

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1984/12/Add.1
24 January 1984

Original: ENGLISH

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

ANNEX

GE.84-10197

GERMAN DEMOCRATIC REPUBLIC

[Original: DW LISA]

[1 January 1984]

I

1. Human rights in socialism are the result of the revolutionary struggle of the working class and its allies for social conditions that truly correspond to the inherent dignity of man. Their substance is determined by the social conditions of socialism, and their material base, economic and legal guarantees and ethnic foundation derive from these conditions.

2. There is a close interrelationship between the human right to popular participation in all social affairs, including the assurance of fundamental rights, and socialist democracy as the decisive form of the exercise of political power in socialist society. The legal guarantee and practical realization of human rights in socialism, including the right of the people to participate in that process, the diversity of the forms and the social spheres in which citizens can influence the assurance of their fundamental rights are, therefore, an outcome of the content and level of development of socialist democracy. The essence of socialist democracy consists in the moulding of society in conformity with the objective laws of development, with guidance by the State and the enlightened and committed involvement of the majority of the people in that process.

3. The right of the people to participation and the actual exercise of political power in the form of socialist democracy are two mutually dependent aspects in the establishment and advancement of socialist society. Socialist democracy manifests itself as a system of legal norms which ensure that:

(a) Policy decisions are prepared with the broadest popular participation;

(b) Such decisions take account of citizens' ideas and proposals in accordance with social possibilities and requirements;

(c) The realization of fundamental rights is consistent with the interests and requirements of society as a whole;

(d) A desire is aroused to participate in government and to acquire the requisite knowledge; and

(e) The political, material and socio-economic conditions are secured for the operation of socialist democracy.

4. These principles ensure a wide range of opportunities determined and assured by law for citizens to participate in and verify the implementation of their fundamental rights in all social spheres.

II

5. Of particular importance for the exercise of the right to participation are the provisions of articles 4 and 19 of the Constitution of the German Democratic Republic providing for a fundamental obligation of all State and social institutions to give effect to the rights of citizens, and for the latter's involvement in that process. This principle is specifically elaborated

in the basic rights, duties and principles stipulated in the part entitled "Citizens and Organizations in Socialist Society" (articles 19-46). Among these basic rights, the right to participate in shaping political, economic, social and cultural life (article 21) takes a special place. Because of the guarantees involved, it represents the constitutional basis for the social activity of citizens and hence for their co-operation in the implementation of their rights.

6. In view of the fact that over 90 per cent of the working population are organized in the Confederation of Free German Trade Unions and exercise their rights within this framework, the constitutional rights of trade unions to participate in the preparation, implementation and control of decisions made by the State (articles 44-45) have a particular importance for the exercise of the right of citizens to participate in the implementation of their rights. Paragraph 1 of article 45 of the Constitution provides, inter alia, for the rights of trade unions "to conclude agreements with government authorities, enterprise managements and other leading economic bodies on all questions concerning the working and living conditions of the working people". Paragraph 2 of that article embodies the right of trade unions to initiate legislation and to supervise observance of the working people's legal rights.

7. The exercise of the citizens' right to participate comprehensively in government through their trade unions is concretized, inter alia, in the Law on the Council of Ministers of the German Democratic Republic, the Law on the local popular representative bodies and their organs, the decree of the Council of Ministers on the tasks, rights and duties of nationally-owned enterprises, combines and associations of nationally-owned enterprises, and the Regulations on planning. All these laws and regulations regulate in a specific way the close co-operation of the State organs with the trade unions in all stages of State activities.

8. The Labour Code has elaborated, as principles of labour legislation, the rights of the general meeting of trade union shop stewards, trade union committees and individual shop stewards in enterprises and institutions to participate in and monitor the management of the enterprise or institution concerned (paras. 1-37). These regulations ensure that workers and employees, through their respective trade union branches or units, can exert influence not only with regard to the right to work, but also concerning associated rights, such as the right to training and qualification, leisure time and recreation, and protection of their health and capacity for work.

9. The constitutional principle of citizens' participation in the implementation of their rights is also reflected in all specific regulations concerning the establishment and methods of work of State organs. That principle is applied during elections for elected representative bodies, specifically when candidates are nominated, scrutinized and presented and when elected deputies or senior State organ officials report on their work to their constituencies, workmates or colleagues or to the respective elected representative bodies. The same holds true for the day-to-day working contacts of the elected representative bodies, their organs and individual members with the public. As a matter of principle, local representative bodies have to organize civic participation and encourage civic initiatives, and harness them in their own programmes. In these efforts they have to co-operate closely with the trade unions, in particular concerning planned economic tasks on which they have to consult with trade union committees or their executives concerning current projects on whose progress they have to inform them. Similarly, they are obligated to collaborate with the respective National Front committees.

10. The electoral law adopted by the People's Chamber in June 1976 has elaborated on the above-mentioned principle by providing that before candidates for elected representative bodies are formally and finally nominated, they must be approved by their workmates or colleagues. This legal provision promotes collective debate of the demands on their prospective deputies and enhances the readiness of their work teams to assist them in their function. It is evident that this method tends towards the fulfilment of their broader public involvement in giving effect to fundamental human rights.

11. The laws and regulations concerning the social courts (Law on the social courts of the German Democratic Republic of 1982 and Regulations on disputes and arbitration commissions of 1982) vest citizens with the right to administer justice in enterprises, institutions or residential areas, whereby they play a direct role in the implementation of people's rights. In order to enhance the effectiveness of social courts in safeguarding these rights, the courts are, inter alia, authorized to counsel workers and employees seeking legal advice and, subsequently, to formulate recommendations for consideration by the director of the respective enterprise or institution. Close co-operation exists between the trade unions and the judicial authorities, in particular with regard to the elimination of causes of offences. Compared with their jurisdiction as originally fixed in 1953, the rights of social courts have subsequently been enlarged.

12. In implementation of article 103 of the Constitution of the German Democratic Republic, the Law on petitions of 1975 regulates the right of citizens to submit applications, suggestions or grievances to elected representative bodies, any of their members, State authorities or economic organs. This right is also available to social organizations. The participation of citizens in the implementation of their rights is promoted, as petitions are processed with the involvement and co-operation of National Front committees, trade unions and other social organizations (paras. 2, 3 and 5). In addition, the authorities concerned, as well as local representative bodies, are obliged to analyse petitions relevant to their area of competence and to draw the appropriate conclusions.

13. There is practically no sphere of social activity where concrete legal provisions would not ensure and promote the right of co-determination and, consequently, the right of citizens to participate in the implementation of their fundamental rights.

III

14. There is an abundance of facts proving the practical reality of that right. There are 205,242 deputies elected to the People's Chamber and the representative bodies at the county, district, town and community level who are concerned with its exercise, as are some 2,320,000 non-paid trade union members elected to union executive bodies and commissions, among them 299,500 shop stewards, 281,000 social insurance commissioners, 262,000 labour safety commissioners and 92,700 workers' control officers. Furthermore, popular participation is evident in the activities of some 340,000 members of National Front committees, over 51,000 lay judges appointed to county and district courts, more than 287,000 members of disputes commissions in enterprises and institutions, and arbitration commissions in rural and urban communities, as well as nearly 250,000 citizens serving on commissions and other organs of the Workers' and Peasants' Inspectorate. Besides those specific forms of co-determination, 90 per cent of all workers and employees in 1982 took part in the discussions preceding the formulation of economic plans

and contributed many proposals concerning the realization of the citizens' constitutional rights. Moreover, the composition of the supreme elected representative body, the People's Chamber (65 per cent workers and employees, 10.4 per cent co-operative farmers and 24.6 per cent members of the intelligentsia) and that of the local representative bodies (where, of a total of 204,742 deputies, 73 per cent are workers and employees, 20 per cent co-operative farmers, 36 per cent women and 15 per cent young persons below the age of 25 years), which reflects the social structure of society, bears testimony to the participation of all strata of the population in the implementation of citizens' fundamental rights.