

UNITED NATIONS
ECONOMIC
AND
SOCIAL COUNCIL



Distr.
GENERAL

E/CN.4/1985/SR.44/Add.1
22 March 1985

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 44th MEETING

(Second part) */

Held at the Palais des Nations, Geneva,
on Wednesday, 6 March 1985, at 6 p.m.

<u>Chairman:</u>	Mr. CHOWDHURY	(Bangladesh)
<u>later:</u>	Mr. KHMEL	(Ukrainian Soviet Socialist Republic)

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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, INCLUDING:

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STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS: ELABORATION OF A SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AIMING AT THE ABOLITION OF THE DEATH PENALTY (Agenda item 18) (continued) (E/CN.4/1985/4; A/C.3/35/L.75; A/39/461 and 484; CCPR/C/21 and Add.1-4)

1. Miss CASCO (Observer for Nicaragua) said that the evident difficulties experienced by developing countries implementing the human rights enshrined in international instruments led to the unfortunate conclusion that it was the world social and economic order which violated most fundamental individual and collective human rights and made it impossible to develop other rights, since human rights were universal and indivisible. The right to development was a collective human right which determined the extent to which the realization of individual human rights could be achieved. That right in turn required the establishment of a new international economic order and the participation of the peoples in all decision-making affecting their rights, including the right freely to choose their economic and social systems and thus to be the architects of their own destinies.

2. The Nicaraguan revolution, which was undoubtedly the contemporary example of participation by an entire people in throwing off the chains of a dynastic dictatorship imposed on it by imperial interests, was also the classic example of an entire people which for that very reason found itself the victim of a war of aggression. The former masters of Nicaragua, were not prepared to accept that Nicaraguan domestic and foreign policy should be decided upon in Managua and not in Washington. The imperial Power to the north was displeased to see the strength of popular participation in Nicaragua - Nicaraguans were joining the people's militia in order to defend national sovereignty, becoming members of productivity brigades in order to gather in the harvest and supporting Government projects to build schools, health centres and production units. However, the international community was well aware of the situation, and the specialized agencies appreciated that only popular participation had made it possible for Nicaragua in such a short time to reduce drastically the illiteracy rate through the national literacy campaign and to eradicate many diseases affecting the child population. Similarly, only such popular participation had made it possible to hold the open election praised by the

countries, such as the Scandinavian countries, which had helped Nicaragua in that endeavour. In short, only popular participation made it possible for a country like Nicaragua, faced with imperialist aggression, to preserve its national sovereignty and to continue to exist.

3. Nicaragua sought nothing but peace and dignity for its people. Its Government was convinced that the achievement of lasting progress in human rights depended on national and international policies of economic and social development and to achieve that objective there must be both national and international peace. The aggression imposed on Nicaragua by the United States not only imperilled its right to national sovereignty and to life itself but also denied it the right to development. Little reconstruction had been possible in the preceding five years. The scarce resources available to the Nicaraguan Government had been destroyed by mercenaries financed and directed by the United States, who had destroyed the modest schools and health clinics in rural areas built by the local inhabitants with the help of the Nicaraguan Government and international solidarity. They had also destroyed the small economic interests which had remained alive after the bombings by the dictatorship in 1978 and 1979 and the 1982 earthquake. They had burned harvests, mined ports and set fire to port installations, co-operative buildings and centres of production. It was easy to see how the undeclared war had made economic and social development impossible in Nicaragua.

4. Her delegation was pleased to note the proposal to draft a second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. The initiative constituted a further step forward in safeguarding human rights while respecting the sovereign right of States which for legitimate and specific reasons did not share her country's views on the subject. There was no death penalty in Nicaragua. Even prior to its installation, the Nicaraguan Government had opted in favour of abolition. Article 5 of the Nicaraguan Statute of Rights and Guarantees had stated the principle specifically and it had since been enacted in legislation. That principle was violated only by the external mercenary forces directed by the United States, against which the Nicaraguan people would continue its heroic resistance, while its Government spared no effort to seek the peace the country so urgently needed, since only in peace could the people achieve all its rights.

5. Mr. RIETJENS (Observer for Belgium) said that the task of the Working Group of Governmental Experts on the Right to Development was arduous in view of the multiplicity of relevant elements, some of which had political connotations, and it was therefore understandable that the work had progressed slowly. However, the Group's report (E/CN.4/1985/11) was somewhat perplexing. Although his delegation was convinced that a working group was the best means of reaching the desired goal, it might be wondered whether the Group would be able to solve all the problems confronting it on the basis of sporadic guidance through Commission or General Assembly resolutions. Like the Chairman of the Group, he wondered whether it would not be timely for Governments, through the Secretary-General, to offer the Group suggestions on substance and method. Pending such assistance, it might be desirable to give the Group time for thought. The Commission should invite Governments to shoulder their responsibilities.

6. The Secretary-General's study on popular participation (see E/CN.4/1985/10) showed that there appeared to be a surprising number of forms of day-to-day participation in very varied fields. He wished to stress two major aspects of the matter. First, participation stemmed naturally from true liberty of opinion, expression and association. If those freedoms could be exercised in conjunction with other human rights, participation could become a reality. It was clear that any group of individuals allowed to express a view on any problem, was in a position to influence the relative decision, even if its degree of influence depended on a number of factors, not the least of which was the extent to which its intervention in the decision-making process was institutionalized. Another essential ingredient for effective participation was the free and wide-ranging dissemination of information. Effective participation was proof that the implementation of human rights was becoming a reality. Consequently, the proclamation of a "right" to participation - a concept of necessity difficult to define precisely - must not become a substitute for already established rights; effective participation was better achieved by pursuing the implementation of those rights both individually and collectively.

7. Draft resolution II submitted to the Commission by the Sub-Commission on Prevention of Discrimination and Protection of Minorities proposed that Mr. Bossuyt should be entrusted with preparing an analysis concerning the proposal to draw up a second optional protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. That was a complex subject and it was understandable that States wished to weigh up domestic factors. However, an analysis duly reflecting all shades of opinion would perhaps help to achieve general agreement on the terms of the proposed protocol. Accordingly, the Sub-Commission's draft resolution, which was of a procedural nature, should recommend itself to the Commission.

8. Mr. Khmel (Ukrainian Soviet Socialist Republic) took the Chair.

9. Ms. RICART (Pax Romana) said the main obstacle to the establishment of the right to development was social inequality: the unequal distribution of national resources was the main reason why disadvantaged social groups did not feel called upon to participate in decision-making affecting their future. Another obstacle was the existence of any form of repression or violence: popular participation was trampled underfoot when violations of the right to life, the right to liberty and other rights were tolerated. In all such cases violence was directed against the most disadvantaged groups. However, even in those countries in which basic human rights were respected, the monopolization of participation by political parties and trade unions constituted an obstacle. Those institutions were of course essential to canalize some aspects of the wishes of the community, but in contemporary society, popular participation in public affairs must assume other forms.

10. Her organization wished to suggest some such forms in the legal, economic, cultural and social fields. In the legal field, the new philosophy of justice must be strongly supported in view of the far-reaching changes which had taken place at the international level. The new approach had been named the "alternative use of justice" as opposed to the principle of equality before the law. Equal treatment of unequal partners ran counter to the right to development since it perpetuated or even aggravated inequality. It was intolerable that the law itself should curtail the chances of the most disadvantaged groups, whose means of defence was inversely proportional to the degree of their inequality. In the economic field,

the current international economic order had proved itself to be both ineffective and unjust. It did not even serve the rich countries. Popular participation was considered least important in the social and cultural fields but it should equal participation in other fields. Public health, the protection of young people and the elderly and many other issues in the social field could effectively be dealt with only on the basis of popular participation. Spectacular results had been achieved in developing countries by health organizations working with the people, who had responded once they had become aware of the need for their participation on a specific issue. From the cultural standpoint, many countries were committing genocide against part of their population by not respecting its customs and traditions. If such people had an opportunity to participate in public affairs, their special characteristics, which were indeed part of the cultural heritage of mankind, would not be eliminated. She suggested that the Commission should ask for information on that matter from all its members.

11. Mrs. KSENTINI (Observer for Algeria) said that the report of the Working Group of Governmental Experts on the Right to Development (E/CN.4/1985/11) indicated that very modest progress had been made towards the elaboration of a draft declaration. It was clear that the conceptual divergences holding up the Group's work could be overcome only by real political will on the part of States to adhere to the idea of the right to development and to achieve meaningful results. Some States were still wondering whether the right to development should be recognized as a human right, while the great majority were calling for specific action to implement it as such.

12. In her delegation's view, the right to development was not open to question. Its implementation should proceed from international solidarity and participation in the achievement of economic and social progress, subject to respect for the right to self-determination, the sovereign equality of States and equal opportunities for nations and the individuals comprising them. Equal opportunities for development required the establishment of a just economic order which would satisfy the claims of developing countries to permanent sovereignty over their natural resources, national control of economic activities, a free choice of their economic and political systems and democratic participation in respect of international security, the maintenance of peace, the management of the world economy and the distribution of resources.

13. If certain countries were still hesitating to include in the draft declaration on the right to development a provision about the new international economic order, that was because they were not ready to assume the commitments that such a provision would imply. But respect for human rights could not be the exclusive province of some States while violation of human rights remained the unhappy lot of the developing countries. The discussion must not be diverted to points which provoked sterile polemics: the objective was to find a global and dynamic approach to the right to development which would satisfy the legitimate claims of the developing countries. Her delegation hoped that doubts about the new international economic order would be dissipated by the adoption of a more constructive approach to the problem.

14. The current pattern of international relations served to maintain a system which produced massive human rights violations. The consequences of colonialism, the denial of the right to self-determination, apartheid and racial discrimination in various forms not only constituted in themselves intolerable violations of fundamental rights but also generated the deprivation of other rights. Flagrant violations of certain fundamental freedoms were often merely the manifestation of deeper underlying

causes. The use or threat of force aggravated the climate of insecurity. The importance of peace and international security for social progress was obvious, yet vast human, financial and scientific resources were invested in the arms race, while by 1990 one billion human beings would be living below the poverty line. The drought in Africa demonstrated the vulnerability of the developing countries' economies and the extent of the tragedy that could result from natural disasters. In addition, the economies of the African countries were suffering from the negative effect of international structures which hampered any true integrated development.

15. Although her delegation had stressed the international dimensions of the right to development, it was well aware that all human rights were interdependent and indivisible and that the States had primary responsibility for promoting them. Development could not be reduced to an arithmetical progression of the gross national product: it occurred as the result of an integrated global effort based on the participation of all in the national effort to achieve social progress and the equitable distribution of the ensuing benefits. The Commission had already adopted many resolutions covering the various aspects of the right to development, and had initiated a procedure with the immediate objective of adopting a declaration on the subject. The momentum of that work, which had reached a crucial stage, must not be interrupted, and the political will to achieve tangible results was essential.

16. Mr. GOLEMANOV (Bulgaria) said that article 3 of the Declaration on Social Progress and Development, proclaimed by the General Assembly as long ago as 1969, had provided a comprehensive set of guidelines concerning the collective and individual dimensions of the right to development. The important concepts involved had subsequently been developed and clarified in numerous United Nations documents and a better understanding reached of the main negative factors hampering promotion of the right to development, which were the same as those which produced massive and flagrant violations of other human rights - colonialism, neo-colonialism, racism, racial discrimination, exploitation, aggression, militarism and the related imperialist policy of confrontation. Obstacles to promotion of the right to development arose either as the consequence of those factors or as the inevitable result of a social and political system based on inequality and injustice, exploitation and the militarization of society.

17. His delegation attached great importance to the efforts to promote the right to development in the light of the major issues of contemporary international life. It firmly believed that, in order to help both peoples and individuals to develop, their primordial inherent right - the right to life and peace - must be fully guaranteed. The right to development acquired meaning only if the threat of nuclear annihilation was removed: if that could be achieved, enormous economic resources and scientific potential would be released for the benefit of all mankind, thereby not only substantially improving the chances of development of numerous countries suffering from the effects of neo-colonialism but also improving the situation of the millions of hopeless unemployed in the very countries which found the arms race so profitable. The establishment of a new international economic order would have a crucial effect on real progress towards the right to development in many countries suffering from the consequences of the existing economic world climate.

18. Bulgaria was firmly committed to the elaboration of a declaration on the right to development and had participated in some sessions of the Working Group. The basic reason why the Working Group had been unable to complete its work within its three-year mandate was that there had been a regrettable tendency among some members of the Group to revise concepts which had already been adopted by the vast majority of delegations in the General Assembly and other United Nations bodies. Nevertheless, the work could be completed, if not in the Working Group, then in the General Assembly, where the text of the draft declaration could be further refined. His delegation was prepared to participate actively in such a discussion.

19. Mr. PIRISHIS (Cyprus) observed that international peace and security and an adequate standard of living were essential elements for the full realization of all the provisions of the Universal Declaration of Human Rights. Unfortunately, millions were currently living under intolerable conditions of poverty. That morally unacceptable situation imposed a duty on all States to work individually and collectively towards the achievement of economic development, based on the concept that humanity was an organic whole in which every individual should enjoy equitable economic conditions. At present, the right to develop was the most flagrantly violated human right, since numerous countries were incapable of guaranteeing it to their citizens. However, mankind should meet the challenge of remedying that state of affairs. Vast sums of money were spent on armaments while the aid provided for development was totally inadequate. The peaceful solution of disputes and the achievement of complete disarmament could release the necessary resources for the development of all countries.

20. The draft declaration on the right to development submitted by Yugoslavia (E/CN.4/1985/62) was a well-balanced synthesis which could form the basis for a consensus in the Commission. He therefore welcomed the suggestion that it should be formalized and submitted to the General Assembly for further consideration.

21. Mr. WADLOW (International Fellowship of Reconciliation) said that trade unions were essential to ensure popular participation. Their rights were expressly guaranteed by the International Covenant on Economic, Social and Cultural Rights but they differed from the other rights protected under that Covenant since the right to organize and to bargain collectively was defined by reference to ILO Conventions Nos. 87 and 98. Hence any discussion of those two rights must include the actions taken by the International Labour Organisation to persuade States to safeguard them at the national level. The methods adopted to that end by the ILO ranged from reporting procedures not unlike those provided for under the International Covenant on Civil and Political Rights to the establishment of independent Commissions of Inquiry competent to decide issues of compliance with the ILO's standards and to make recommendations for their better protection and promotion. Until recently, States whose actions had been subject to review under one of the ILO procedures had not questioned its competence, but in 1983 and 1984 the Polish Government had set an unfortunate precedent by contesting the jurisdiction of a Commission of Inquiry established to examine Poland's compliance with ILO Conventions Nos. 87 and 98. The Polish Government had also refused to co-operate with the Commission and to adopt its recommendations, regarding the establishment of the Commission of Inquiry as interference in its internal affairs and treating its recommendations as expressions of political concern.

22. He wished to draw attention to the six most important findings of the Commission. Firstly, it had found that the suspension of the trade unions by an order of the President of the Council of Ministers had violated ILO Convention No. 87, article 4, which provided that workers' and employers' organizations should not be liable to suspension or dissolution by administrative authority. The dissolution of the unions by the Polish Trade Union Law had also been in violation of that provision and of ILO Convention No. 87, article 2, which laid down the right of workers freely to join organizations of their own choosing. Furthermore, the Trade Union Law had not complied with article 8 of that Convention, which provided that the municipal legislation might not be such as to impair, or be applied so as to impair, the guarantees provided under the Convention.

23. The second finding had been that the suspension and dissolution of the Polish trade unions had been accompanied by the transfer of their funds and assets to State administrative organs or to newly created trade unions. ILO had held that the property of dissolved trade unions should be temporarily placed in trust and ultimately distributed among the members of the trade union organization or transferred to successor trade union organizations. However, any newly created unions would qualify only if they pursued the same aims as the dissolved unions, and the trade unions set up under the Polish Trade Union Law did not seem to meet that criterion.

24. Thirdly, the Commission of Inquiry had found that the Martial Law Decree and, subsequently, the amended Penal Code had declared it a criminal offence to strike, to continue trade union activities or to disseminate information produced by disbanded organizations. That appeared to contravene ILO Convention No. 87, article 8, which stipulated that national legislation might not deprive trade unions of the right to conduct legitimate trade union activities or put an end to trade union membership. It should be noted that ILO Convention No. 87 did not guarantee the right to strike, but ILO contended that the right to strike was an essential means of discharging trade union obligations to further the interests of union members.

25. Fourthly, it had been found that trade union members had been subjected to discrimination with regard to employment and working conditions. Although it had not been possible to ascertain the exact measure of such violations, what was certain was the threat to workers who had been dismissed caused by the adoption of the Parasite Law and its implementing regulations.

26. The fifth finding had been that the Polish Trade Union Law had not complied with a number of the provisions of ILO Convention No. 87. For example, that Law expressly denied prison officers the right to form trade unions, contrary to article 1 of the Convention. The Commission of Inquiry had ruled that the right extended to prison guards and that the Polish Government's contention that prison guards were part of a para-military force was without merit. It had also considered that the provision in article 19 of the Polish Trade Union Law for the cancellation of a trade union registration if the number of its members dropped below 50 also violated article 1 of the Convention since it would prevent the formation of trade unions in small enterprises.

27. Lastly, the Commission of Inquiry had found that the Polish Trade Union Law provided that only one trade union might be formed in each enterprise up to 1983 - a restriction subsequently extended to 1985. In violation of article 5 of the Convention, that Law also limited the ability of trade unions to associate in confederations or federations.

28. The Commission of Inquiry had recommended that the Polish Trade Union Law should be amended to remedy the dissolution of trade unions, the disposal of their property and the penalties attached to illegal strikes; that it should establish guarantees against anti-trade union discrimination and that it should provide for trade union pluralism. His organization believed that the ILO recommendations would promote popular participation. In 1791, Poland had been one of the first States to guarantee freedom of association in its Constitution, and it was to be hoped that Poland would return to being in the vanguard in that respect.

29. Mr. GUTSENKO (Union of Soviet Socialist Republics) noted with satisfaction the increasing recognition of the rights to work, to have opportunity for leisure and to enjoy health services and provision for old age. But recognition was only the first step towards achievement, and must be backed up by numerous economic, political, social and legal measures, including efforts to curb the arms race, achieve disarmament and combat hunger, illiteracy and unemployment. Such measures were not only a matter of international co-operation: the domestic policies of States were of the greatest importance, and it was a condition of international co-operation in the promotion of human rights that all States should pursue policies aimed at achieving the full implementation of economic, social and cultural rights. The decisive factor in such policies was the adoption of appropriate legislation.

30. The constitutions and laws of all States should provide for the recognition of specific economic, social and cultural rights and establish the means to realize them in practice. For example, article 6, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights clearly set out the steps to be taken by a State party to make the right to work a reality. The constitutions and legislation of a number of States which had ratified that Covenant, however, did not comply with it, since they contained no such provisions. The same was true of the right to education, the right to social security and other rights. It should be noted that the legislation of developed countries was often guilty of that omission and that in spite of adequate economic resources, their policies often showed a disregard for major human rights by allowing mass unemployment, low levels of literacy and discrimination in education according to colour or financial situation. Such an attitude was not consistent with respect for human rights. Great national wealth did not automatically lead to the realization of economic, social and cultural rights: it must be accompanied by practical steps to ensure their enjoyment by the entire population.

31. At all stages of its existence, the Soviet State, in spite of economic difficulties due to foreign intervention and the need to defend itself against imperialist forces, had proclaimed many of the rights now recognized as economic, social and cultural rights and had, step by step, adopted measures for their realization. The right to work and the right to free education were entrenched in the Soviet Constitution: as a result, unemployment and illiteracy had virtually been eliminated and nearly 90 per cent of Soviet workers had received higher or secondary education.

32. His delegation had noted with satisfaction from the Secretary-General's report (A/39/461) that since the Commission's fortieth session there had been a slight increase in the number of States ratifying or acceding to the International Covenants. However, members of the Commission could not be indifferent to the fact that almost half the membership of the United Nations, including that Government which liked to give lessons on human rights to the rest of the world, had not seen fit to assume the necessary commitment. The Soviet Union had

constantly stressed the major role played by the Covenants in expressing, in concentrated form, contemporary views on human rights and fundamental freedoms. Since the prescriptions of the Covenant had legal force for those States ratifying them and compliance was subjected to control by the States parties to the Covenant, there was every reason to think that the most important aspect of international co-operation in the field of human rights was to ensure the universal ratification of those important instruments, and the Centre for Human Rights should proceed on that assumption. As in past years, the Commission was called upon to suggest measures to ensure that as many States as possible ratified the Covenants. His delegation was prepared, in conjunction with others, to make its contribution to that end.

33. Mr. KIILU (Kenya) said that article 1 of the Declaration on Social Progress and Development and subsequent international instruments clearly set out the symbiotic relationship between human rights and development. Governments and individuals were bound to respect human rights and create conditions conducive to their full realization. In that connection, he wished to refer to the example of Kenya. Since independence, his country had worked on the principle of Harambee, meaning "all working together", which was rooted in the African tradition of mutual responsibility. In modern times, the concept of Harambee had become a vehicle for rapid socio-economic reconstruction and development. The prerequisite ingredients for successful Harambee were enshrined in the Nyayo philosophy espoused by the Kenyan Government, which called for peace in the country, love for one another and unity of purpose.

34. The Harambee spirit had produced large numbers of self-help projects, most of which had been successfully completed. Some of them involved large sums of money contributed on a voluntary basis. The Government monitored the projects, **assisted** them whenever necessary and assumed responsibility for managing a project which reached the required standards. Since 1967, the number of projects initiated through the Harambee movement had never fallen below 1,000 per annum and the level of contributions to those projects had steadily increased. The projects fell into three main categories: social projects, agricultural and livestock development projects and general economic projects. Considerable skill had been shown in adapting indigenous management resources to modern conditions and communities had gradually embarked on larger projects to meet their local needs, moving from village polytechnics to institutes of science and technology. The Kenyan Government had democratized development activities through the introduction of the District Focus for Rural Development, the main thrust of which was to decentralize development planning by making the administrative districts in the rural areas the focus of development within the framework of over-all national priorities. Thus people were able to participate at the grass-roots level in identifying their urgent and long-term needs and making decisions about them with the minimum of bureaucracy.

35. Kenya also had a very lively parliament, which had played a leading role in national reconstruction. One consequence of the Harambee movement was that, in considering parliamentary candidates at general elections, constituents took account of their involvement in Harambee development projects. The Secretary-General had rightly pointed out in his report (E/CN.4/1985/10) that different countries used

different methods to achieve mass participation in national development, but he nevertheless wished to commend to other developing countries Kenya's **concept** of Harambee, which had enhanced the country's economic development and had fostered a climate of social peace and political stability which had led to fuller enjoyment of human rights.

36. Turning to the problem of establishing a new international economic order, he said that the situation called for immediate remedial action. His delegation had hoped that the Working Group of Governmental Experts on the Right to Development would provide some basic guidelines for the achievement of developmental goals in a climate which did not unduly impede the realization of human rights and social justice, but it seemed that after four years the end was not in sight. He commended the Sub-Commission on Prevention of Discrimination and Protection of Minorities for its further contributions to the subject in its resolutions 1984/15 and 1984/19, and appealed to the Commission to provide the necessary impetus for the Working Group successfully to fulfil its mandate.

37. Mr. GALLARDO (Observer for Panama) said that the Working Group of Governmental Experts on the Right to Development had reached a stage at which, in order to produce a draft declaration, it would be necessary to refine details which impinged on other areas of the international political and economic dialogue. Accordingly, it seemed prudent to consider the possibility of seeking to reinforce what the Group had achieved by enlisting the support of other bodies, such as the Third Committee of the General Assembly. The Commission should prepare a draft resolution for the General Assembly which clearly defined the steps to be taken to achieve a draft declaration. His delegation believed that there was sufficient goodwill to reach agreement on what those steps should be. Millions of human beings suffering from poverty and hunger were hoping to benefit from the right to development in peace and dignity.

38. Mr. DHILLON (India), referring to the proposed declaration on the right to development, said that there was a great divide between North and South not only in the material aspects of life but in their philosophies as well. The false charge had repeatedly been made that the developing countries were bent on making political liberties contingent upon the fulfilment of social, economic and cultural rights: in fact, there was no dichotomy between political liberties and the right to development, one being dependent on the other. It was a mockery to speak of freedom of religion and the right to free speech to a man who was homeless, hungry and diseased. The developing countries were simply asking for recognition of his right to a decent life. A few months earlier, the General Assembly had taken a great step forward by endorsing the Convention against physical torture. There was, however, another form of torture which was not so obvious and which was the result of an institutionalized system of oppression which necessarily arose when there was a great disparity between peoples and nations. Both forms of torture must be dealt with simultaneously.

39. For the first time in human history it had become possible to alter human destiny yet a substantial part of the material resources and technological skills of the developed world was devoted to perfecting the means of universal destruction. Military research and development constituted more than a quarter of the global research and development effort, but when developing countries advocated a new order they were reminded of the global economic crisis. That crisis, which had originated in industrialized countries, affected the poorer countries much more severely.

40. The fruits of development that were available to developing countries were often not those they sought. The transfer of technology was costly but transnational advertising was freely provided to promote artificial consumption patterns. Economic models and educational systems could be imported freely but strings were attached to resources of all kinds. Developing countries were given encouragement about the fruits of free trade but when they became efficient in some labour-intensive industries new methods were devised to keep them out of world markets. It was true that the process of development was hard and that quick results were unlikely, but at least the right to development should be recognized as important. Its legal recognition by the Commission would constitute a significant step towards standard setting.

41. The failure of the Working Group of Governmental Experts to make much progress on the draft declaration arose from the position taken by some of its members. The problems raised within the Group had been ideological and political rather than legal or technical and they could perhaps be better discussed in a larger body. In any case, the Commission would have to issue fresh directives or the stagnation would continue. The practical results of the Commission's work on the subject would be improved by a willingness to identify the roots of the problem. The Commission would disappoint the expectations of the vast majority of mankind living in developing countries if, in a desire to achieve an agreed text of the declaration, it carried out a cosmetic exercise and skirted the important issues.

42. Mr. Chowdhury (Bangladesh) resumed the chair.

43. Mr. LEBAKINE (Ukrainian Soviet Socialist Republic) said there was no doubt that the International Covenants were the most comprehensive basis for international co-operation in the promotion of human rights and that compatibility with the provisions of the Covenants was one of the main criteria for accepting any other human rights instruments. Paradoxically, however, those prestigious human rights instruments had still not acquired a genuinely universal character, and at the end of 1984 only about half the States Members of the United Nations had ratified or acceded to them. It was evident that the effectiveness of any multinational agreement depended first on its universality and second on strict compliance by States parties with their obligations under it. If those criteria were used to evaluate the effectiveness of the Covenants it must be recognized that the situation was far from satisfactory. The failure of a State to become party to the covenants conflicted with the obligations it had assumed under the Charter of the United Nations. Furthermore, adherence to the Covenants had not only legal implications but also great moral and political significance: it was the acid test of the sincerity of a State's approach to any other international issue. At the same time, the effectiveness of the Covenants also depended on the strict application of their provisions by States parties, which entailed the adoption of an active approach to creating the material, legal, moral and psychological conditions required to make human rights a reality. Under agenda item 8, the Commission should focus its efforts on the need for States parties to guarantee the right to education, social security, health care and work, to prevent discrimination and to prohibit the dissemination of war propaganda.

44. Special bodies such as the Human Rights Committee and the Working Group on Situations played a role in identifying obstacles to the application of the Covenants by States parties, and on the whole his delegation was satisfied with their work. However, their main tasks were to provide assistance to States parties and develop co-operation with them in order to promote the fuller application of the provisions of the Covenants; their functions did not include monitoring or supervision. Attempts to revise the existing procedures and organization of work of such bodies, often aimed at making the procedure applicable to reporting States more stringent, were quite unjustified. In his view, the existing organizational arrangements for the Working Group did not need to be reviewed. Procedural changes could not reduce unemployment or provide shelter for the homeless.

45. The holding of meetings on the unification and standardization of procedures for the consideration of reports simply reflected a trend towards further bureaucratization of the work of the United Nations, accompanied by an unjustified increase in expenditure. The first such meeting of Chairmen of United Nations human rights bodies had shown clear political tendentiousness. It was to be hoped that the Commission would urge States which had not yet done so to become parties to the Covenant and States parties to devote greater attention to the application of the provisions of the Covenants rather than to procedural discussions which did little to promote the effective implementation of human rights.

46. Mr. PERUGINI (Observer for Italy) said that after eight years of work by the secretariat and various experts, including the Working Group, the right to development still remained an imprecise concept based on such disputed legal, economic and moral elements as the international aspect of human rights questions, the establishment of a new international economic order and the question of the indivisibility and interdependence of human rights. Accordingly, it was not surprising that the Working Group had not yet completed its task. Until 1982, despite the difficulties arising from divergent viewpoints, a constructive atmosphere had predominated in the sessions of the Working Group and agreement had been reached on some preambular parts of the future declaration. For example, it had been agreed that the right to development was a human right and that it constituted a moral rather than a mandatory obligation. The differences of opinion had been over whether the right to development was only an individual right or a collective right as well and over the priorities to be set for its recognition. In 1983, the discussion on certain controversial points had made considerable progress through the drafting of the technical consolidated text. Subsequently, however, some weariness had set in, and the Group's most recent report (E/CN.4/1985/11) gave the impression that there had been some hardening on radical positions and that discussion of theoretical elements had hampered progress.

47. Nevertheless, the Working Group should be given another chance. Provided the necessary political will existed, it was possible to reach a consensus on major questions, as the success of the negotiations on the Convention against torture proved. In particular, the representative of Senegal had made many constructive suggestions and his delegation had also been struck by the document distributed by the Yugoslav delegation. In his view, the General Assembly should intervene only when a consensus had been reached in the Commission on the main points. What was needed was a display of good will by all concerned; that was not impossible, since all delegations were convinced of the importance of development.

48. Mr. CASTILLO (Peru) observed that the right to development was closely associated with all other human rights, and in the case of the developing countries especially with the right to life. No one would seek to deny the importance of ensuring a rapid and effective right to development. His delegation therefore deplored the fact that there had been no agreement on the subject in the Commission. In a world which cried out for justice, the international community should ensure that there was equality of opportunity for development, which was the innate right both of peoples and of the individual. Without international co-operation, the full realization of international provisions in favour of human rights would be very difficult. While considerable responsibility lay with the State, the community and individuals, burdens such as external debt severely impeded developing countries in implementing such instruments as the International Covenant on Economic, Social and Cultural Rights.

49. The Government of Peru was promoting popular participation as an effective factor in the developmental process and the full implementation of all human rights. The method adopted was that mentioned in paragraph 39 of the Secretary-General's report on the subject (E/CN.4/1985/10). In the so-called "young villages", thousands of Peruvians were improving their housing and social services through a law promulgated in 1980 establishing the People's National Co-operation System which used the age-old practice of voluntary collective work for the common good. There was also an Ad Hoc Participation Committee, which was an intersectoral co-ordinating body in the productive sector. However, together with such national efforts, there was an urgent need for support from the international community for a new and more equitable international economic order.

50. It was to be hoped that the Commission would adopt a decision enabling the General Assembly, as soon as possible, to consider the progress achieved by the Working Group of Governmental Experts on the Right to Development and approve a declaration on that right.

51. Mr. HEREDIA PÉREZ (Observer for Cuba) said that the General Assembly was awaiting the results achieved by the Working Group of Governmental Experts on the Right to Development. In order to give its work greater impact, the Group had decided that it would proceed on the basis of consensus, although that was not required under the rules of procedure for subordinate bodies of the Economic and Social Council. Two years previously, the Working Group had managed to draft 11 non-controversial preambular paragraphs, but in 1984, over a period of four weeks, it had managed to approve only one paragraph in which there was no new material, since it was taken from texts previously approved by consensus on the relationship between disarmament and development. As could be seen from the Group's report (E/CN.4/1985/11), a considerable number of proposals had been submitted, including the draft by 10 experts from developing countries (annex II). However, it had proved impossible to reach agreement on any further texts for the draft.

52. There were now three options open to the Commission: it could simply end discussion of the matter, maintain the present situation until the idea of a declaration on the right to development was set aside, or endeavour to make progress. In view of the terrible economic situation in Africa and the debt burden of the developing world the Commission might well conclude that something

should be done to promote the concept of development as a human right. However, it would be optimistic to regard the Working Group as the appropriate tool, since it could not arrive at any solution because there was a veto system which made it possible for a single member to block an article on which the other 14 members agreed. In the General Assembly, it would be possible for all delegations to express their points of view and the voice of the developing world could be heard.

53. His delegation was prepared to support a solution which would enable the General Assembly, during its fortieth anniversary year, to adopt a draft declaration on the right to development. That was not, in fact, an exorbitant request, since declarations were merely recommendations and had no mandatory force. The General Assembly should be given the opportunity to proceed as expeditiously as it had with the Convention on torture. Civil and political rights were not the only essential human rights.

The meeting rose at 9.30 p.m.