1982, the sixtieth anniversary of the foundation of the Soviet Union had been celebrated. At first, not all the Soviet Republics had been at the same level of development or enjoyed the same opportunities. The Soviet Government had therefore taken steps to ensure that all the Republics, in particular those in Central Asia, could develop with the assistance of the more advanced Republics. Thereafter, growth had been very rapid, even spectacular in some Republics such as, for example, Kazakhstan. The General Secretary of the Communist Party of the Soviet Union, Mr. Andropov, had stressed a few weeks previously that all the Republics had henceforth achieved the same level of economic and social development and that there no longer existed a patriarchal type of relations between them.

62. In the West, economic, social and cultural rights remained a meaningless concept to a large extent. It could be mentioned that, in January 1983, the number of persons unemployed in the United States had been 12 million, even 20 million according to some sources. In the United Kingdom, the unemployed accounted for 13.8 per cent of the economically active population, in Canada 12 per cent, in the Federal Republic of Germany 10 per cent and in Belgium more than 12 per cent. It was also significant that that tragedy affected the most disadvantaged segments of the population, such as the non-white population in the United States and the Aborigines in Australia, as well as young persons. Surprising information was available on the poverty which prevailed in the so-called rich countries. That was a "paradox" which should be examined carefully. He hoped that those considerations would be taken into account by the Commission when it drew up draft resolutions on the issue, and in the draft Declaration on the Right to Development.

63. With regard to the status of the International Covenants on Human Rights, he noted that there had recently been an increase in the number of ratifications. Nevertheless, some Member States of the United Nations still refused to ratify the Covenants and to assume the relevant commitments. In particular, that was the case of the United States, the leaders of which nevertheless proclaimed their dedication to the cause of human rights and sought to give lessons to other countries in that field. The Government of the United States should translate its position of principle into reality and assume firm commitments in respect of the Covenants. The Commission should call on all Member States to ratify the Covenants.

64. Mr. MARTINEZ (Argentina) said that the application of the right to development should make it possible to improve the material and spiritual standard of living of the people of all countries, so as to safeguard the dignity of man. The idea of linking economic questions to human rights was not a new one for the Commission and the very concept of human rights had developed: traditional civil and political rights had been supplemented by economic, social and cultural rights and, even more recently, by the right to development, the quality of the environment, the enjoyment of the common heritage of mankind, etc.

65. An examination of the latest "generation" of human rights revealed the extent to which the current international economic order constituted an obstacle to the realization of those rights. It had therefore become the goal to establish a new international economic order in conformity with the realities of the times and free from the constraints of colonialism, imperialism and neo-colonialism. It was within that framework that the Commission had set up, in 1981, the Working Group of Governmental Experts on the Right to Development. The latest report of the Working Group (E/CN.4/1983/11) was entirely satisfactory. While the question of the right to development included a number of elements which largely corresponded to the different socio-economic systems, there was, nevertheless, a considerable convergence of views on the subject. His delegation hoped that the draft Declaration to be adopted would be approved by consensus, and it wholeheartedly supported extension of the Working Group's mandate.

66. The constant strengthening of barriers to international trade as well as other factors such as the increase in unemployment, inflation, monetary disorder and the drop in the relative value of earnings derived from world trade were all disquieting manifestations of the current economic crisis. It was also noted that the industrialized countries were making more and more use of their economic power to exert political pressure on sovereign States which were less well placed from the economic standpoint. Such practices were contrary to the idea of respect for and equality of States and to that of their harmonious coexistence. The Commission could not remain wholly indifferent to such serious problems, which it should help to resolve within the framework of its mandate.

67. It was essential to accept the challenge of development and to eliminate the structures and obstacles which hampered progress in that field. The forthcoming session of the United Nations Conference on Trade and Development, to be held at Belgrade, should be positive in that regard. The Ministers of the member countries of the Group of 77 were to meet shortly at Buenos Aires in connection with the Conference. Argentina was convinced that the developing countries should prepare themselves with the greatest care so that they would be able, at Belgrade, to submit some very solid and carefully thought out proposals, thus facilitating the North-South dialogue.

68. Part One of the final report on the new international economic order and the promotion of human rights prepared by Mr. Ferrero, Special Rapporteur of the Sub-Commission (E/CN.4/Sub.2/1982/19/Rev.1 and Add.1) was a useful supplement to the work of the Working Group of Governmental Experts on the Right to Development. He hoped that the last part of that important study would be submitted to the Sub-Commission at its next session.

69. Miss CAO-PINNA (Italy) said that the complex notion of the right to development being a right that belonged not only to individuals, like all human rights, but also to peoples had been formulated for the first time in 1977. It was hardly surprising, therefore, that the Working Group of Governmental Experts had been able to submit to the Commission, in pursuance of resolution 1982/17, only a "compilation" of proposals relating to the draft declaration on the right to development instead of a single text. It would be impossible to set short-term deadlines for the Group in that regard. It was pertinent to recall, in that connection, the efforts which the Commission had had to make prior to the adoption of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

70. In her delegation's opinion, it would therefore be desirable if the mandate of the Working Group was extended for another year. It was disquieting, on the other hand, to note that some experts from developing countries had not participated in the last two sessions of the Group. It might be wondered whether their absence was due to financial reasons only or to a weakening of the interest previously shown by their Governments in the draft Declaration on the Right to Development. Her delegation hoped that the Director of the Centre for Human Rights would provide some information in that regard. It was also regrettable that, at the last two sessions of the Working Group, a great number of proposals had been made on an individual basis by experts in addition to those made by the Drafting Committee. She wondered whether it was to be concluded from that situation that there was a great variety of views on the subject - which was indeed most complex - or that there was a lack of interest in negotiations to achieve a single text acceptable to all. In her delegation's view, the "compilation" prepared by the experts was sufficiently broad to serve as a basis for negotiations in the Working Group as a whole. It might also be pointed out that the Working Group had made some progress at its last session in respect of the operative part of the draft declaration.

71. The inclusion in the Commission's agenda of the question of the right to development within the framework of the question of the effective enjoyment of economic, social and cultural rights gave the impression that development was purely and simply a process of progressively achieving material welfare. That was contrary to the fundamental principle of the indivisibility of human rights, including civil and political rights, which did not appear as such in the agenda of the Commission but were dealt with within the framework of human rights violations.

72. Her Government did not deny the importance of economic, social and cultural rights and recognized that individuals who did not enjoy those rights might not be able to enjoy their civil and political rights. Nevertheless, the recognition of economic, social and cultural rights should not necessarily precede that of civil and political rights, and the full realization of civil and political rights was not necessarily impossible without the enjoyment of economic, social and cultural rights, contrary to the statements in the Proclamation of Teheran of 1966 and General Assembly resolution 32/130. It was, in fact, widely recognized that the implementation of civil and political rights depended not on the level of a country's development but solely on the political will and system of the particular State.

73. The Parliamentary Assembly of the Council of Europe had recently stressed, in a recommendation concerning development co-operation and human rights, that the political system most appropriate for the effective protection of human rights and fundamental freedoms was a pluralistic and representative democracy which upheld the rule of law, the principle of majority rule and the apportionment of resources so as to ensure social justice and equality of opportunity for all. Finally, her delegation rejected the idea that a satisfactory level of living would automatically generate respect for human rights and fundamental freedoms.

74. The right to development as a right of the individual constituted a synthesis of all the individual rights proclaimed in the Universal Declaration of Human Rights, without any exception whatever and with no hierarchies or priorities. Moreover, the right of the individual to development should not depend solely on the establishment

of the new international economic order. Indeed, there were some developing countries that recognized all civil and political rights without waiting for the achievement of the worldwide economic transformations in question.

75. With regard to the right to development in its collective dimension, two schools of thought had emerged in the Working Group: one, according to which the right to development was to be viewed as a moral imperative; and the other, which affirmed that the right to development implied inter-State obligations. It was not easy to reconcile those two positions in a declaration which, like those already adopted by the United Nations, should not go beyond the scope of a proclamation of principles accepted by the international community. The adoption of a draft Declaration reflecting the first school of thought would not preclude the elaboration of a draft convention in the future. The concept of the right to development was a recent and evolving one.

76. Her delegation was also concerned with the question of the relative importance of the two dimensions of the right to development. Some of the formulations used in the resolutions of the General Assembly and the Commission seemed to affirm that the realization of the right to development was a sine qua non condition for the enjoyment of the rights of the human person as such, and not only as part of the community. Inasmuch as her delegation considered that the recognition of civil and political rights was not dependent on the level of development of each country, it would not agree to the establishment, in the draft Declaration, of a hierarchy in which the individual would be relegated to a lower rank. In conclusion, it did not think that the Commission and the Working Group of Governmental Experts should work on the same subject in isolation.

77. Mr. VANLY (International Federation of Human Rights) said he had taken the floor in order to draw the attention of the Commission particularly to the case of the Kurdish people. That people, despite its numerical importance, its fight to be recognized and its situation which was one of the most dramatic in the world, had not so far had an opportunity of expressing itself in international bodies, with the exception of the Versailles Conference after the First World War, when it had been a question of making independent nations of the non-Turkish populations of the former Ottoman Empire. In that connection, he referred to article 1 of the International Covenant on Economic, Social and Cultural Rights and the corresponding article of the International Covenant on Civil and Political Rights, in which it was stated that all persons had the right to self-determination. The right to self-determination of the Kurdish people had, in fact, been recognized in the Treaty of Sèvres, of 10 August 1920 (section III: Kurdistan, articles 62 to 64). That Treaty had subsequently been replaced by the Treaty of Lausanne in 1923, but it remained none the less a historic document which the Kurds had not forgotten.

78. The Kurds rightly regarded themselves as a nation, one of the main ones of their region. United by language, culture and history they numbered more than 20 million: more than 10 million in Turkey, nearly 6.5 million in Iran, about 3.5 million in Iraq, and 800,000 in northern Syria. The Kurds lived in a land which had been theirs for thousands of years, Kurdistan, a country that formed a continuous block, some 500,000 km<sup>2</sup> in area - i.e. nearly as large as France - in which they accounted for 90 per cent of the population. However, in Turkey, Iran and Iraq, the Kurds were subjected to ruthless oppression and reduced in fact to the status of a colonized people with a few minor differences from one State to another.



79. In the Kurdish part of Turkey, the Kurds had been reduced to the status of legal non-existence after bloody uprisings, and they had been subjected to a deliberate policy of underdevelopment, discrimination and oppression. Any association or publication in the Kurdish language, even literary, was prohibited. That situation had become considerably worse after the military coup d'état in September 1980, to such an extent as to cause concern in the Council of Europe. In Iraq, after national uprisings which had been repressed, "autonomy" for Kurdistan had been recognized in 1974, but it was limited to 60 per cent of the Kurdish territory, and that legally recognized autonomy was not confirmed in practice. More than 500,000 Kurds had been displaced and replaced by Arabs. Part of the Kurdish peasantry had been forcibly relocated in strategic hamlets, and frontier districts had been evacuated. That policy was at the origin of the guerrilla war which had broken out again in the Kurdish part of Iraq in 1976 and which was currently continuing. According to the latest reports, the Baghdad Government had allowed Kurdish deportees to return to Kurdistan and wished to arrange a meeting with the resistance movements for the purpose of achieving a negotiated settlement. It was for the Kurdish resistance to decide in that regard, but no settlement seemed conceivable unless the legitimate rights of the Kurdish people, both collective and individual, were recognized. Lastly, in Iran, a merciless war had been declared in the spring of 1979 against the people of the Kurdish part of Iran and its autonomist movement ...

80. The CHAIRMAN said that the speaker had reached the limit of 10 minutes allocated to non-governmental organizations.

81. Mr. ALVAREZ VITA (Observer for Peru) said that, according to an idea expressed by Mr. Gros-Espiell, Special Rapporteur, the author of one of the reports submitted to the Commission, it was necessary, particularly in the developing countries, to create and ensure the advancement of basic political, economic, social, cultural and legal elements which constituted the foundation for the effective respect of human rights and fundamental freedoms. He also referred to a statement made on the occasion of the inaugural conference of the International Institute of Human Rights at Strasbourg, in which Mr. Kepa M'Baye had stressed that the right to development was an international human right. The General Assembly and the Commission itself had also stressed that the right to development was both a right of nations and of the individuals which constituted them. In March 1982, the Commission had requested the Working Group of Governmental Experts to continue its preparation of a draft declaration on the right to development; Peru had participated to the utmost in that task.

82. According to the thought expressed by Pope John XXIII, in his encyclical "Populorum Progressio", development was the new name for peace. Unfortunately, an unjust international situation prevented the enjoyment of economic, social and cultural rights in the developing countries. It was therefore necessary to establish a new international economic order, based on the dignity of the human being. In that connection, his delegation had submitted to the General Assembly at its thirty-seventh session a proposal, approved by the majority, whereby a minimum consensus could be achieved for a revival of the international economy by means of structural rather than cyclical changes in international economic relations. That goal could be achieved, however, only with the participation of all States and all organizations, without any discrimination or self-exclusion.

83. In its conclusions, the International Seminar on Popular Participation, held at Ljubljana in May 1982, in which his delegation had taken part, had expressed the view that popular participation was essential for development and for the realization of human rights; that idea had subsequently been stressed in General Assembly resolution 37/55.

84. In view of the principles that he had just mentioned, he hoped that the mandate of the Working Group of Governmental Experts on the Right to Development would be expanded and stressed the importance to the Commission of the report on the new international economic order prepared within the framework of the Sub-Commission on Prevention of Discrimination and Protection of Minorities. In conclusion, he said that Peru, which was deeply devoted to its democratic traditions, looked forward to the coming of a more just world in which development and peace would be associated.

85. Mr. TRAUTSMANSDORFF (Observer for Austria) said that, in view of the limited time available to the Commission, he would confine himself to referring to one question, which was highly important in his delegation's view, i.e. that of the abolition of capital punishment. His Government had supported all efforts made along those lines, in particular by United Nations bodies. Austria had been one of the sponsors of General Assembly resolution 37/192, in which the Commission was requested to consider, at its thirty-ninth and fortieth sessions, the idea of elaborating a draft second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. His country had participated very actively in the initiatives of the Council of Europe, which had made it possible to achieve considerable progress. However, that progress had been facilitated by the fact that the Council of Europe represented a limited regional group with relatively similar social and legal systems. The universal abolition of the death penalty was complicated by the diversity of the social and legal systems and the traditions of the various Member States of the United Nations. In those circumstances, the elaboration of an additional protocol seemed to be a good approach, which would take due account of the diversity of the systems in force in the States Parties to the Covenant.

86. The comments made by several Governments on draft resolution A/C.3/35/L.75 and the draft protocol, contained in documents A/36/441 and Add.1 and 2, and documents A/37/407 and Add.1, showed that a number of States were in favour of the abolition of the death penalty, but that others were unable to envisage such a step. A third category of States retained the death penalty in their penal systems but had ceased to apply it in practice; it was particularly desirable that the delegations of States in that third category should show an interest in the elaboration of an optional protocol. His delegation was prepared, within the framework of the discussions that were to be devoted to the protocol, to inform other interested delegations about his country's experience with regard to the abolition of capital punishment. It was desirable that substantial discussions should take place on the subject at the current session and at the forthcoming session of the Commission. The Commission might also consider establishing an open-ended working group provided that such a group could meet during its regular sessions.

87. The discussions on the elaboration of an optional protocol should be guided by the following principles: the elaboration of such an instrument should take due account of the provisions of article 6 of the International Covenant on Civil and Political Rights; the elaboration of a new human rights instrument would be useful only if it helped considerably to restrict the application of the death penalty in the world; moreover, it would be essential to prevent the elaboration of a new instrument from weakening existing instruments, particularly the standards set forth in article 6 of the International Covenant on Civil and Political Rights. On the basis of those principles, his Government was prepared to do its best to contribute to the elaboration of an optional protocol aiming at the abolition of the death penalty.

88. Mr. SAKER (Observer for the Syrian Arab Republic) thanked the Working Group of Governmental Experts for its report concerning a draft Declaration on the Right to Development (E/CN.4/1983/11). That report constituted an excellent basis for the final adoption of a legal instrument in that area. The right to development was of particular concern to the younger generations, but its definition required a prompt and sustained effort: some had stressed its collective dimension, others its individual dimension. The concept should be defined in such a way as to ensure wide support. It was essential in the first instance to affirm the right of all nations and of all peoples to an independent development, which was not hampered by the arms race, colonialism, apartheid, racial discrimination or foreign occupation. The right to development should be based in particular on the provisions of the Charter, resolutions of the General Assembly, the Charter of Economic Rights and Duties of States and the Declaration on the Granting of Independence to Colonial Countries and Peoples.

89. Unfortunately, the current world order constituted an obstacle to the enjoyment of human rights and hindered the economic development of the countries of the Third World. Those countries had enormous problems of indebtedness, balance of payments, terms of trade, inflation, etc. Far-reaching reforms were therefore necessary in order to support the right to development. The industrialized countries, in particular, should adopt structural measures to improve the terms of trade in favour of the developing countries and ensure that those countries were given more favourable commercial treatment. In general, the right to development required sustained efforts on the part of the entire international community. He was happy, in that connection, that attention had been drawn to popular participation at the seminar which had been held on the subject in Yugoslavia in 1982.

90. It was desirable that the mandate of the Working Group of Governmental Experts should be enlarged so as to enable the draft Declaration on the Right to Development to be completed. Lastly, he thanked the countries that had recently acceded to the two International Covenants on Human Rights and appealed to all members of the international community to ensure that all the rights set forth in those documents were protected. It was to be regretted that some countries seemed to be completely oblivious of the contents of the two Covenants.

91. Mr. AL-HUMAIMIDI MOHAMMED (Observer for Iraq), speaking in exercise of the right of reply, said he wished to clarify some points mentioned by the representative of the International Federation of Human Rights, who had made some unfounded comments on his country. The Kurds in Iraq had enjoyed autonomy since 1974, and respect for

all their rights was ensured by legislation and by the Constitution. In areas with a Kurdish population, Kurdish was the official language and Arabic only the second language; newspapers and publications appeared in Kurdish. Iraqi citizens of Kurdish origin participated actively in political life; the Vice-President himself was a Kurd. Thousands of Kurds were currently participating in the defence of their country against Iranian aggression. It was quite unjustified therefore to mention colonialism in connection with the treatment of the Kurds in Iraq.

The meeting rose at 5.55 p.m.