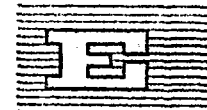
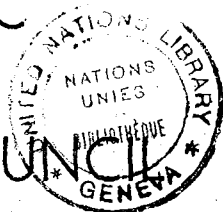


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COMMISSION ON HUMAN RIGHTS

Thirty-fifth session

SUMMARY RECORD OF THE 1492ND MEETING

held at the Palais des Nations, Geneva,
on Thursday, 22 February 1979, at 4 p.m.

Chairman:

Mr. BEAULNE

(Canada)

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The meeting was called to order at 4.25 p.m.

QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN 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 (agenda item 8) (continued) (E/CN.4/1271, 1329, 1334)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 21) (continued) (E/CN.4/1329; A/33/40)

1. Mr. SCHNEIDER (United States of America), speaking on agenda item 8, said that, at its previous session, the General Assembly had commemorated the thirtieth anniversary of the Universal Declaration of Human Rights. The debate at that time had confirmed the existence of an international consensus on the interrelationship of all the rights set forth in the Declaration and in the international covenants. However, no one could deny the contradiction between the rights proclaimed in those instruments and the conditions of life for millions of human beings. Ambassador Young had emphasized in December 1978 that all countries had common goals and must overcome suspicion and ideological barriers in order to find practical solutions to the problems of poverty, misery and repression. At that session, the representative of India had affirmed that a development strategy based on political repression or the denial of human rights could never lead to genuine development. In that respect, it was to be hoped that the development strategy for the next decade would have as its objective the dignity of the individual.
2. The report of the Secretary-General contained in document E/CN.4/1334 described the evolution in the thinking of development strategists concerned with the gap between rich and poor nations. It referred to the Pearson report, which recognized that the economic growth model proposed for the First United Nations Development Decade had been inadequate. The need to ensure that in the Second Development Decade economic growth was accompanied by greater social justice should lead to an even broader concept of development, encompassing growth, equity and human rights. His delegation rejected the idea that civil and political rights must be sacrificed to a narrow concept of development; it considered that efforts to realize the rights set forth in the International Covenant on Economic, Social and Cultural Rights would be undermined if the commitment to civil and political rights was relaxed.
3. While leaving the details of development to expert bodies, the Commission must ensure that its strategies contained full support for justice and individual dignity, in accordance with its obligation under the Charter. His country, which had pursued that objective in its bilateral and multilateral assistance, considered that the resources of the international community should be allocated preferably to countries which tried to reconcile development and freedom, so as to encourage those countries and penalize those which violated human rights. In that connexion, he drew attention to the following distinction. Whereas economic, social and cultural rights could be realized only progressively and required sustained efforts, in the case of civil and political rights, Governments could take immediate action to

remedy abuses: they could release political prisoners, order their security forces to halt the use of torture, cease to imprison their dissidents in mental institutions, order that families be informed of the fate of missing relatives, etc.

4. His delegation could not endorse all the views expressed in the report in document E/CN.4/1334, but it agreed that the report required careful appraisal and that it should be forwarded to Governments for comment. In particular, the proposals in paragraphs 314 and 315 deserved special attention. As for the place of human rights among development objectives, he agreed with the representative of India that the Commission should be kept informed of development activities such as the preparation of the new strategy; the Commission might even be represented in that work. In connexion with that type of co-ordination, he referred to General Assembly resolution 33/54. His delegation had already endorsed the idea of action-oriented seminars and workshops to discuss the involvement of the regional commissions, as suggested in paragraph 315 of the Secretary-General's report.

5. In conclusion, his country recognized that important sectors of its society did not yet have equal access to economic opportunity; however, solutions to that problem were being actively sought and publicly debated. The United States would continue to campaign for the implementation of economic, social and cultural rights, and of civil and political rights, and hoped that all those rights would be implemented throughout the world.

6. Mr. EL-SHAFEI (Egypt) said that at the Commission's thirty-first session his delegation had been among those which had requested that item 8 should be the subject of continuing review as a matter of priority. In addition, it had sponsored Commission resolution 4 (XXXIII) and General Assembly resolution 32/130. In the latter resolution, the Assembly had expressed concern at the continuing existence of an unjust international economic order which constituted an obstacle to the realization of economic, social and cultural rights and decided that in the approach to future work on human rights questions account should be taken of the establishment of the new international economic order. The Commission, in resolution 4 (XXXIII), had spelt out the concepts which should guide its work in the sphere of economic, social and cultural rights. It had stressed the responsibility of all States in that respect and called upon them to take prompt measures to remove all obstacles to the full realization of those rights. It had identified as major obstacles colonialism, aggression, threats against national sovereignty, foreign occupation, apartheid and all forms of discrimination and domination, as well as the refusal to recognize the sovereignty of States over their natural resources.

7. His delegation had studied with great interest the report of the Secretary-General published under the symbol E/CN.4/1334, the UNESCO report on the same subject, Mr. M'Baye's paper on the emergence of the right to development as a human right in the context of the new international economic order, and the communication on the right to development considered as a human right submitted by Mr. Gros Espiell. It considered the conclusions of the Secretary-General's report very interesting. In particular, it was able to endorse a set of principles based

on the Charter and the Universal Declaration of Human Rights, reinforced by a number of conventions, declarations and resolutions establishing the existence in international law of a right to development. It also supported the idea of the fundamental interdependence of objectives such as the establishment of a new international economic order, the satisfaction of basic needs, the realization of the right to development and the need for disarmament in order to achieve not only the right to peace, but also the right to development. On the other hand, it had reservations on the concepts relating to the basic needs strategy and on the formulation of principles and general criteria for bilateral and multilateral assistance agreements.

8. Lastly, his delegation was pleased that the Sub-Commission on Prevention of Discrimination and Protection of Minorities had included in the agenda for its following session an item entitled "The new international economic order and the promotion of human rights".

9. Mrs. KOLAROVA (Bulgaria), speaking on item 21, said that the two international covenants on human rights, by virtue of their all-embracing and legally-binding character, were assuming paramount importance among instruments relating to human rights and making a significant contribution to the realization of the principles proclaimed in the Charter. However, in order to be really effective, they must be ratified by the greatest possible number of States and their provisions must be strictly implemented by those States.

10. The report contained in document E/CN.4/1329 gave evidence of a certain amount of progress in that respect: 56 countries had become parties to the International Covenant on Economic, Social and Cultural Rights and 53 to the International Covenant on Civil and Political Rights. The implementation of the provisions of the two Covenants would be reinforced if some States were to waive the reservations they had expressed on ratifying them, in particular with regard to the right of peoples to self-determination which was mentioned in article 1 of both Covenants.

11. With regard to the implementation of the International Covenant on Civil and Political Rights, her delegation commended the work done by the Human Rights Committee, which had already considered reports submitted by 15 States parties in conformity with article 40. Her delegation was also ready to co-operate with the Working Group established by the Economic and Social Council to consider reports submitted in conformity with the International Covenant on Economic, Social and Cultural Rights. In accordance with the two Covenants, her Government had already submitted reports, and they would be considered shortly.

12. It was now more than 30 years since Bulgaria had chosen the socialist path towards development. In 1971, it had adopted by referendum a new Constitution which guaranteed human rights and protected human dignity, while ensuring the constant broadening of democracy. That Constitution also proclaimed the principles of national sovereignty, socialist democracy and socialist internationalization. In Bulgaria, the fundamental freedoms were protected not only by constitutional provisions, but also by other legal means of preventing their violation. All those guarantees were associated with the very economic basis of Bulgarian society - the public ownership of the means of production, which precluded the exploitation of man by man. Moreover, the Constitution and other Bulgarian legal texts in the

field of human rights corresponded fully to all the country's international obligations and sometimes went even further than the existing international instruments. The achievements of socialist democracy in Bulgaria had enabled it to participate actively in the preparation of the Covenants and to be among the first countries to ratify them. Today, it hoped that other States would ratify them in turn so as to encourage co-operation in the promotion of human rights in accordance with the Charter of the United Nations.

13. Mr. HEREDIA PEREZ (Cuba) expressed thanks to the Secretary-General for the report issued under the symbol E/CN.4/1334 and, in connexion with the item under consideration, drew attention to certain especially relevant passages in the Charter, including those which stated that the peoples of the United Nations were "determined to promote social progress and better standards of life in larger freedom", and that one of the purposes of the United Nations was "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". The development of those ideas had led to the preparation of wide-ranging juridical instruments such as the Universal Declaration of Human Rights and to the adoption of many resolutions concerning the duty to ensure the success of international co-operation in solving international problems.

14. Resolution 32/130 was of special importance because it expressed the feelings of the great majority of countries of the international community. His delegation unreservedly supported all its ideas and considered that it was important, when referring to that resolution, not to try to weaken either its purport or its spirit. Practical measures must be taken to implement the resolution, for it would be inadmissible to attempt to reject its priorities, which he recalled by reading out paragraph 1 (e), (f) and (a). The General Assembly, in order to demonstrate the international community's determination that the importance of economic, social and cultural rights should not be minimized in relation to that of civil and political rights, had reproduced in paragraph 1 (b) of the resolution the following passage from the Proclamation of Teheran of 1968: "the full realization of civil and political rights without the enjoyment of economic, social and cultural rights is impossible".

15. For a long time, colonialists, neo-colonialists and imperialists had taken advantage of their stranglehold over the information media not only to try to attach more importance to civil and political rights, but also to give a false interpretation of them and to use it against the countries in which they had looted resources and abolished human rights. At the same time, they had tried to conceal the importance of the rights of those peoples, in particular, their right to recover the resources of which they had been despoiled. The countries which had been the victims of that unjust situation were precisely those which had helped to establish a balance between the two groups of rights. While there might be no point in upsetting that balance, there was no reason why the international community should not give special attention to matters which required such attention by reason of their importance, their urgency or their seriousness.

16. The Commission should assess the importance of establishing the new international economic order, which the General Assembly had described, in resolution 32/130, as "an essential element for the effective promotion of human rights and fundamental freedoms". It should do that immediately, since in accordance with paragraph 1(f) of the same resolution, priority should also be accorded to the realization of the new international economic order.

17. In that respect, the Commission's attention should be drawn to certain ideas which had been expressed at the Conference of Ministers for Foreign Affairs of Non-Aligned Countries held in Belgrade in 1978. Once again, it had been shown at that Conference that the struggle to eliminate injustice from the international economic system and to establish the new international economic order formed part of the struggle of peoples to eliminate foreign aggression, foreign occupation, racial discrimination, Zionism, apartheid, imperialism, colonialism, neo-colonialism and all other forms of dependence or subjection, interference in internal affairs, or domination and exploitation. It had also been shown that those practices were the main obstacles to the progress of the developing world and constituted a grave threat to world peace and security. They must therefore be eliminated in order to promote development and international economic co-operation.

18. With regard to the right to development, his delegation wished to emphasize certain ideas expressed by Mr. Keba M'Baye, who had said, among other things, that during the past few decades a new right had emerged - the right to development, and that that right already formed part of international law and was embodied in the Charter of the United Nations as a result of the abandonment of the normal attributes of traditional sovereignty and as an extension of the duty of co-operation. In addition, Mr. Gros Espiell, in his study, had pointed out that the existence of the right to development as an individual right originated from the Universal Declaration of Human Rights, the international covenants on human rights and the relevant General Assembly resolutions, especially those concerning the new international economic order and the Charter of Economic Rights and Duties of States.

19. His delegation shared the view that all States had the right to work for their own development in a favourable international environment. It was convinced that every State had the sovereign and inalienable right to choose its own economic, political, social and cultural system in conformity with the wishes of its people, and the right and duty to eliminate colonialism and apartheid, racial or other discrimination, neo-colonialism and all forms of oppression or foreign domination. Lastly, it wished to affirm that the enjoyment of the right to development and other human rights was closely linked to the maintenance of international peace and security on the basis of the principles of the Charter.

20. The CHAIRMAN said that, if there was no objection, he would give the floor to the observer for Argentina, who had asked to make a statement.

21. Mr. MOLteni (Observer for Argentina) said that he wished to express his delegation's views about the report of the Secretary-General in document E/CN.4/1334. The purpose of that report was to define precisely for

the members of the international community the responsibilities and duties incumbent upon them in the creation at the national and international levels of the necessary conditions for the full implementation of economic, social and cultural rights. Like other delegations, his delegation considered that the right to development was a result of the solidarity which should exist among the members of the international community and which constituted the means of establishing a new international economic order, and that the right to development was recognized in the Charter of the United Nations and in the principal United Nations instruments referred to in the Secretary-General's report.

22. Since it was required to ensure the universal implementation of human rights, the United Nations must promote the right to development, especially since the importance of that right lay in the fact that it enabled the individual and communities to benefit from many other rights and to satisfy their material or other needs. All States had an individual obligation to ensure the implementation of, and respect for, the right to development. But the developed countries, whose capacities were very great and which had the possibility of controlling and promoting economic growth and transforming economic and social structures - capacities which enabled them to correct the imbalances from which the international community was now suffering, must undoubtedly assume a special responsibility in that respect. It was in the interest of the strongest to strengthen the possibilities of the weakest, for that was the only way to establish international relations based on equity and justice.

23. With regard to the structure and conclusions of the Secretary-General's report, his delegation endorsed the observations which had already been made by the delegation of Brazil, namely that the Commission should take note of the report and continue its study of the question at the following session, in order to enable members to study it in depth and to facilitate the adoption of specific proposals calculated to make United Nations activities in that field more dynamic.

24. The CHAIRMAN said that, if there was no objection and under rule 69 of the rules of procedure, he would give the floor to the observer for the German Democratic Republic, who had asked to make a statement.

25. Mr. FRAIBACH (German Democratic Republic) said that the enjoyment of economic, social and cultural rights and their further development were dependent on recognition of the fact that they were indivisibly connected with civil and political rights and of the equal importance which should be attached to both categories of rights. The unity of all rights was expressly affirmed in resolution 32/130. That approach was consistent with the fact that the full realization of civil and political rights was impossible without the enjoyment of economic, social and cultural rights. In that connexion, the more effective implementation of the two covenants on human rights was of the utmost importance for the effective enjoyment of all human rights. For that reason, his Government did not agree with those who, while claiming to recognize the complex character and unity of human rights, upheld positions which were actually based on the idea that political rights could be implemented more easily and quickly than economic and social rights, that economic and social rights were less binding than political rights, and that economic and social rights had no legal basis.

26. There could be no progress in the economic, social and cultural sectors in any country or in international co-operation between States except in conditions of peace, international security and mutual understanding between peoples established on the basis of equality and with a view to the well-being of peoples. The cessation of the arms race would open up additional opportunities for peaceful and mutually advantageous co-operation. Disarmament measures were, in the opinion of his delegation, closely connected with the economic, social and cultural development of all countries. And the more comprehensive and effective those measures were, the more means would be available to tackle economic and social problems.

27. To guarantee the fundamental rights of man, in other words, the right to live in peace, free of any fascist, racist, colonialist or other form of oppression, was an indispensable condition for the enjoyment of economic, social and cultural rights. The human rights of many peoples were jeopardized because they were threatened by aggression and were suffering from colonialism, racism or apartheid. His country therefore considered that, when dealing with the question of the enjoyment of economic, social and cultural rights, one must not lose sight of the struggle against massive and systematic violations of human rights. Priority must be given to the observance of the principles and rules set forth in the United Nations Charter. In places where those principles were disregarded, all human rights were violated. That was one of the reasons why his country condemned the aggression of China against the Socialist Republic of Viet Nam.

28. The CHAIRMAN said that, if there was no objection, in accordance with rule 76 of the rules of procedure he would give the floor to the representative of the International Confederation of Free Trade Unions.

29. Mrs. VON ROEMER (International Confederation of Free Trade Unions) said that the interrelationship between the right to development and other human rights was of special concern to the free trade-union movement. Her organization was therefore happy to find in the report of the Secretary-General (E/CN.4/1334) quotations from the ILO report on freedom of association and economic development, in which it was stated that there could be no justification for sacrificing either economic development or freedom of association. Her organization also welcomed the inclusion in the Secretary-General's report of a quotation from another ILO report describing the vital role of trade unions in development. It agreed with the Secretary-General that a development strategy based on political repression and the denial of human rights could perhaps appear to succeed in terms of specific over-all economic objectives, but full and genuine development would never be achieved (E/CN.4/1334, para. 129).

30. In the opinion of her organization, human rights were indivisible and while the full realization of civil and political rights was not possible without the enjoyment of economic, cultural and social rights, the reverse was equally true. No one had yet heard of a country where repression of civil and political rights had enabled the masses to enjoy economic and social rights. What had been seen were masses deprived of the right to complain about their fate, as entire generations were sacrificed for a better day that might never dawn.

31. The International Confederation of Free Trade Unions appreciated the place given in the Secretary-General's report to the programme of action adopted at the ILO World Employment Conference. It hoped that that might help to dispel some of the misgivings which had arisen in that regard.

32. It also wished to draw attention to the statement in an ILO report (quoted in paragraph 159 of the report of the Secretary-General) that "It is clear that the basic-needs approach and the improvement of the position of the developing countries in international economic relations are not, in any sense, alternatives or in opposition to each other, but that they are complementary". Apart from its progressive social nature, the basic needs approach made economic sense, since, by raising the standard of living of the mass of the people, developing countries would be able to boost consumption levels and thereby create the internal market which was necessary for self-sustaining growth. Her organization hoped that the Commission would act on the suggestion made by the representative of Australia and send the Secretary-General's report to Governments, specialized agencies and non-governmental organizations for comments.

33. Mr. de ANGELI (World Federation of Trade Unions), speaking at the invitation of the Chairman, said that his organization could not but welcome the discussion on which the Commission had embarked concerning the right to development considered as a prerequisite for the full realization of economic, social and cultural rights, which were themselves the basis for the effective enjoyment of civil and political rights and fundamental freedoms. The new international economic order should have a social content, in other words, it should ensure the creation of conditions which enabled workers to enjoy the highest standard of living of their times, to benefit from the wealth which they alone created, to have the means and time to live, to deepen their culture, to enjoy all human rights in full freedom and to free themselves from exploitation. For the workers and their trade unions, the establishment of such an order for the benefit of the masses should be achieved through the democratization of national economic, social, political and cultural structures, without which there could be no stable and continuing economic progress. The establishment of the new order required the extension of the functions of trade unions and the acquisition of new rights in enterprises, in the economy and in society. That was the meaning of the struggles waged by the working masses.

34. The World Federation of Trade Unions (WFTU) was convinced that the solution of the world's economic and social problems, the elimination of poverty, the acquisition of higher living standards for all peoples and the eradication of underdevelopment were closely linked to the maintenance of international peace and security, to the development of friendly relations among nations and to international co-operation in the economic and social spheres. It considered that foreign domination, colonialism, foreign occupation, racial discrimination, and neo-colonialist and imperialist practices were the main obstacles to the social progress and economic development of the developing countries and their peoples. In that regard, the ninth WFTU World Trade Union Congress, held in April 1978, had unanimously adopted the universal declaration of trade union rights - the text of which was at the disposal of the members of the Commission - which reaffirmed the existence and rights of workers and set forth the principles which paved the way for the effective enjoyment of the rights inherent in the human person by every man, woman and child.

35. The excellent report of the Secretary-General on the international dimensions of the right to development (E/CN.4/1334) made it possible to establish a definition of that right and to determine how it was to be exercised. In the opinion of WFTU, that right should include the satisfaction of the basic needs necessary for a steady increase in the material and spiritual living standards of the members of society. That was the goal which integrated economic and social planning should seek to achieve.

36. WFTU considered that the Commission should propose the inclusion in the following international strategy for development of a social chapter which would stress the interdependence of the exercise of economic, social, cultural, civil and political rights. It would like the Commission to undertake a detailed study on the practices of transnational corporations and their effects on human rights, bearing in mind the seriousness of the situation created by those international monopolies in various parts of the world.

37. Lastly, WFTU would like the United Nations to associate the international trade-union organizations even more closely with the consideration of the problems relating to development and human rights, and hoped that the preparations for the third United Nations Development Decade would be occasion for the development of co-operation between the United Nations and trade unions, in accordance with the statement made by the Secretary-General at the annual United Nations-Trade Union meeting which had been held in July 1978.

38. Mr. ALMEIDA RIBEIRO (Portugal) said he wished first of all to thank the Director of the Division of Human Rights for his exhaustive and useful presentation of the two questions under consideration.

39. Referring to agenda item 21, he stressed the importance which the Portuguese Government attached to the sacred principle of the full and complete realization in full freedom, of the economic, social and cultural rights set forth in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights. He was happy to state that Portugal had acceded to the International Covenant on Civil and Political Rights on 1 September 1978 and to the International Covenant on Economic, Social and Cultural Rights on 15 September 1978, and that it intended to sign the Optional Protocol to the International Covenant on Civil and Political Rights.

40. Most of the provisions of the two Covenants had, in fact, already been incorporated in the 1976 Portuguese Constitution, which, in 312 articles, set out in detail and on an equal footing the rights, freedoms and personal guarantees of citizens. It recognized in particular the right to life, and in that connexion he was pleased to point out that Portugal had been the first European country to abolish capital punishment 114 years previously and that it was among the eight countries in the world in which that abolition was total and unqualified. The Constitution also enshrined the achievements of the revolution of April 1975, such as political pluralism and the abolition of censorship and the political police, since it also recognized the right of free association, freedom of the press and the freedom of every citizen to move without restriction within the national territory, to reside in any part of that territory, and to leave and return to that territory as he pleased. A State Counsel or ombudsman - whose post had been created two years previously - had been entrusted with the task of protecting citizens against any infringement of their fundamental rights by the administration.

41. Referring to agenda item 8, he congratulated the Secretariat on its interesting study on the international dimensions of the right to development (E/CN.4/1334) from which the Commission would undoubtedly derive inspiration. Portugal, too, recognized the right to development and was making a contribution to the realization of that right, as could be seen from the ties of cultural and technical co-operation which it had established with the five Portuguese-speaking countries of Africa. In any event, it maintained the most friendly relations with all the countries of the world, without distinction as to race, religion or political ideology.

The meeting rose at 6.05 p.m.