

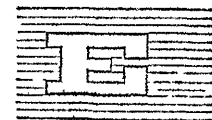
UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL

E/CN.4/1984/12  
12 January 1984

Original: ENGLISH/  
FRENCH



COMMISSION ON HUMAN RIGHTS

Fortieth session

Item 8 of the provisional agenda

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;
- (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

Study on the right to popular participation in its various forms as an important factor in the full realization of all human rights

Preliminary report by the Secretary-General

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GE.84-15005

## I. INTRODUCTION

### A. Mandate

1. In its resolution 1983/14 of 22 February 1983, the Commission on Human Rights took note with appreciation of the report of the International Seminar on Popular Participation held at Ljubljana, Yugoslavia, from 17 to 25 May 1982 (A/37/442) and recommended the adoption by the Economic and Social Council of a draft resolution which was subsequently adopted by the Council as resolution 1983/31 of 27 May 1983. This preliminary report is submitted in accordance with that resolution, in which the Council requested the Secretary-General to undertake a comprehensive analytical study on the right to popular participation in its various forms as an important factor in the full realization of all human rights, and to submit a preliminary study to the Commission on Human Rights at its fortieth session and the final study at its forty-first session. The Council further requested the Secretary-General, in the preparation of the study, to take account of the work on the concept and practice of popular participation that has been carried out by relevant United Nations organs, specialized agencies and other bodies, as well as of the views expressed at the thirty-ninth session of the Commission on Human Rights and such views on, inter alia, relevant national experiences as may be submitted by Governments in response to General Assembly resolution 37/55 and Council resolution 1983/31.

2. It may be recalled that in its resolution 37/55 of 3 December 1982, the General Assembly took note with appreciation of the report on the International Seminar on Popular Participation (A/37/442); invited Member States to take into consideration in their development policies and programmes the recommendations of the Seminar, keeping in view their specific economic and social conditions; called upon the organs and organizations of the United Nations system to promote, as appropriate, popular participation in the execution of their programmes to the extent and in the form conducive to the nature of their work; and requested the Secretary-General to transmit the report of the Seminar to Member States and the relevant United Nations bodies for their consideration. The Assembly also requested the Commission on Human Rights to consider at its thirty-ninth session the question of popular participation in its various forms as an important factor in development and in the realization of human rights, taking into account, inter alia, the results of the deliberations of the Seminar, as contained in the report of the Secretary-General, and to submit to the General Assembly, through the Economic and Social Council, appropriate suggestions for more complete realization of human rights; and it requested the Secretary-General to prepare a comprehensive progress report on the implementation of the resolution, taking into account the suggestions made at the Commission on Human Rights, and to submit his report to the Assembly at its thirty-eighth session. The report of the Secretary-General called for in resolution 37/55 is contained in A/38/338 and Add.1-4.

### B. Sources of information

3. In accordance with Economic and Social Council resolution 1983/31 the Secretary-General, in a note verbale of 25 August 1983, requested all Member States to submit observations and comments on Council resolution 1983/31. In this regard the Secretary-General indicated that any information submitted to him by States in connection with General Assembly resolution 37/55 would automatically be taken into account in the preparation of the study and need not be duplicated in response to the note verbale of 25 August 1983. On 3 August 1983, a letter in similar terms was sent by the Assistant Secretary-General of the Centre for Human Rights to relevant United Nations organs, specialized agencies and other bodies.

4. As of 20 December 1983 the following substantive replies, which are summarized in this preliminary study, had been received in response to Council resolution 1983/31:

(a) From Governments

Finland, Holy See, Netherlands and Yugoslavia

(b) From relevant United Nations organs, specialized agencies and other bodies

Commission of the European Communities, Economic Commission for Latin America, Economic and Social Commission for Asia and the Pacific, International Fund for Agricultural Development, Organization of American States, United Nations Centre for Social Development and Humanitarian Affairs, United Nations Centre for Human Settlements (Habitat), United Nations Children's Fund, United Nations Educational, Scientific and Cultural Organization, United Nations Fund for Population Activities and World Health Organization.

5. In addition to these replies the main sources of information used in the preparation of the present preliminary report are studies prepared by or for various United Nations bodies, studies by regional intergovernmental organizations and the writings of recognized scholars in this field. The final report will be submitted to the Commission on Human Rights at its forty-first session.

## II. SUMMARY OF VIEWS OF STATES ON THE STUDY

6. The analysis below represents a brief summary of the views expressed in debates on the subject of popular participation at the thirty-seventh session of the General Assembly and the thirty-ninth session of the Commission on Human Rights as well as in the comments and observations forwarded by Governments to the Secretary-General in connection with General Assembly resolution 37/55 1/ and Economic and Social Council resolution 1983/31 2/. The analysis also takes account of the conclusions adopted by the International Seminar on Popular Participation (A/47/442).

### 1. The theory and practice of popular participation

7. One of the major conclusions to emerge from the International Seminar on Popular Participation (hereafter referred to as "the Seminar"), and reaffirmed by States replies, was that practically all countries are committed at least in principle to the promotion of popular participation in the development process. In many cases specific programmes have been launched in relation to particular sectors or population groups (A/37/442, para. 58). Similarly, the importance of popular participation as a means of promoting the realization of all human rights has been widely acknowledged. 3/

8. Nevertheless, there is no universally recognized definition of the concept of popular participation. The difficulty of arriving at an agreed definition has been said to reflect the diversity of requirements, experiences, trends and historical conditions prevailing in the various countries (E/CN.4/1983/SR.18, para. 22). The experience of different countries in the promotion of popular participation can, however, shed considerable light on the conditions required for its effective enjoyment (E/CN.4/1983/SR.17, paras. 68-69; and A/38/338 and Add.1-4 passim). It has also been stressed that every State has the right to choose the institutions and policies for popular participation best suited to its national circumstances and its socio-political dynamics (E/CN.4/1983/SR.18, para. 20) and that the imposition of foreign models of participation is counter-productive (E/CN.4/1983/SR.17, para. 45).

9. In general, it has been said that popular participation takes many different forms in different societies ranging from a strategy to mobilize national human resources for development to a transfer of power to people by virtue of their involvement in all decision making on matters affecting their well-being and their role in society (E/CN.4/1983/SR.18, para. 22). Among the measures through which popular participation may be promoted, reference has been made, inter alia, to: the adaptation of legal and judicial processes, the establishment of co-operatives

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1/ These replies have been reproduced in A/38/338 and Add.1-4. Copies of these documents will be available to members of the Commission in connection with consideration of the present report.

2/ The comments received from Governments in response to Economic and Social Council resolution 1983/31 are summarized in Annex I of the present study.

3/ A/38/338, para. 5; A/C.3/37/SR.28, para. 60.

and trade unions, the restructuring of existing socio-economic and political institutions and public administration, the promotion of individual and collective self-reliance, the establishment of voluntary associations and of specialist advisory bodies, and the undertaking of comparative studies and exchanges of experience (A/37/442). During the debates at the thirty-ninth session of the Commission on Human Rights it was noted that popular participation is relevant in the formulation of development policies, in decision-making processes generally, in the implementation and execution of development programmes and in the equitable sharing of the benefits of development (E/CN.4/1983/SR.17 to 20).

10. In their comments to the Secretary-General, States have underlined the importance of inter alia: decentralizing the decision-making process (A/38/338, para. 14 and E/CN.4/1984/12, Annex, para. 21); strengthening the role of local authorities (A/38/338/Add.1 para. 25); ensuring respect for the right to self-determination (A/38/338/Add.2, p. 3); promoting local self-government 4/; the principles of socialist "self-management" 5/; and the consultation and involvement of non-governmental bodies of all types in the preparation of laws and regulations and in planning and development activities in general 6/.

## 2. The relationship between popular participation and respect for human rights

11. In the debates at the **thirty-ninth** session of the Commission on Human Rights it was said that popular participation is a factor of fundamental importance in the enjoyment of many of the rights set forth in the International Bill of Human Rights (E/CN.4/1983/SR.17, para. 50). In the replies submitted by Governments reference has been made to various provisions of the Universal Declaration of Human Rights including, in particular, article 21 (3) which states that "the will of the people shall be the basis of the authority of government", as well as to comparable provisions contained in national constitutions and basic legislation.

12. In emphasizing the link between popular participation and the enjoyment of civil and political rights it has been said that there can be no genuine participation without freedom of expression and that development is retarded in the absence of free expression, innovation, voluntary co-operation and the encouragement of autonomous associations (A/C.3/37/SR.28, para. 60). Freedom of expression and information and the right to take part in the management of public affairs are also important elements for the effective enjoyment of popular participation (E/CN.4/1983/SR.18, para. 37 and E/CN.4/1983/SR.20, para. 61). Emphasis has also been placed on the right of the poor to organize themselves in order to protect and further their own interests (E/CN.4/1983/SR.17, paras. 77-78). It has also been said that where the will of the people is not respected as the basis of government, social progress will remain limited, no matter what other inputs of ideology and financial resources are made (A/C.3/37/SR.28, para. 45).

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4/ A/38/338/Add.3, para. 4; and the reply of Yugoslavia dated 30 November 1983, p. 3.

5/ E/CN.4/1984/12, Annex, paras. 34-45.

6/ A/38/338, paras. 9-12; A/38/338/Add.1, paras. 8-10, 12-20; A/38/338/Add.2, p. 17; A/38/338/Add.3, paras. 5-6; and E/CN.4/1984/12, Annex, paras. 15-20.

13. Similarly, many States have emphasized the link between the realization of economic, social and cultural rights and popular participation in the relevant decision-making and implementation processes. In some countries rural development policies and programmes are designed to increase the participative role of the population through the encouragement of producers' associations, co-operatives and peasant farmers' organizations (A/38/338/Add.1, para. 40 and A/38/338/Add.2, p. 20). Such organizations can facilitate the mobilization of local resources, the articulation of the needs of the population and the co-ordination of development activities (A/38/338, paras. 21-24) as well as promoting peoples' self-help and encouraging people to solve their own problems (A/38/338/Add.1, para. 48). The promotion of the right to health has been said to call for information and health education for the population, the organization of people-oriented primary health care and the establishment of health centres of a preventive character (A/38/338/Add.2, pp. 14-16). It has also been said that underprivileged social groups can be reached more easily through the creation of local health committees and voluntary organizations (A/38/338/Add.1, paras. 65-66).

14. The importance of the participation of workers in management has been emphasized by a number of Governments <sup>7/</sup>. However, the view has also been expressed that there has, to date, been undue concentration on this issue in the context of discussions on popular participation (E/CN.4/1984/12, Annex, paras. 1-2).

### 3. Popular participation as a human right

15. <sup>8/</sup> In the Proclamation of Teheran it is stated that "the laws of each country should grant each individual ... the right to participate in the political, economic, cultural and social life of his country" <sup>8/</sup>. In its resolution 1983/31 in which it requested the preparation of the present study, the Economic and Social Council refers to "the right to popular participation". However, at the time of the adoption of the resolution, another view was also expressed according to which such a right had not yet been established and such a formulation was therefore premature and prejudicial (E/1983/SR.15, p. 7).

16. According to another view the right to participation is a human right, some aspects of which are already reflected in international human rights instruments. However, in this view the right cannot be formulated entirely by deduction from existing norms of positive law and further analysis is thus required (E/CN.4/1984/12, Annex, paras. 59-60). It has also been said that, in view of the breadth and complexity of the concept of popular participation, future studies should focus on more narrowly defined subjects which may be treated in depth (A/38/338/Add.1, para. 52).

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<sup>7/</sup> A/38/338/Add.1, para. 51; A/38/338/Add.2, pp. 4-6 and 7-13; A/38/338/Add.3, para. 5; and A/38/338/Add.4, paras. 7-9.

<sup>8/</sup> Human Rights: A Compilation of International Instruments (United Nations publication, Sales No.E.83.XIV-1) p. 18, para. 5.

III. OVERVIEW OF WORK OF UNITED NATIONS AND OTHER BODIES  
IN THE FIELD OF POPULAR PARTICIPATION

17. In order to ensure that the final study takes full account of the relevant work of other United Nations bodies, without at the same time unduly duplicating that work, the Economic and Social Council in its resolution 1983/31 requested the Secretary-General "to take account [inter alia] of the work on the concept and practice of popular participation that has been carried out by relevant United Nations organs, specialized agencies and other bodies". In this connection reference may be made to the comments received from such bodies in response to General Assembly resolution 37/55 and which have been reproduced in A/38/338 and Add. 1-2.

18. In addition, the Secretary-General has also received comments from United Nations and other bodies in connection with the present study. Their texts are in the files of the Secretariat and may be consulted upon request. A summary of the replies is reproduced below.

A. Comments received from United Nations sources

CENTRE FOR SOCIAL DEVELOPMENT AND HUMANITARIAN AFFAIRS

[Original: English]  
[26 September 1983]

19. In its reply the CSDHA forwarded a Secretariat document entitled "Community Participation in Urban Social Planning" prepared for an Expert Group Meeting on Popular Participation in Local Planning for Social Integration in Urban Areas held in Vienna from 7 to 11 November 1983.

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

[Original: English]  
[22 August 1983]

20. In its reply ESCAP forwarded a range of materials which it had prepared on the concept and practice of popular participation.

ECONOMIC COMMISSION FOR LATIN AMERICA

[Original: English]  
[25 October 1983]

21. In its reply ECLA referred to information previously provided to the Secretary-General in response to General Assembly resolution 37/55 (reproduced in A/38/338, paras. 36-40) and also provided a number of specific country studies which it had undertaken.

UNITED NATIONS CENTRE FOR HUMAN SETTLEMENTS

[Original: English]  
[31 October 1983]

22. The right of the people to participate directly in shaping the policies and programmes affecting their lives was expressly recognised at the Habitat: United Nations Conference on Human Settlements held in Vancouver, Canada from 31 May to 11 June 1976. The Declaration which was adopted by the Conference at the end of its deliberations contains the following principle:

"All persons have the right and the duty to participate, individually and collectively, in the elaboration and implementation of policies and programmes of their human settlements." (paragraph 13 of the General Principles).

The accompanying Plan of Action contains the following recommendation:

"Public participation should be an indispensable element in human settlements, especially in planning strategies and in their formulation, implementation and management; it should influence all levels of government in the decision-making process to further the political, social and economic growth of human settlements" (Recommendation E.1).

23. Consequently, the promotion of public participation in human settlements development and improvement programmes is a priority concern of the UNCHS.

UNITED NATIONS FUND FOR POPULATION ACTIVITIES

[Original: English]  
[28 October 1983]

24. The concept of popular participation is given a prominent position in every sector and type of activity addressed in the World Population Plan of Action. 9/

25. The integral role of popular participation in the success of policies relating to population and development as applies to the operational activities of UNFPA is most succinctly set forth in paragraph 71 of the World Population Plan of Action:

"In order to achieve the population objectives of this Plan of Action and to put its policy recommendations adequately into effect, measures need to be undertaken to promote knowledge of the relationships and problems involved to assist in the development of population policies, and to elicit the co-operation and participation of all concerned in the formulation and implementation of these policies".

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9/ Report of the World Population Conference, 1974 (United Nations publication, Sales No. E.75.XIII. 3), chap. I.



Popular participation and family planning programmes

26. Insofar as family planning programmes are concerned with the decisions of individuals and couples regarding their fertility behaviour, popular participation is recognized by UNFPA as an indispensable aspect of such programmes. The involvement of individuals and the community in the formulation and implementation of family planning programmes is sought not only as an end in itself and as an important component in the human rights aspects of family planning, but also as a vital ingredient to the success of programmes.

Popular participation in population information, education and communication

27. If people are to make for themselves rational decisions concerning population and development, it is crucial that they have accurate, timely and assimilable information regarding the available alternatives. UNFPA support for population education and communication activities aims precisely at helping to provide a sound basis on which to choose among alternatives.

Popular participation and the role and status of women in population and development activities

28. Most UNFPA-supported population activities affect women and, with due attention can also benefit them. However, maximizing these benefits requires specific efforts and preparations to ensure women's involvement and integration in every level and stage of project development and execution.

29. In December 1976, UNFPA issued guidelines for programme development, project formulation, implementation and evaluation for women, population and development. Their purpose was "to ensure that women are not merely recipients of services but active participants in population activities and that their special needs ... are fully taken into account in designing, implementing and evaluating all UNFPA programmes and projects"

UNITED NATIONS CHILDREN'S FUND

[Original: English]  
[24 October 1983]

30. In its reply UNICEF provided a copy of a paper entitled "Popular participation of men and women for the benefit of children" and a copy of an issue of the journal Assignment Children (No. 59/60, 1982) devoted to "Community participation: current issues and lessons learned".

B. Comments received from agencies within the United Nations system

INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT

[Original: English]  
[9 September 1983]

Introduction

31. The World Conference on Agrarian Reform and Rural Development, held in Rome in July 1979, noted that rural development strategies can realize their full potential only through the motivation, active involvement and organization at the

grass-roots level of rural people, with special emphasis on the least advantaged, in conceptualizing and designing policies and programmes and in creating administrative, social and economic institutions, including co-operative and other voluntary forms of organization for implementing and evaluating them.

32. IFAD, as a financing institution within the United Nations system, provides long-term loans to developing countries on concessional terms for projects in agriculture and rural development. Our objectives are to increase food production, improve nutrition and reduce rural poverty in low income developing member countries.

33. IFAD's lending policies and criteria require that its projects be so designed as to make maximum contribution to these objectives while delivering proportionately larger benefits to the poorest segments of the population, namely the small and landless farmers. For this purpose, IFAD places great emphasis on the involvement and effective participation of the rural poor, which is fundamental to the evolution and success of poor-oriented agricultural and rural development. Effective participation implies active involvement in decision-making regarding project identification, formulation, implementation, monitoring and evaluation and, above all, benefit sharing.

#### Objectives of participatory development

34. IFAD, in its policies, programmes and projects, is fully conscious of the importance of people's participation in rural development. It is deeply committed to promoting people's participation in decision-making in the development process by involving the potential beneficiaries at various stages of a project cycle and in effecting equitable distribution of benefits from projects financed by it. In IFAD, people's participation is viewed as an essential objective of development, and hence as an important criterion for assessing the impact and benefits of a development project or programme.

#### External and internal constraints

35. In the efforts to promote participation, it is important to analyse and understand the main constraints which inevitably impede these efforts. These include external constraints arising, inter alia, from the unequal distribution of land, the lack or inadequacy of government policies and financial support, and the relative isolation and remoteness of the rural poor; internal constraints that often arise from the inadequacy of local leadership and the limited role of local organizations in rural development.

36. It is clear that the benefits of development activities accrue mainly to those who have substantial access to land and other resources. In situations where such access is very unbalanced, which is frequently the case, higher income groups reap most of the benefits even of poverty-oriented programmes. The disadvantaged groups gain little from such programmes and may even experience a deterioration in their economic and social conditions. Although in certain cases significant improvements will probably depend on the adoption of appropriate agrarian reforms, there is substantial scope in most developing countries, nonetheless, for designing projects for the exclusive benefit of the poor.

37. Internal obstacles to rural participation are less formidable but equally important from a practical viewpoint. In most cases these constraints can be removed by strengthening local governments, by decentralizing various institutions

that provide support and services to development activities, and by giving special assistance to help local government institutions establish and strengthen educational and training programmes for disadvantaged groups to enhance their capacity to participate in development activities.

38. In countries where agrarian reforms are feasible, the opportunities for promoting rural participation are particularly promising. It is frequently possible, for example, to form organizations of intended beneficiaries to channel credit and inputs, and to ensure that these organizations have the opportunity of mobilizing additional resources needed for improving and utilizing their newly acquired lands.

39. A major aim should be to encourage the formation of organizations to provide various economic, social and cultural services and for developing self-reliance at the community level. At the same time the opportunity to participate in the identification, implementation, and evaluation of development projects, will itself reinforce the motivation of the rural poor to participate.

40. The scope and nature of policies and measures to overcome these constraints and to promote participation will differ from country to country and will depend mainly on the socio-economic situation in each case. In countries where government policies favour the evolution of participatory structures, the possibilities for local initiatives are very much enhanced. Support and stimulation from external development agencies for such initiatives can also be very helpful.

#### IFAD's efforts to enhance people's participation

41. Taking due account of its lending policies and criteria, IFAD has attempted to give consideration to activities fostering rural participation, particularly:

- those which originate from initiatives taken in the rural areas as a response to perceived needs;
- those which suggest efforts by governments to help the rural people organize themselves to carry out programmes for their social and economic benefits in a self-reliant manner;
- those which ensure the poor's access to and influence in the decision-making apparatus in project preparation, design, implementation and monitoring and evaluation.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

[Original: French]  
[6 October 1983]

42. In its various recommendations and resolutions UNESCO has stressed the importance of endogenous development and also of popular participation in development. Furthermore, according to the normative texts adopted by UNESCO, participation is viewed as a requirement for development action within the framework of "the right to full development [which] implies equal access to the means of personal and collective advancement and fulfilment in a climate of respect for the values of civilizations and cultures, both national and worldwide" (Declaration on Race and Racial Prejudice, article 3).

43. This outlook is reflected in the activities under the various programme sectors falling within UNESCO's spheres of competence, in particular education, culture, communication and social sciences and their applications.

WORLD HEALTH ORGANIZATION

[Original: English]  
[12 October 1983]

44. Community involvement or popular participation for health development is a key factor in the WHO Global Strategy for Health for All by the Year 2000 which is based on the primary health care approach and which was adopted by World Health Assembly in 1981.

45. Community involvement for health development is understood as a process by which partnership is established between government and local communities in the planning, implementation, and utilization of health activities in order to benefit from increased local self-reliance and social control over the health infrastructure and technology. Community involvement means that people, who have both the right and the duty to participate in solving their own health problems, have greater responsibility in assessing their health needs, mobilizing local resources and suggesting new solutions, as well as creating and maintaining local organizations in support of these efforts.

46. Increased local self-reliance and social control over the health infrastructure and technology are the cornerstones on which community involvement for health development is built. Though the main responsibility for the health of the people rests with the government, it should be shared by the communities in the spirit of self-reliance with appropriate coordination with the supportive health activities of the government.

47. Most WHO programmes and all regional offices emphasize community involvement as an essential aspect of their activities. Through technical collaboration with the countries, they support the development of operational plans for community involvement, the implementation of these plans, and the evaluation of community involvement in primary health care. At the national level, the activities relate to removing political constraints on making community involvement an issue in the primary health care policy and to the gradual reorientation of health systems towards community involvement-based primary health care. At the intermediate level of the health system the activities aim at increasing the understanding of community involvement among the health service staff to support community-based decision-making and other community activities in technical aspects. The focus of community involvement activities is at the local level, where the emphasis is on motivating and mobilizing the community as a whole to assess its health needs, plan and decide on health interventions, implement primary health care activities, and obtain health benefits in an equitable way.

48. In terms of activities WHO:

- collects and disseminates information about patterns and experiences of community involvement in primary health care;
- co-operates with governments in the development of permanent community-managed institutions, particularly for the provision of services in rural and poor urban areas:

- promotes and cooperates in the development of programme activities which support the community level management process;
- cooperates with countries in strengthening training institutions for, inter alia, community workers and village volunteers;
- develops methodologies for the promotion and implementation of community involvement mechanisms;
- collaborates with other agencies in the promotion of activities that are supportive of the community involvement process.

49. It is expected that the worldwide promotion of community involvement will contribute to the preparation of national plans for encouraging community involvement, and this is expected to lead to the large-scale implementation of functional mechanisms of community involvement in primary health care for equitable health development in countries.

C. Comments received from regional intergovernmental organizations

COMMISSION OF THE EUROPEAN COMMUNITIES

[Original: French]  
[11 November 1983]

50. Although the treaties setting it up are not directly aimed at securing human rights, the European Community, through its various activities (particularly in the social sphere) in furtherance of the well-being of the population in general and of some social categories in particular, implicitly but actively participates in the protection of fundamental rights. Thus, for example, specific measures have been taken to protect women's rights; other measures are aimed at ensuring that migrant workers enjoy the same rights as are recognized to national workers.

51. For its part, the Court of Justice of the European Communities, which ensures compliance with Community law, also watches over the protection of fundamental rights.

ORGANIZATION OF AMERICAN STATES

[Original: English]  
[25 October 1983]

52. In its reply the Inter-American Commission on Human Rights, of the OAS, forwarded the pertinent parts regarding political participation in recent country reports which it had prepared.

#### IV. PROVISIONAL OUTLINE OF FINAL STUDY

53. The present section is designed to provide an indication of some of the main issues which will be addressed in the final study to be submitted to the Commission on Human Rights at its forty-first session. As a preliminary outline presented in descriptive form it is neither comprehensive nor definitive. In addition to the issues touched on below the shape of the final study will also reflect both the comments and views which States have submitted to the Secretary-General in connection with the study and the points made during the relevant debates in the Commission on Human Rights and the General Assembly. It is proposed to divide the study into three parts.

##### Part I. The theory and practice of popular participation: an overview

54. The final study will begin with a review of the different definitions of popular participation which have been put forward by various national or international authorities and various authors and will seek to isolate some of the major elements which would seem appropriate for inclusion in any universal definition of popular participation. In this connection, it is relevant to recall Economic and Social Council resolution 1929 (LVII) in which the Council recommended that popular participation be adopted as a basic policy measure. The resolution allows for broad applicability of the concept according to the political and socio-economic system of each country.

55. In the final study due attention will be given to the multi-dimensional nature of the concept which requires that equal consideration be given to its political dimensions as to its economic, social and cultural and legal dimensions. The principle of the interdependence and indivisibility of human rights will thus be fully reflected in the discussion of the concept of popular participation.

56. With respect to the actual practice of popular participation, as opposed to its theoretical aspects, the final study will survey the major forms of popular participation which have been established at the national level in the light of the relevant international standards or recommendations. In this respect, the study will draw inter alia upon the comments and information received from Governments as well as other sources which describe the activities in various countries.

57. The first part of the study will also pay due regard to the place of popular participation in the development process. A wide range of declarations and resolutions has been adopted by different United Nations organs in which the fundamental importance of popular participation in development has been reaffirmed. It is now widely accepted that if participation is to be effective, it must be practised at all levels of decision-making and featured in various stages of the development process, starting from the setting of overall objectives, through the planning of programmes and ending with their implementation and evaluation. 10/

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10/ Ibid, p.8.

Part II. The relationship between popular participation and the promotion of human rights

58. In this part of the final study attention will first be focused on the relationship between popular participation and the rights to self-determination and to development. The links between self-determination and popular participation have already been given considerable attention within the context of decolonization. 11/ In addition to the political dimensions of the right to self-determination, consideration will also be given to its economic, social and cultural aspects.

59. The link between the right to development and popular participation has already been underlined in the two reports of the Secretary-General on the right to development. 12/ The Working Group of Governmental Experts on the Right to Development, established by the Commission on Human Rights, has also noted the importance of popular participation for the effective exercise of the right to development. 13/

60. Attention will also be given to the relationship between popular participation and the enjoyment of human rights by certain groups such as women minorities and indigenous populations as well as rural populations.

61. The final study will also consider the relationship between popular participation and various specific human rights. Thus for example, consideration will be given to the relevance of popular participation in promoting and facilitating the enjoyment of rights proclaimed in the International Covenant on Civil and Political Rights such as the right to hold opinions and the right to freedom of expression, the right to freedom of information, the right to freedom of association and the right to take part in the conduct of public affairs. A comparable analysis will also be undertaken of the relevance of popular participation in promoting and facilitating the enjoyment of rights proclaimed in the International Covenant on Economic, Social and Cultural Rights such as the right to work (including workers participation in management), the right to an adequate standard of living and its various component parts, the right to education and the right to take part in cultural life.

Part III. Popular participation as a human right

62. The previous two parts of the final study will have served to show that the full and enduring realization of all human rights would require that individuals be given ample opportunities to participate in making and implementing the decisions which can control or alter the conditions of their very existence. 14/

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11/ Aureliu Cristescu, The Right to Self-Determination: Historical and Current Development on the Basis of the United Nations Instruments (United Nations publication, Sales No. E.80.XIV.3); and Héctor Gros Espiell, The Right to Self-Determination: Implementation of United Nations Resolutions (United Nations publication, Sales No. E.79.XIV.5).

12/ E/CN.4/1334 paras. 230-253, and E/CN.4/1488, paras. 96-109.

13/ E/CN.4/1489, paras. 28-29.

14/ E/CN.4/1488, para. 98.

However, while discussing the fundamental importance of the relationship between popular participation and the full realization of all human rights the final study will also examine whether popular participation and the right thereto may be considered a specific human right. Among other matters, attention will be given to whether there is an already existing right to popular participation; whether such a right is conceptually well-founded; whether such a right can be said to be emerging within the international community; if so what would be its content; and what would be its place within the existing system of human rights. 15/

63. In order to discuss these and related issues attention will be given to both relevant provisions of national law and to the provisions of relevant international and regional instruments. On the basis of a survey of these sources the study will endeavour to identify the main elements of the relationships between popular participation and human rights.

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15/ See generally Peter Jambrek, "Participation as a human rights (sic) and as a means for exercise of human rights", UNESCO document SS-82/WS/54 (December 1982); and Guy Kouassigan, "Le droit de participation aux affaires publiques", Revue Sénégalaise de droit, December 1977, No. 22, pp. 121-126.



ANNEX

COMMENTS RECEIVED FROM GOVERNMENTS IN RESPONSE TO ECONOMIC  
AND SOCIAL COUNCIL RESOLUTION 1983/31 .

FINLAND

[Original: English]

[26 October 1983]

1. In the view of the Government of Finland popular participation is an important element in promoting development and in reaching at a full realization of human rights.
2. The concept of popular participation was discussed in the General Assembly on the basis of the report of the international seminar held in Ljubljana in 1982 and subsequently dealt with in the Commission of Human Rights and in the Economic and Social Council. Finland finds it appropriate that the Council in its resolution 1983/31 has called for a comprehensive analytical study on the extremely complex concept of popular participation and appreciates the valuable work which has been undertaken in order to arrive at a comprehensive and precise definition of the concept.
3. It is however the view of the Finnish Government that the focus has so far been too much concentrated on participation of workers in economic management and, more generally, on participation in economic and social development. Finland would therefore like to see that the discussion on the scope of the concept of popular participation be broadened so as to include participation also in other areas of society like political and public life, mass media, trade unions, churches and other social organizations.

HOLY SEE

[Original: French]

[3 November 1983]

4. The Catholic Church has always taught that, having been created in God's image, all persons should enjoy all the human rights that derive from the dignity of their condition and are personal and **social** rights.
5. The Holy See recognizes participation by every member of society in public affairs as a right directly stemming from his or her dignity. This viewpoint has been expressed on several occasions by the supreme authority of the Catholic Church.

6. To refer only to the last 20 years, mention may first be made of the teaching of the encyclical letter Pacem in Terris (11 April 1963): "It is in keeping with their dignity as persons that human beings should take an active part in government ..." (II: AAS 55 [1963], page 278). In the same encyclical, under the heading "Duty of taking part in public life", Pope John XXIII invites Catholics "to take an active part in public life, and to contribute towards the attainment of the common good of the entire human family, as well as to that of their own political Community" (V: ibid., p.296).

7. In the pastoral constitution Gaudium et Spes (7 December 1965) the Second Vatican Council also applied this idea of participation to the new emerging collectivities: the developing peoples. "Nations on the road to progress, like those recently made independent, desire to participate in the goods of modern civilization, not only in the political field but also economically, and to play their part freely on the world scene ... For the first time in human history, all people are convinced that the benefits of civilization ought to be and actually can be extended to everyone" (no. 9, 2).

8. In the Magisterium of the Catholic Church, effective participation in all levels of public and social life is based on respect for the rights of individuals. The constitution Gaudium et Spes is very clear on the subject: "For the protection of personal rights is a necessary condition for the active participation of citizens, whether as individuals or collectively, in the life and government of the State" (no. 73.1). In the same document, the bishops of the entire world, meeting in Rome for the Second Vatican Council, stressed the need of finding the most suitable ways of ensuring this participation: "It is in full accord with human nature that juridical-political structures should, with ever better success and without any discrimination, afford all their citizens the chance to participate freely and actively in establishing the constitutional bases of a political community, governing the State, determining the scope and purpose of various institutions, and choosing leaders" (no. 75.1).

9. Pope Paul VI, after having pointed out the danger of an outbreak of violence when peoples are prevented from participating in social and political life (Cf. the encyclical Populorum Progressio 26 March 1967, No. 31) emphasized the aspiration to participate throughout society and throughout the world in the face of the existing injustices and challenges (ibid., nos. 33-42).

10. His Holiness John Paul II also refers to the idea of participation in his encyclical letter Redemptor Hominis (4 March 1979), and stresses that it must underlie the power of the State: "The essential sense of the State, as a political community, consists in that the society and people composing it are master and sovereign of their own destiny. This sense remains unrealized if, instead of the exercise of power with the moral participation of the society or people. What we see is the imposition of power by a certain group upon all the other members of the society. This is essential in the present age, with its enormous increase in people's social awareness and the accompanying need for the citizens to have a right share in the political life of the community, while taking account of the real conditions of each people and the necessary vigour of public authority. These therefore are questions of primary importance from the point of view of the progress of man himself and the over-all development of his humanity" (no. 17).

11. From this viewpoint, popular participation is guaranteed only if the State authorities are concerned for the common good and respect all fundamental human rights. This is what Pope John Paul II has to say on the subject: "The Church has always taught the duty to act for the common good and, in so doing, has likewise educated good citizens for each State. Furthermore, she has always taught that the fundamental duty of power is solicitude for the common good of society; this is what gives power its fundamental rights. Precisely in the name of these premises of the objective ethical order, the rights of power can only be understood on the basis of respect for the objective and inviolable rights of man. The common good that authority in the State serves is brought to full realization only when all the citizens are sure of their rights. The lack of this leads to the dissolution of society, opposition by citizens to authority, or a situation of oppression, intimidation, violence, and terrorism, of which many examples have been provided by the totalitarianisms of this century. Thus the principle of human rights is of profound concern to the area of social justice and is the measure by which it can be tested in the life of political bodies" (Redemptor Hominis, no. 17).

12. To conclude, the right of participation may be said to be based on the dignity of the human being, who has inalienable rights stemming from the fact of being a person. Everyone is born into society. The latter is formed by, and exists for, its members, who have the right to participate fully in its life, according to need and to their capabilities. The organization of society requires respect for the rights of all, for culture and for the common good. That respect extends to all aspects of the person, who is free and transcendental, to the right to life and to all other rights inherent in the dignity of the person.

## NETHERLANDS

[Original: English]

[2 November 1983]

13. The concept of popular participation would seem to imply, first of all, that all members of society should have adequate possibilities for influencing the conduct of public affairs. As is stated in article 21 of the Universal Declaration of Human Rights, the will of the people shall be the base of the authority of government. The Declaration adds that this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

14. In order to be genuine, elections must offer the voter real choices. The voters should be free to organize themselves in competing political parties according to their own views and preferences. If the State uses its power to block the road to political pluralism, democratic institutions cannot fulfil their true functions.

15. Popular participation requires not only freedom of association but also freedom of information. The governed cannot genuinely exercise control over their government if they are not free to form and express opinions. All too often people are harassed, dismissed from their jobs, deprived of their liberty or even killed because they have imparted information and ideas which did not suit the holders of State power. Where freedom of information and expression is strangled, the population cannot participate meaningfully in public affairs.

16. Freedom of information includes freedom to seek and to receive as well as to impart information. Access to information is essential in order to be able to influence the conduct of public affairs in a meaningful way. It is important to know what policies are under consideration what plans are being prepared, what issues have to be decided, and what arguments are being used to support or to disclaim certain options. Therefore popular participation presupposes a fair degree of openness of government and access to administrative information, on the national level as well as on the regional and local levels.

17. The foregoing remarks on the necessity of freedom of association and freedom of information do not pertain exclusively to participation in the political process through elected representative bodies. As is generally recognized, the question of popular participation must be seen in a much broader context. Political parties and representative bodies are not the only channels for taking part in public affairs.

18. Besides founding political parties, people form voluntary associations of various types and sizes for all kinds of purposes. Such associations range from nation-wide labour federations and religious communities to local action groups and neighbourhood youth clubs. They may be formed to promote the interests of certain sectors of society, as is exemplified by farmers' unions and the women's movement, but they may also be formed to champion specific causes, like the conservation of nature or the protection of the environment. They may be rigidly organized but they may also lack a formal structure and just consist of people congregating for a meeting or a demonstration for a particular issue.

19. Voluntary associations in this broad sense often hold special views on specific questions of public policy. These may be views, for instance, which cut across the existing dividing lines between the political parties, or views concerning concrete problems which are not covered by existing party programmes. Especially over the last few decades the Netherlands, like other countries, has witnessed a remarkable increase of popular participation in public affairs through voluntary associations outside the existing political parties. Such participation has taken the form, inter alia, of publishing pamphlets and periodicals, of sending letters to governmental and representative bodies, and of organizing manifestations and demonstrations.

20. It is now more and more being recognized that such voluntary associations have a role to play as channels for influencing the conduct of public affairs. Maybe their growing involvement with public issues is related to the increasing complexity of present-day society and the ensuing concentration of power in the hands of vast bureaucracies. Voluntary associations can play a creative role by expressing initiatives originating with the public itself. Their spontaneous activities may constitute a valuable complement and corrective to the work of established institutions and may contribute to narrowing the gap between government and the governed.

21. The general recognition of the value of such spontaneous activities is illustrated, inter alia, by the fact that the new Netherlands Constitution, which entered into force on 17 February 1983, now mentions explicitly the freedom of demonstration as a fundamental right beside such traditional rights as the freedom of assembly and the freedom of association. Another contribution to increasing the scope of popular participation is made by the Openness of Government Act of 1978, which has radically enlarged the access of citizens to administrative information.

22. In promoting popular involvement with public affairs it is of course necessary to bear in mind the distinction between the making and the preparation of decisions. As a general rule, decision-making is reserved to public organs which are empowered to decide under the Constitution. Popular involvement implies that interested members of society have a share in the preparation of decisions by explaining their special views and positions so that these views and positions can be known and duly taken into account by the decision-making organs.

23. Over the past decades it has become common practice for the Netherlands Parliament to invite interested persons and organizations to submit written comments regarding bills and policy memorandums presented by the Government. Often, Parliament holds public hearings in which such persons and organizations can set out their views orally before the matter is discussed by Parliament itself. Similar practices are followed by Municipal Councils.

24. A more structured channel for popular participation is constituted by various advisory bodies, mostly set up by law or by government decree. Of course, such advisory bodies serve to a great extent for providing the decision-making organs with expert advice on specific problems, but they also serve for giving interested groups in society an opportunity to express their particular points of view. For example, representatives of the women's movement sit on the Emancipation Council, representatives of environmentalist groups have a place in the Environmental Protection Council, and members of human rights organizations take part in the Human Rights and Foreign Policy Advisory Committee. In more and more cases, seeking an advisory opinion from such bodies is prescribed by law as a prerequisite before certain policy matters are decided upon. The most prominent place among these bodies is occupied by the Socio-Economic Council, composed of representatives of the labour movement and of employers' organizations as well as government appointees.

25. Popular participation may also be promoted by decentralization of government, both functional and geographical. Such decentralization means that decision-making powers are devolved to organs which are nearer to the people directly affected. This, too, may contribute to narrowing the gap between government and the governed. On the other hand, there is a risk of frustration among the people concerned if such organs are only authorized to determine minor details of the implementation of policy decisions made on a higher level. Decentralization is no substitute for giving the people who are directly affected a voice in the making of those policy decisions themselves.

26. Even without formal decentralization of government, there are possibilities for giving the people directly concerned a substantial share in the preparation of decisions. During recent years, interesting experiments have been initiated by some big Netherlands cities in the field of urban renewal. In these cities, detailed projects for the renewal of certain neighbourhoods have been worked out in co-operation between municipal civil servants and representatives of residents' organizations. The final decision on such projects rests with the Municipal Council, but the residents' organizations have a direct voice in the preparation of these projects.

27. One peculiar problem in the relationship between the citizens and the authorities is the circumstance that the latter often have expert knowledge at their disposal which is not at the disposal of the public. Consequently, interested members of the public who object to certain plans are put at a disadvantage when they wish to submit alternative solutions. To offset this imbalance in professional expertise, residents' organizations in the Netherlands are sometimes given subsidies from public funds for the purpose of hiring expert consultants of their own choice to assist them in elaborating alternative proposals.

28. As has been observed above, modern society is often characterized by a concentration of power in the hands of bureaucracies. This may lead to feelings of despondency and alienation at the base of society, especially among vulnerable and disadvantaged groups. They sometimes lose confidence in the traditional democratic institutions and believe that they are not listened to and not even seen by those in power. Alternative forms of popular participation may help to give a voice to those who are not heard, a face to those who are not seen. In this way, popular participation may become an instrument of emancipation for the underprivileged and may contribute to the full realization of all human rights.

29. The government of the Netherlands does not conceive of popular participation as recruitment of the people at the base of society for carrying out policies that have been determined at higher levels. In its view, popular participation includes the right to disagree with existing policies and to try to change them. In summary, popular participation encompasses all self-chosen activities, both through the channels of representative democracy and through alternative ways of expression, by which members of society can exert effective influence on the shaping of public affairs.

## YUGOSLAVIA

[Original: English]

[30 November 1983]

I. General considerationsIntroduction

30. For several decades a large number of countries, in their endeavours to build their social organization and political system and to formulate their development objectives and policies, have been introducing various forms of active popular participation in processes of management, administration and decision making. The forms of involvement of citizens, workers, farmers as well as of different social groups in management and decision-making are diverse, due to different historical, social, economic and other conditions. They range from participation of constituencies and citizens in administration through "joint consultation", joint decision making (Mitbestimmung), and various forms of industrial democracy to self-management. Notwithstanding the diversity of forms, the universality of the trend of participation in modern societies is ever more pronounced.

31. This trend is reflected in numerous studies, reports, resolutions and other documents adopted during the last three decades within the framework of the United Nations and its specialized agencies. Participation has been dealt with in various aspects: from the aspect of economic development, from its social aspect as well as from the aspect of human rights. The importance of participation has been stressed by such documents as the International Development Strategy for the Third United Nations Development Decade, the reports on the world social situation, etc.

32. The importance of popular participation as an important factor of the full realization of human rights has been recognized by a number of United Nations documents. The Proclamation of Teheran, adopted in 1968 by the International Conference on Human Rights, points out that "... The primary aim of the United Nations in the sphere of human rights is the achievement by each individual of the maximum freedom and dignity. For the realization of this objective, the laws of every country should grant each individual, irrespective of race, language, religion or political belief, freedom of expression, of information, of conscience and of religion, as well as the right to participate in the political, economic, cultural and social life of his country ...". The Proclamation of Teheran thus emphasized the importance of participation for the realization of human rights and "... the right to participate in the political, economic, cultural and social life ..." as a separate human right.

33. The concept of participation as an important factor in the full realization of human rights has been dealt with by a number of studies carried out under the auspices of the United Nations. Thus, for instance, the Special Rapporteur of the Commission on Human Rights pointed out that "... the basic principle governing the issue of human rights in development should be the participation of people in choosing their own style of individual and corporate life in general and, in particular, their participation in decision making in connection with development programmes, in the implementation of those programmes and in benefits derived from

them." 1/ This and other documents give rise to the following conclusion regarding the notion of participation (from the standpoint of human rights): Participation means an active and meaningful involvement of each individual and of all people in the process of decision making, in the voluntary implementation of those decisions and in the just distribution of benefits resulting therefrom. Participation is an important means of realization of all human rights, as it enables everybody to determine his own position and destiny, as well as to take part in shaping the situation and destiny of the entire society.

#### Participation and self-management

34. Different experiences and different needs have generated two basic forms of popular participation in decision making. The first one is participation which comprises all those forms in which producers and citizens enter a kind of partnership relation with holders of power and property (proprietors, government, etc.). Within this type of relationship people (as citizens or workers, etc.) participate in the decision-making processes on the basis of common interest with their partners. It is specific for self-management that it constitutes a social relationship characterized by the fact that the producers and citizens are holders of the social ownership and that they are the holders of authority. Consequently they do not enter the partnership-type of social relations, as their social interests are dominant in the society.

#### The contexts of participation

35. The practice of popular participation and self-management can take place in a variety of specific institutional settings and social situations. However, three main types of social contexts of participation and self-management may be distinguished. Many forms of participation and self-management take place in the process of production and they are extremely diverse, ranging from collective bargaining, right to information, right to purchase of shares, sharing in the profit, watchdog position, worker managers, "Mitbestimmung", production conferences, mixed committees, the increased role of trade unions in management, election of labour and workers' councils workers' self-management, etc. In some societies and political systems there may exist several parallel forms of participation or only one. All these forms, as well as many others, show, that there is neither a cumulative nor linear pattern of development of participation and self-management of the employed. The application of these forms depends on given social conditions, on the goals of a particular society and its political system. They exist in developed industrial countries in countries with planned economies, as well as in developing countries.

Other forms of participation and self-management take place in the context of local and larger regional communities.

36. Local government has been known over centuries in the political tradition of those countries which are nowadays industrially developed. Experience of various countries in the field of the organization of the schooling systems in the Anglo-Saxon and Scandinavian countries are sources of experience which provide the basis for new forms of participation in local administration in different parts of

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1/ The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress - Special Rapporteur Manoucher Ganji, (United Nations Publication, Sales No. E.75.XIV.2.), para. 122.



the world. Certain experiences of developed industrial countries (self-government in big cities), as well as forms of participation in socialist developing countries, show that local participation and government is gradually being transformed so that the citizens directly or indirectly influence the totality of life of their local communities (Algeria, communes in Yugoslavia, Ujaama villages in Tanzania, certain forms of local self-government in Zambia, village communities in India, the application of African traditions in villages, etc.). A number of discussions and research studies show that issues of local self-management have become essential for further development of participation and self-management, since they facilitate multifaceted citizens' action and participation in all aspects of life in their communities.

37. The most complex forms of popular participation and self-management take place at the level of the society as a whole. Those "global forms" of participation are theoretically, conceptually and in practice the least developed. Demands for popular participation (from a number of developing countries), the practice of socialist self-management (in Yugoslavia), ideas on political self-management, etc. envisage an evergrowing need for far greater citizens' involvement in the global social affairs of their country. It is significant that discussions and activities in this area are ever more frequent. The practice of individual countries (Algeria, Yugoslavia, Peru during a certain period) illustrate the problems, possible solutions, as well as results that can be achieved through global forms of participation and self-management.

38. It is already evident that, irrespective of specific social features of individual countries, participation and self-management cannot be fully realized solely through participation of workers and farmers employed in the field of economy or through forms of participation and self-management in the local community. If these forms of participation remain unintegrated and unless they take (at least in perspective) more global forms, they will remain sporadic phenomena and will not contribute to substantive development of the "right of each individual to participate in the political, economic, cultural and social life of his country" (The Proclamation of Teheran, paragraph 5). The trend of the development of popular participation, as well as existing experience of local communities show that the development of participation is possible in different political systems.

## II. Self-management in Yugoslavia: a basic human right and an important factor in development and realization of all human rights

### The basis for the introduction of the system

39. It is commonly known that Yugoslavia was one of the first countries in the world, which decided to build its political system and socio-economic relations, to develop and regulate human relations in general, on principles of socialist self-management. These principles assume and include full and actual participation of workers, farmers and citizens in managing all production, economic and other structures of labour by way of disposing with socially owned means of production. They also assume and include full and actual participation of all working people and citizens in managing social and political affairs at all levels of community organization.

40. The initial forms and embryos of self-management had appeared in the course of the struggle of peoples and nationalities of Yugoslavia for national liberation and socialist transformation, during the Second World War. These experiences and forms of broad popular participation in self-determination and self-managed setting of the terms and social order to live in after the War, led very soon to constitutional adoption of self-management as the country's socio-political system.

41. The reasons for the acceptance and introduction of self-management as a basic form of the socio-economic and political relationships in the country, in the early 1950s, 2/ could be found particularly in:

- preserving and more fully developing the socio-historical achievements attained in the War and Revolution by the very initiative of citizens and working people. This made possible a broad mobilization of human resources in the direction of the country's faster development, preserving of freedom, independence and dignity as well as every men's and women's influence in society. As a socio-economic system, self-management aimed primarily at enabling further strengthening of already gained position, unalienable right and practice of citizens to participate in processes of social development and transformation, achieving the well-being and actual freedom in their mutual relations. Therefore, the more dynamic social and economic development leading to well-being and freedom of every citizen and of them all together as well as the safeguarding of men's and women's decisive position in determining the conditions of their life and labour in society, were the fundamental motives for the introduction and recognition of self-management as a basic human right, as a right which determined and gave a ground for the realization of all other citizens' rights and freedoms;
- respecting, safeguarding and developing the identity of different social groups and interests deriving from the well known and large diversity of the economic, social, national, religious and other structure of the country. This diversity was the basis of the existence of a large plurality of interests which could be transformed into a positive and creative social energy only by means of their self-management autonomy. Self-management permeation and self-management organizing of those interests meant for Yugoslavia a cohesive factor to keep her structures together. In the same sense, integration, association and togetherness based on diversity and developing of identity and autonomy of every social group and individual as well, were and remained prevailing characteristics and conditions of Yugoslavia's social stability.

#### Socio-economic and legal provisions of self-management

42. The right to self-management as a basic right of man and working people has been established in Yugoslavia's constitution. Already in the Basic Principles of the Constitution of the Socialist Federal Republic of Yugoslavia it was established, beside some other things, that man's inviolable status and role shall be based on "the right to self-management, on the basis of which every working man - on an equal footing with other working people - shall decide on his own labour and on the conditions and results of labour on his own and common interests and on

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2/ The initial step in this respect was made by the adoption of The Law Transferring the Management of the State Economic Enterprises and Higher Economic Units to the Work Collectives, promulgated on 26 June 1950; three years later a Constitutional law was passed on, enlarging considerably the competences and the power of the basic self-management structures, and leading to introduction of self-management in territorial communities. The Constitutions of the Socialist Federal Republic of Yugoslavia of 1963 and particularly of 1974 fully adopted the self-management as the country's fundamental socio-economic and political institution

the guidance of social development, and shall exercise power and manage other social affairs; ... democratic political relations which make it possible for man to realize his interests, the right to self-management and other rights, to develop his personality through direct activity in social life, and especially in bodies of self-management, socio-political organizations and other social organizations and associations, which he himself sets up and through which he exercises an influence on the development of social consciousness and on the expansion of conditions for his own activity and for the attainment of his interests and rights; ... man's labour shall be the only basis for the appropriation of the product of social labour and for the management of social resources". 3/

43. In the Yugoslav constitutional and political system, self-management is then proclaimed as an inviolable and unalienable human right; however, it is not a new or different human right, right by itself, separated or autonomous in relation to other human rights and freedoms. By its institutionalization, social and legal protection and implementation, precisely all other human rights and freedoms obtain their full and material sense.

44. In that way, the right to self-management provides the basis for actual and full realization of rights and freedoms of man, determines the inviolability of his socio-economic position, which assures him that "by working with socially owned resources and by deciding directly and on an equal footing with other working people in associated labour on all matters concerning social reproduction under conditions and relations of mutual interdependence, responsibility and solidarity - he shall realize his personal, material and moral interests and the right to benefit from the results of his current and past labour and from the achievements of general material and social progress, so that on this basis he shall satisfy his personal and social needs and develop his working and other creative abilities". 3/

45. A network of forms and institutions of self-management has been established, which include each individual into management of associations of labour, territorial communities and the country as a whole. Self-management as a form of management as well as of social organization is neither parallel nor contrary to the forms of political and governmental authority. On the contrary, according to the Yugoslav experience these two forms are interrelated with each other having as a definite goal that each individual should become a subject of political decision making and authority, while the authority should be socialized.

46. Working people freely unite their labour and socially owned productive means - into organizations of associated labour. These organizations have complete and clearly shaped technological, economic and managerial autonomy and identity; workers, through various forms of personal and direct participation and decision making as well as through elections of delegates, self-management and managerial bodies, self-manage in all issues of planning, production, income, distribution of income and of the social product and also, unite themselves into higher forms of economic organization.

47. In that way, more than 5,800,000 Yugoslav workers, employed in the public sector were organized. Privately owned production means are in the possession of more than 3,000,000 workers, most frequently working in agriculture, and performing self-management through co-operatives and enterprises with which they co-operate; but in any case, they elect own delegations for bodies of social communities.

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3/ The Constitution of the Socialist Federal Republic of Yugoslavia, 1974; Introductory part, Basic Principles, II. section.

48. Workers in associated labour and citizens in local communities, perform decision making not only through forms of direct democracy such as meetings of citizens and workers and referenda - but they also elect own delegates, which communicate their attitudes, opinions and interests to decision making and managing bodies at the local, republic-provincial and federal level. Delegations and delegates immediately chosen by citizens and workers are authorized to decide on the basis of attitudes and within the framework of directions which the delegate base itself established. It is figured that in 1980, 800,000 citizens and working people were elected in the mentioned delegations, further, about 360,000 delegates in local, republic-provincial and federal assemblies. Together with members of self-management and delegate bodies in economy and in associated labour, it is considered that above 2,200,000 workers and citizens have various functions in the delegate system.

#### Some experiences and results of the self-management system

49. Several essential characteristics of the system have come out in the course of its implementation and development. Firstly, it was undoubtedly founded as one of the national systems of popular participation having many specific national and historical features. However, it manifests, at the same time, general tendencies and endeavours in a large number of other countries to involve people in direct managing of economy and society, in order to foster development and social progress, to fully realize their personal, common and social well-being, their dignity and freedom to organize own life and labour conditions.

50. Secondly, the experience indicates that the system gives real effects if self-management is established as an integral system, related to all sectors of economic, social and political life, from enterprise and local community up to the organization of the level of the Federation. Labour on the basis of socially owned means of production as well as the direct utilization of the social funds created by labour is another important characteristic of the system.

51. The introduction and functioning of self-management forms and relationships in economy, society and social communities, brought about significant and qualitative achievements, transformations and development changes and trends in the Yugoslav society. Let only some of these results and changes be mentioned. As to its rates of development dynamics, Yugoslavia counts amongst a group of countries with the highest rate. Her national income per capita has increased from \$US 120 in 1947; to around \$US 2,600 in 1982. While for example the country's gross social product per capita in 1939 was 30 per cent under the world average, it was in the beginning of this decade 34 per cent above this average. The average annual rate of gross social product growth in the period of years 1947-1981 was 5.9 per cent and in the period 1965-1981, it was 5.2 per cent, which by all means belongs to the highest rate of development for such long intervals. The social product in the public sector of economy was growing in the period 1958-1981 at a rate of 7.5 per cent. Most of the other indicators related to the industrial and agricultural production, to the rates of employment, education, science and to the over-all performance of the system are comparatively favourable as well. Therefore, the accomplishments in the course of the country's postwar development are primarily seen as essential effects of citizens' and workers' involvement in self-management system.

52. It is not claimed that this system functions perfectly, that it has already become full reality. Its goal that social, economic and political power belongs directly to people still has not been reached, and on its way large problems, and difficulties particularly of economic character may and do appear. In fact, one could hardly expect that self-management would win the place of freedom, democracy, dignity and would realize eminent human values without problems and difficulties. However, it is significant for the assessment of the system that it has constantly been changing and transforming the conditions of social life and relationships, towards progress and advancement, towards human freedom and dignity.

III. The right to popular participation in its various forms including self-management: some normative considerations

53. The right to popular participation in its various forms is a human right. This view is expressed in the resolution 1983/14 of the Commission on Human Rights, second operative paragraph. The analysis of the right to participation as a human right requires consideration of essential elements of this right, i.e. of its legal basis, content, subjects and legal nature. Some basic considerations in respect to these elements follow.

The legal basis of the right to popular participation

54. The legal basis of the right to participation is contained in a series of international instruments on economic, social, cultural, civil and political rights. It is founded on international instruments which reflect individual aspects of this right. It should be pointed out that the right to participation can be realized and meaningful only when realized integrally in the economic, political, social, cultural and other spheres. Limiting of the right to participation in its various forms, including self-management, to only one of these spheres - no matter how significant it may be - would mean diminishing or even negation of this right. Consequently it is to be expected that an analysis of the right to participation should start with the research of all relevant instruments which reflect the legal basis of this right. It seems important to emphasize, by way of illustration, those elements of the legal basis of the right to participation as a human right which seem especially significant from the standpoint of development of international legal protection of human rights.

55. One of the most significant foundations of the right to participation is the right to work. Work is the human activity which establishes the position of the human person as a social being and which should shape his role of an active participant in development and his position of the subject of protection ensured by a number of human rights. Article 23 of the Universal Declaration of Human Rights recognizes the right of everyone to work, to free choice of employment. The content of the right to work is elaborated further in articles 6, 7 and 8 of the International Covenant on Economic, Social and Cultural Rights and in a number of other international instruments, including a large number of conventions of International Labour Organisation. The implementation of the right to work means the realization of an existence worthy of human dignity (article 23, paragraph 3, of the Universal Declaration of Human Rights) and thus the realization of a significant number of human rights. On the other hand, it creates conditions necessary for an active and meaningful participation of people in development and realization of all human rights.

56. Active and meaningful participation in decision making for development and in the implementation of these decisions requires adequate qualifications of participants for such a role. It is therefore logical that the right to education which is one of the fundamental human rights includes, inter alia, the goal "The education shall enable all persons to participate effectively in a free society ..." (article 18, paragraph 1, of the International Covenant of Economic, Social and Cultural Rights). The right to education and training for participation is one of the most significant elements of the legal basis of the right to popular participation. Some other rights, such as the right to information, the right to take part in cultural life and rights which relate to other spheres of social life are of similar importance. The realization of these rights enables the human person for active and meaningful participation in determining the conditions of the existence and human dignity.

57. As it has been pointed out in the quoted article 13 of the International Covenant of Economic, Social and Cultural Rights, participation is possible only in a free society. Among the essential elements which constitute a free society - and which are therefore elements of the legal basis of the right to participation - there are such rights and freedoms as the right to freedom of opinion and expression (article 19 of the Universal Declaration of Human Rights and articles 18 and 19 of the International Covenant on Civil and Political Rights), as well as the right to freedom of peaceful assembly (article 20 of the Universal Declaration of Human Rights and article 21 of the International Covenant on Civil and Political Rights).

58. Among the fundamental human rights which constitute the basis of the right to participation in its various forms, including self-management, the right to freedom of association (article 20 of the Universal Declaration of Human Rights and article 22 of the International Covenant on Civil and Political Rights) is of special importance. Its importance lies in the fact that the process of association is the process in which human beings, by way of creating various collectivities, establish important conditions of their collective and individual existence. However, the right to freedom of association is not elaborated in detail in the instruments mentioned above. It would be inappropriate if the concept of association and the right to freedom of association were limited only to such traditional forms of association as e.g. citizens' organizations, political parties, trade unions and other similar organizations, etc. The interpretation of the right to freedom of association as an element of the legal foundation of the right to participation in its various forms, including self-management, requires a broader analysis. All relevant international instruments, beginning with Convention No. 11 of the International Labour Organisation of 1921 on the right to association in agriculture, should be taken into consideration. Further analysis should therefore comprehensively deal with the existing forms of association that are important from the standpoint of the right to participation (co-operatives, various forms of association in economic spheres in general, etc.)

59. The right to participation in its various forms including self-management, relates also to all political aspects of social organization. Therefore among the elements of its legal foundation, there is the right to take part in government, either directly, or through freely chosen representatives (article 21 of the Universal Declaration of Human Rights and article 25 of the International Covenant on Civil and Political Rights). This aspect of participation deserves attention, while it has to be borne in mind that it cannot be perceived as the only content of participation, since - as stated above - the concept of participation should not be limited to any of its individual aspects.

60. The complexity of the concept of participation is particularly evident in those aspects of the legal basis of the right to participation which relate to the social and cultural spheres. An analysis of human rights which enter into the framework of these spheres shows that the realization of each of these rights requires commitment on the part of holders of these rights. Social and cultural rights on one hand, and the right to participation on the other hand are mutually interrelated: the realization of social and cultural rights is an element of the right to popular participation. On the other hand, active popular participation facilitates the full realization of social and cultural rights.

61. Thus e.g. article 27 of the Universal Declaration of Human Rights recognizes the right of everyone to participate freely in the cultural life of the community (similarly, article 15, paragraph 1 (a) of the International Covenant on Economic, Social and Cultural Rights), the right to enjoy the arts and to share in scientific advancement and its benefits. The element of participation is strongly emphasized.

62. Social rights including the right to the highest attainable standard of physical and mental health (article 12 of the International Covenant on Economic, Social and Cultural Rights), presume the active role of holders of these rights. The right to the highest attainable standard of physical and mental health is not a good which is "bestowed" on the popular participation is considered as one of the most important elements in the approach to public health, since "active participation is of major importance in achieving the highest attainable standard of physical and mental health". <sup>4/</sup>

#### The content of the right to participation

63. The above paragraphs give an outline of various elements, the legal basis of the right to participation. The contemporary development of normative regulation in the field of promotion of human rights seems to provide a solid legal basis for further formulation of the right to participation. The contents mentioned above represent also some important elements of the content of the right to participation and they should be taken into consideration in further elaboration of this right. The question however remains, what is the essential content of the right to participation, i.e. which are the elements that constitute the right to participation as a separate human right?

64. The answer to this question can be given in two parts:

Firstly, the right to participation is the right to active and meaningful involvement in decision making for social progress and development, in the voluntary implementation of decisions and in the just distribution of the results of development. Accordingly, all human rights mentioned in the above paragraphs, which constitute the legal basis and part of the contents of the right to participation are not sufficient for an exhaustive definition of the right to

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<sup>4/</sup> Report on Promoting Health in the Human Environment, WHO, Geneva, 1975, pp. 49-50. Similar conclusions can be found in documents adopted in the framework of ILO, UNESCO, FAO and other specialized agencies of the United Nations which analyse the contents and the implementation of social and cultural rights.



participation. The definition of the right should embrace the right to active and meaningful involvement in decision making in all spheres: in the field of economic development - including the right of workers to participation in management and self-management; participation in decision making in the political field, as well as in the fields of education, science, culture, public health, and in all other aspects of social progress. The recognition of the right to participate in decision making is the necessary element of the content of the human right to participation. However, it implies an adequate degree of participants' responsibility, i.e. responsibility for the decisions taken and the responsibility for the implementation of such decisions.

65. Secondly, the right to participation requires certain activities on the part of the Government. The Government should contribute to the realization of conditions which should enable the people to participate effectively and meaningfully in management and in decision making. Furthermore, the Government should develop the necessary legal and institutional framework for such activities of the people and it should contribute to the removal of obstacles to the realization of the right to participation. Eventually, it should encourage, by special measures, popular participation of those groups which objectively find themselves in an unfavourable position (such as national, ethnic and linguistic minorities). The aforementioned elements are the main elements of the content of the right to participation and should be the object of legal elaboration. Naturally, a precise legal elaboration of the right to participation should take into account specific features of individual countries.

#### The holders of the right to participation

66. The human person is a central subject of the right to participation. As all other human rights, this right is realized individually and collectively. In connection with the collective aspects of the realization of the right to participation it is necessary to reiterate the importance of the right to freedom of association which provides the legal basis for the organization of people in their endeavours to implement the right to participation. In addition to collectivities, organized on the basis of the right to freedom of association, it is necessary to take into account other collectivities which are also among the holders of the right to participation: global and local communities, economic organizations, political parties, family, traditional groups, racial, ethnic and other groups. Governments have the responsibility to formulate institutional systems which will enable the effective and meaningful participation of the holders of the right to participation, i.e. human persons and collectivities.

#### The legal nature of the right to participation

67. The right to participation is a human right and some of its aspects are already reflected in international instruments in the field of promotion and protection of human rights. Therefore they already include elements of positive law. The need for the formulation of the right to participation as a separate human right appears as a real need and social necessity. Resolutions of the United Nations General Assembly which express this demand represent opinio juris give necessitatis.

68. The present endeavours to formulate the right to participation are founded upon positive law. However, the right to participation cannot be formulated entirely by deduction from the existing norms of positive law. Therefore further analysis of the legal aspects of the right to participation should also deal with the question of possible international instruments to be adopted in future. However, it seems necessary at this stage to concentrate on the conceptual and legal analysis of the right to popular participation in its various forms including self-management in order to provide a sufficient basis for further normative considerations.