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WORLD SOCIAL SITUATION

Popular participation in its various forms as an important factor  
in the development and in the realization of human rights

Report of the Secretary-General

Addendum

CONTENTS

Page

COMMENTS RECEIVED FROM GOVERNMENTS

Federal Republic of Germany . . . . .	2
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COMMENTS RECEIVED FROM GOVERNMENTS

FEDERAL REPUBLIC OF GERMANY

[2 November 1983]

[Original: English]

I. GENERAL

1. Participation and involvement of the citizens in moulding a political and social will is an essential factor of the political system in the Federal Republic of Germany. It results from the constitutional principle that the Federal Republic of Germany is a democratic and social State based on the rule of law. The participation system has evolved during the course of time and reflects the religious, cultural, economic, social and political experiences of the citizens of the Federal Republic of Germany. Human dignity, guaranteed basic rights and social justice are values that govern all State activities supported by popular participation.

II. FORMS OF PARTICIPATION

A. Constitutional principles

2. The Basic Law of the Federal Republic of Germany guarantees popular participation in moulding the national will in its political and social aspects in many ways. According to article 20 (2) of the Basic Law, all State authority emanates from the people. It exercises this authority in elections and referenda and by specific legislative, executive and judicial organs. In districts and communes, too, the people must be represented by a body chosen in general, direct, free, equal and secret elections. In the communes, the assembled commune may take the place of an elected body. In addition to these means of influencing the shaping of State action by elections and referenda (the latter usually on the basis of the Land constitutions), political and social action can be influenced in a large number of ways through assertion of the rights guaranteed by the constitution. In this connection, particular mention must be made of freedom of expression, assembly and association. Everyone also has the right to address requests or complaints to the appropriate agencies and to parliamentary bodies as well as to participate in shaping the popular will by founding political parties or through active membership in them.

3. In connection with the implementation of the principles of popular participation in the conduct of public affairs, attention is drawn to article 25 of the International Covenant on Civil and Political Rights, 1/ which contains an adequate guarantee of popular participation in shaping political life, especially in view of the prohibition of discrimination contained in article 26. As to details, therefore, please refer to the government report pursuant to the said Covenant.

B. The right to local self-government

4. The structure of local self-government in the Federal Republic of Germany meets the objectives expressed in section IV of the report of the Secretary-General (A/37/442) on the organization of local government and the system of decentralization (A/37/442, paras. 15-17). The communes have the right to regulate on their own responsibility all the affairs of the local community within the limits set by law. For such affairs, Federal control is limited to legal supervision, that is, the Federal supervisory authorities may only examine whether communal activities have conformed to the law. They may not examine whether individual communal actions were desirable. Where Federal interference in local government is alleged, the communes are entitled to legal protection through the courts.

C. Participation in the preparation of laws and ordinances

5. The option to participate in the preparation of draft laws and ordinances is guaranteed for the affected associations or specialist groups.

D. Popular participation in the legal process

6. The Basic Law of the Federal Republic of Germany guarantees recourse to independent courts for any person who considers his rights to have been violated. In various branches of the judiciary (criminal, administrative, social and labour courts and as commercial judges, though not in civil or finance courts), citizens participate in reaching judgements as honorary magistrates with full voting powers.

E. Working people's participation in management

7. The principle of participation and co-determination is a pillar of industrial relations in the Federal Republic of Germany. Working people participate to a considerable extent in the information, communication and decision-making processes in factories, shops and offices through their freely elected representatives and play an important part, through freely formed and free-acting trade unions, in determining their conditions of employment.

8. Worker participation in the decision-making process must, of course, be able to develop in scope, intensity and style in accordance with the specific features of each individual branch and with the traditions that have evolved in each particular country. Certainly in the Federal Republic of Germany, experience gathered over decades of practice has made this the basis of effective and dynamic participation and co-determination in management.

9. In the same context, attention is drawn to the realization of article 8 of the International Covenant on Economic, Social and Cultural Rights, 1/ which contains an adequate guarantee of working people's say in their conditions of employment, especially in view of the prohibition of discrimination contained in paragraph 2 of

article 2. As to details, therefore, please refer also to the government reports pursuant to the said Covenant.

F. Participation in the field of social security

10. A significant part of the social basis of the State guaranteed by the Basic Law is realized through social security. Participation of those concerned in the social insurance system is ensured by the principle of self-management. Employees and employers participate in policy-making within the controlling bodies - representative council and board of directors - of each insurer. At fixed periods elections are held to choose the members of those bodies.

11. Within the social security field, action groups of benefit recipients have in recent years been trying to obtain more influence on the development and workings of the law.

G. Participation in policies concerning the family

12. The family plays an important role in the development and implementation of human rights. The family has the important task of helping to make the personal and social environment comprehensible and human.

13. Parents are given the opportunity to bring influence to bear on social affairs and to participate in planning decisions through legally guaranteed and largely institutionalized rights of participation in the management of educational and training establishments, government support for parental action groups at local level and participatory rights as citizens in town planning.

14. The protection and promotion of the family is also ensured by the involvement of non-governmental agencies in the planning and implementation of policies concerning the family. A number of responsibilities, particularly in the sphere of educational aids and social services, call for a division of labour between the State and the community, especially in a pluralistic society.

H. Participation in policies concerning women

15. The Federal Government gives support - including financial assistance - to the work of women's organizations in the Federal Republic. Women's organizations play an active and formative role in political life. An important element of educational and public relations work with regard to women consists in achieving greater participation by women in political and social activities in order to achieve a greater say for women and at the same time to tap their great potential capabilities for the benefit of society as a whole.

### I. Participation in other spheres

16. Citizens in their local communities participate directly in planning the use of land for building and other purposes. To this end, communes must advertise at the earliest possible stage the aims and objectives of planning activities and give the public the opportunity to express and discuss views (in hearings). The method of popular participation is not, however, prescribed by law, but can be decided autonomously by the communes so as to permit the greatest possible flexibility.
17. The autonomy of institutions of higher education and the participation of all members of such institutions in their administration are fundamental elements of the contemporary German system of higher education. Higher education institutions are public corporations and, at the same time, government establishments. A uniform system of administration creates the link between the two basic forms. With regard to their research and teaching responsibilities, higher education institutions are guaranteed the right to govern themselves within the scope of the applicable laws. Participation in the administration of institutions of higher education is both a right and an obligation of their members. The form and scope of participation by members of institutions of higher education vary according to their qualifications, function, responsibility and how directly the matter in question affects them.
18. The participation of young people is one of the fundamental structural elements of youth work in the Federal Republic of Germany. Particularly in the field of youth services outside the school system, young people are participating to an increasing extent in organizing and carrying out voluntary youth service activities.
19. With regard to participation in research and technology, through the medium of a forum entitled "Technischer Wandel [Changing technology]", those involved in the introduction of new forms of technology and those affected by the introduction of such technology are enabled, by means of information, discussion and further training, to recognize more clearly its potential effects, to discover the possibilities it opens up and to play an active part in shaping its development.
20. In the Federal Republic of Germany there is an abundance of environmental regulations that, to varying degrees, provide for public participation (generally by the section of the public affected). This participation usually consists in plans for projects that could have damaging effects on the environment being publicly advertised in good time to allow the public to raise objections and reservations.
21. In the cultural sphere participation of the relevant social groups in radio and television ensures balanced and objective reporting and freedom of expression.

### III. THE LJUBLJANA INTERNATIONAL SEMINAR ON POPULAR PARTICIPATION

22. The International Seminar on Popular Participation, held at Ljubljana, Yugoslavia, from 17 to 25 May 1982, brought about a fruitful exchange of information and opinions and helped to make clear the importance of these matters

within the United Nations framework, too. It must be mentioned, however, that, as a result of the enormously wide-ranging concept of "popular participation", ideas as to the ways in which such participation might be realized varied sharply. The conclusions reached at the seminar, as set forth in the final report (A/37/442, paras. 57-77), are capable of promoting further discussion.

Notes

1/ See resolution 2200 A (XXI), annex.

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