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COMMISSION ON HUMAN RIGHTS

Forty-fifth session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 February 1989, at 3 p.m.

Chairman: Mr. BOSSUYT (Belgium)

later: Mr. HELLER (Mexico)

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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:

- (a) Problems related to the right to enjoy an adequate standard of living; the right to development

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The meeting was called to order at 3.05 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, INCLUDING:

- (a) PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD OF LIVING; THE RIGHT TO DEVELOPMENT
- (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) POPULAR PARTICIPATION IN ITS VARIOUS FORMS AS AN IMPORTANT FACTOR IN DEVELOPMENT AND IN THE FULL REALIZATION OF ALL HUMAN RIGHTS (agenda item 8) (continued) (E/CN.4/1989/3 (Chapter I, section B, Decision 3) and E/CN.4/1989/9, 10, 11, 12 and 50; E/CN.4/1989/NGO/13, 16, 24 and 46; E/CN.4/1988/10; A/43/739)

STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS (agenda item 18) (continued) (E/CN.4/1989/50 and 62; E/CN.4/1989/NGO/11; A/43/518; E/C.12/1988/1; CCPR/C/2/Rev.1)

1. Mr. HAWKES (Observer for Ireland) said that, since all human rights and fundamental freedoms were indivisible and interrelated, economic, social and cultural rights represented a vital complement to civil and political rights and their progressive achievement was essential to the full realization of human potential.
2. No one category of rights should take precedence over another but, although States must acknowledge the right of the international community to judge their performance in relation to all categories, there were significant differences in the ways in which that performance was judged. With regard to civil and political rights, States had clear obligations pursuant to both the Declaration and the Covenant to protect and vindicate certain specific fundamental rights. As far as economic, social and cultural rights were concerned, however, it was the duty of the State progressively to ensure that the individual derived maximum benefit from social security, work, health, education, leisure and cultural life.
3. The degree to which States were directly accountable differed according to the category of rights concerned. That difference was accounted for in part by the difficulty involved in measuring compliance with obligations in the area of economic, social and cultural rights. His delegation thus welcomed the work of the Committee on Economic, Social and Cultural Rights in that field, and was looking forward to the study on problems, policies and progressive measures.
4. While the primary responsibility for ensuring that there were adequate resources available to guarantee those rights rested upon the Government of each State, the international economic environment clearly influenced the total resources available. It was the duty of the international community,

therefore, to promote a more equitable distribution of the world's resources. The international economic environment should not, however, serve as an alibi for countries in which corruption and other forms of injustice deprived the majority of those rights. In the last analysis, universal enjoyment of economic, social and cultural rights was primarily a matter of the distribution of national resources, as the wide disparity in employment, literacy and public health statistics between countries with similar per capita national incomes clearly demonstrated. The phenomenon of extreme relative poverty at national level was as much a result, as a cause, of the denial of those rights to the individual.

5. His delegation welcomed the report of the Working Group of Governmental Experts on the Right to Development (E/CN.4/1989/10). The Commission should henceforth pay more attention to the right to development, which should become a separate agenda item, as recommended by the Working Group. That approach would also help to correct the misconception that the right to development came solely under the heading of economic, social and cultural rights.

6. His delegation endorsed the Working Group's recommendation that the right to development be fully integrated into the World Campaign for Human Rights, and into the programme of activities of the Centre for Human Rights. The recommendations concerning various ways of deepening understanding of those rights appeared eminently practical and were to be commended to the Secretary-General. His delegation looked forward to seeing the effects of further dissemination and deeper understanding reflected in a fuller debate at the Commission's forty-sixth session.

7. Mr. ADJABI (Observer for Algeria) said that the adoption by the General Assembly of the Declaration on the Right to Development was evidence of the close relationship which existed between development and the effective enjoyment of human rights. It had become accepted that the latter could not be achieved unless certain basic economic and social needs were met. The comments made on the implementation of the Declaration (E/CN.4/AC.39/1989/1) indicated the concern of the international community to give practical expression to that right while the contribution of the Working Group of Governmental Experts demonstrated once again the interdependence between the right to development and all other individual or collective human rights at the national and international levels.

8. While it was the responsibility of individual States to create suitable conditions for national development, the external environment and the international economic order undoubtedly had a decisive effect as far as development potential was concerned. In view of the interdependence existing between the countries of the world, only whole-hearted international co-operation would permit effective measures in the field of development, and promote rapid development in the developing countries.

9. His delegation welcomed the recommendations made by the Working Group (E/CN.4/1989/10, paras. 28-37), endorsing, in particular, the proposal that the right to development should be accorded priority and treated as a separate agenda item. The recommendations with regard to the dissemination of information appeared highly appropriate in that they would undoubtedly help to achieve a better understanding of the scope of the right and thus overcome the obstacles to the implementation of the Declaration.

10. Mr. EL-HAJJE (Observer for Lebanon) said that his delegation welcomed the report of the Working Group of Governmental Experts on the Right to Development (E/CN.4/1989/10). Development had always been a matter of concern to the international community, which had devoted to it considerable effort, though without achieving the desired objectives.

11. The widening gap between developed and developing countries was unlikely to be reduced unless the former accepted the right to development of the latter. Such acceptance implied new credit facilities, unhampered transfer of technology and know-how, and the reduction or removal of tariff barriers restricting trade in the products of the developing countries. Such action would not only be consistent with the provisions of the Charter of the United Nations, but it would also reflect the fundamental objectives of the Bretton Woods institutions, GATT and UNCTAD, which had been created to deal with such deficiencies.

12. At a time when some countries were falling behind in their development, international co-operation in the economic and social fields was clearly required in accordance with the commitments entered into by States under Articles 55 and 56 of the Charter. Furthermore, the right to development was inseparable from peace, which was linked, in turn, with economic and social progress. The Declaration on the Right to Development represented the crystallization of years of resolutions explicitly recognizing solidarity between members of the international community in the economic field. While his delegation welcomed the Declaration, it was disappointed that it had not been followed up by any legal provisions to codify the right to development.

13. He emphasized the importance in that context of the principle of non-interference and the sovereignty of States. Thus, Israel's occupation of South Lebanon, Palestine and the Syrian Golan Heights represented an infringement of binding provisions concerning the right to development, as did the destruction of the infrastructure of neighbouring countries by Israeli bombings. The same applied when one State attempted to interfere with the economic policy of another, using force or the threat of force.

14. With regard to economic, social and cultural rights, on the one hand, and civil and political rights, on the other, Lebanon was a party to the two International Covenants on Human Rights and had incorporated their provisions into its legislation. Lebanese law guaranteed and protected the right to own property and the right to engage in business. It also guaranteed individual freedoms, such as the right to found, and belong to, political parties and trade unions, freedom of expression and freedom to elect representatives to governing bodies.

15. Lastly, he commended Mr. Bossuyt's work on a draft second optional protocol to the International Covenant on Civil and Political Rights, concerning the abolition of the death penalty.

16. Mr. DAO (International Labour Organisation) said that the issues under discussion were of central importance to his Organisation. At its seventy-fifth session in 1988 the International Labour Conference had discussed a report by the Director-General of the International Labour Office concerning human rights and shared responsibility. In a year in which not only had the fortieth anniversary of the adoption of the Universal Declaration of Human Rights been commemorated, but also the fortieth and thirtieth

anniversaries respectively of two of his Organisation's fundamental instruments in that field (the Freedom of Association and Protection of the Right to Organise Convention of 1948 and the Discrimination (Employment and Occupation) Convention of 1958) it had been deemed appropriate to review the human-rights situation. The disparity between the principles embodied in the international instruments, and the actual situation in the world had made such an exercise all the more imperative.

17. The Conference had discussed the question of development and the fight against unemployment and poverty, concentrating on the problem of adjustment policies and indebtedness. Reference had been made to the conclusions of the High-level Meeting on Employment and Structural Adjustment, held by ILO in November 1987. In particular, the participants at that meeting had agreed unanimously that concerted action was urgently required to redress the balance in the world economy in order to accelerate the type of growth that would generate employment.

18. ILO, which had submitted comments on the implementation of the Declaration on the Right to Development to the Working Group of Governmental Experts, welcomed the fact that the recommendations of that Working Group reflected some of the concerns and activities of ILO, such as the importance accorded to the role of women in development, and the participation of the organizations and groups concerned.

19. With regard to the human-rights instruments, he emphasized the vital importance of their ratification and implementation. ILO had always been committed to co-operation in the procedures for, and with the bodies concerned in, their implementation. The Committee on Economic, Social and Cultural Rights was currently considering the ILO report on implementation of the provisions of the Covenant relevant to ILO activities. In addition, the report of the chairpersons of the human-rights treaty bodies and the recommendations contained therein would be studied carefully by ILO with a view to an appropriate follow-up.

20. Ms. BERRY (Commission of the Churches on International Affairs) said that the interrelationship between economic justice and human rights had long been accepted by the international ecumenical community. It was a well-known fact that "rational, objective decision-making" in the world of finance could have dire consequences not only in terms of the right to food and work, for example, but also with regard to basic civil and political rights, such as the right to participate in the decision-making process. The international debt crisis had crystallized those concerns and contradictions.

21. There were two major issues in that crisis: firstly, the role of international finance with regard to the sustaining of undemocratic régimes known to abuse human rights; and secondly, the human-rights abuses committed by States against their own citizens in the pursuit of policies designed to ensure the payment of international debt.

22. Undemocratic régimes assured of external financing were less dependent on the political support of their people. Furthermore, debtor Governments were required to implement policies consistent with the economic interests of powerful groups in the creditor countries, which often helped to strengthen the power of their own élites at the expense of the poor.

23. Debtor countries with repayment difficulties seeking new loans from the World Bank or the International Monetary Fund (IMF) were obliged by those institutions to implement specific economic policies, such as currency devaluation and wage restraint, which often led to basic human-rights abuses as unemployment increased, subsidies were reduced and services cut back. Those most affected were the poor, and especially the women, whose traditional role it was to ensure family survival. That situation was all too clear to the churches, which sought to provide assistance and services when Governments failed to do so.

24. Civil and political rights were also undermined at times of economic crisis. Resistance by trade unions and other organized bodies to widespread lay-offs and cuts in social spending, for example, was often firmly suppressed by Governments. Genuine land reform was hampered by a bias towards the export sector that reflected the pattern of highly concentrated land ownership reinforced by structural adjustment policies promoting the development of cash crops.

25. The development model prescribed and financed by the World Bank and IMF, and by Western Governments and financial concerns, was heavily dependent on steady infusions of foreign capital, and served to maintain vastly unequal terms of trade between North and South. It was a root cause of the abuse of social and economic rights rather than a solution contributing to their enhancement.

26. It was both inappropriate and unjust to separate human-rights issues from economic decision-making. She urged the Commission to recognize fully the economic basis for abuses of social, economic and cultural rights, and of civil and political rights, to consider the human-rights impact of the international debt crisis, and to call upon both debtor and creditor countries to achieve consistency between their human-rights rhetoric and the reality of their economic policies and practices.

27. Mr. Heller (Mexico) took the Chair.

28. Mr. WOLFSON (International Bar Association) said that it had been asserted that the working population of the developing countries would increase by 600 or 700 million by the year 2000, which was roughly the equivalent of the entire current work-force of the industrialized world. The Commission should consider whether that new work-force was likely to help redress the balance in society and thus be a boon to mankind, or to constitute a potentially destructive force. There was a growing belief that mankind had achieved the technological capacity to feed, clothe and provide the basic necessities for the entire world population using only a small proportion of the work-force. The question what that technological evaluation would mean in terms of human behaviour had hardly as yet begun to be addressed.

29. The vast, highly successful multinational conglomerates were constantly growing and accumulating reserves of profits which needed to be reinvested. Given the proper motivation, they would readily accept that they had a duty not only to their employees, but also to society, which could be translated into the establishment of business enterprises in the developing world with the dual objective of creating employment and producing new profits for further investment.

30. Such opportunities must exist and the Commission itself was powerful and influential enough to present reasonable proposals to the business world with every chance of their being accepted. He was convinced that contributions would readily be made towards the cost of creating essential jobs in developing countries. The risks involved might need to be cushioned, for example, by grants and loans to companies entering new fields. In addition, charitable contributions and bequests could provide a further source of funding.

31. The example of the Soviet Union was a relevant one, ideological principles in that country having given way to the needs of human beings, so that joint ventures with capitalist enterprises were being set up to help the Soviet economy and benefit the Soviet people.

32. It was almost 15 years since the General Assembly had adopted a declaration recognizing that the elimination of hunger and malnutrition was the common objective of all nations. Even then, society had possessed the resources, the organizational ability and the technology to fulfil that objective. It was all the more important, therefore, that full use should now be made of the United Nations system to promote the business link between the industrialized and the developing world in order to achieve that goal.

33. Mr. TEITELBAUM (International Federation of Human Rights) said that external indebtedness was the gravest problem currently facing the developing countries, and that policies to implement, promote and protect economic, social and cultural rights could not succeed until that problem was solved. There were five basic causes of the problem: irresponsible bank lending, regardless of whether the borrower Governments were representative or despotic; the steady deterioration in terms of trade throughout the 1980s; world inflation; interest-rate rises; and protectionist policies in the developed countries.

34. In some cases, the loans had been used for unproductive purposes such as arms purchases or to amass private fortunes reinvested in the developed countries; in others, the loans had been genuinely applied to economic development. Nevertheless, all the debtors faced the same difficulty: debt servicing and debt repayment had become unmanageable.

35. The external debt was giving rise to a yearly capital flow of some \$20 billion from the South to the North, which, when the effect of the disequilibrium in international trade was added, resulted in a net annual flow of \$60 billion, in contrast to an annual capital flow of some \$40 billion in the opposite direction a decade previously. As a result, many countries which had been recording economic growth over several decades were currently facing stagnation or regression, as could be seen from the World Economic Survey, 1988 and other statistical sources. The adjustment policies proposed by the International Monetary Fund, far from having positive results, had made things worse, for the economically most vulnerable sectors of the population in many countries, where average per capita income had fallen by 10 to 25 per cent, according to the 1989 UNICEF report on the situation of the world's children.

36. In addition, the gap between the richest and poorest population sectors was widening. At the same time, so-called adjustment policy measures were eroding social assistance programmes; in recent years public health spending in the 37 poorest countries had fallen by 50 per cent, and expenditure on

education by 25 per cent. As a result, the fall in infant mortality rates in some regions had slowed down or had even been reversed. According to the UNICEF report, at least 500,000 of the infant deaths over the previous 12 months could be attributed to the slow-down or reversal of economic growth in the developing countries, and the primary school enrolment rate was falling sharply in roughly half of the 123 developing countries for which recent information was available.

37. The remedies proposed at Toronto by the developed nations had been timid and slow to take effect. According to UNCTAD - which advocated a 30 per cent reduction in the debt of the most heavily indebted countries - the public bilateral debt of the poorest sub-Saharan African countries was \$23 billion, the rough equivalent of one day's production in the seven principal developed market-economy countries (Trade and Development Report, 1988 (TDR/8)).

38. The creditor banks - which had made enormous profits in 1988 - were trying to sell their credits on the discount market or convert them into investments in the debtor countries - a strategy which, on the current relatively small scale, would not solve the problem and, if carried out on a large scale, would place a large part of the debtor countries' patrimony in the hands of their creditors.

39. The external debt problem prevented economic growth, fostered political adventurism and placed democratic Governments in constant difficulty, as well as giving rise to flagrant violation of the economic, social and cultural rights of broad population sectors and creating a climate for the violation of civil and political rights.

40. John Kenneth Galbraith, the economist, had expressed the view (Capitalism, Communism and Co-existence) that such unproductive loans would never be repaid and that, once that fact was acknowledged, the debtor countries would again be in a position to buy more of the industrialized nations' goods.

41. The right to development should be regarded as an independent question, and the representative of Venezuela, addressing the Commission the previous day, had proposed the inclusion of a subitem on the impact of indebtedness on that right; such a subitem should also deal with the repercussion of adjustment policies on that right and on human rights in general. The Commission should address the problem as a matter of urgency and, inter alia, suggest the holding of an international conference of debtors and creditors to discuss the immediate annulment of some of the debt as a matter of first priority, as well as interest-rate reduction and a moratorium on the remaining debt.

42. Mrs. FAUCHERE (World Confederation of Labour) said that the world was characterized by the scandalous coexistence of immense fortunes and extreme poverty. In the world's richest countries, despite a rise in household purchasing power, there was a marked resurgence of poverty. According to statistics, 54 per cent of net financial assets in the United States belonged to only 2 per cent of all families. In the industrialized nations, while the most advanced means of health care were produced, growing numbers were being denied access to them. Productivity and the profit motive were enriching a few and impoverishing the rest. Whole regions were sliding into poverty, and

OECD Governments were seeing an unparalleled increase in want. In the countries of the South, too, there was a wide gap between the new-style aristocracies or bourgeoisie and the illiterate, impoverished populace.

43. According to ILO, roughly 1 million persons had dropped below the poverty threshold each month during the current decade; more people were hungry than at any time in history, and the number was growing, as was the number of those deprived of decent housing, running water and health care.

44. The usual notion of development was based on the promotion of trade and the economy, often at the expense of cultural identity and social order. The developing countries' external debt, for example, was not a problem of debtor-creditor relations but one of domination and dependence between North and South. The problem was aggravated by interest-rate rises and a deterioration in the terms of trade, which not only increased the developing nations' debt but deprived them of the export earnings with which to service it - a problem worsened by growing protectionism in the industrial countries. The indebted countries were thus transferring to the rich countries more capital than they had ever received from them - which meant that the South was financing the North.

45. The ex-President of Tanzania, Julius Nyerere, once asked whether the third-world countries were obliged to let their children starve in order to pay their debts; the international financial community apparently thought they should. Debt repayment by the developing countries had led to the death of hundreds of thousands of their children and to malnutrition and ailment for several millions more; according to UNICEF, the infant mortality rate in the north-eastern region of Brazil had risen, as a result of the recession by almost 25 per cent between 1983 and 1984. Growing unemployment was another feature.

46. The consequences of irresponsible borrowing were not, however, borne by those who had engaged in it; it was the poor who suffered. And the so-called debt adjustment policies had become a stain on the current economic order. The policies imposed by the international financial community, including IMF, had forced cuts in spheres such as health and education - although the developing countries' military budgets were some 30 per cent higher than sums earmarked for health and education, the armed forces being used to put down the unrest which stemmed from the austerity programmes and to repress workers striving for observance of their civil and political rights and freedoms.

47. That combination of increased military expenditure and a repressed, impoverished work-force supported the cycle of unrest and repression. The major Powers were partly responsible, viewing the developing countries as outlets for their weapons industries; in the period from 1982 to 1986, 51 per cent of arms sales from the United States, 76 per cent from the Soviet Union and 86 per cent from France had gone to the third world. The debt problem was also causing ecological problems and might cause irreparable damage to the environment.

48. The international community was far from implementing the Declaration on the Right to Development. The measures called for should not be confined to the debt problem but should aim at establishing long-term financial and economic programmes to satisfy the basic needs of all and ensure respect for civil and political rights and freedoms.

49. The World Confederation of Labour affirmed that the debt burden was utterly incompatible with democratization and development; it called for the annulment of the debt for the most vulnerable countries and those whose populations were the least advantaged, and for a broad concerted international effort, involving workers' organizations, on the debt problem.

50. Mrs. SIMONOTTI (International Association against Torture) said that, although the Commission and the General Assembly had often reiterated that civil and political rights were indivisible from economic, social and cultural rights, the approach was often regrettably different, and its effect could be seen even in the Commission. No society could safeguard civil and political rights unless it provided an acceptable level of material well-being. Although some nations enjoyed the latter in great measure, others were suffering violation of their basic rights. The poorest countries were becoming still poorer, while the industrialized nations seized every chance to increase their economic power. Countries could not assert the right to development when they were denied sovereignty over their own natural wealth and were forced, because of protectionist barriers imposed against their own products and artificially contrived unfavourable terms of trade, to depend on "economic assistance", which usually meant an ever-growing debt burden that was impossible to pay off. The presence of transnational corporations was of no real benefit for a poor country, whose own industrialization was thereby rendered impossible.

51. It was difficult to see how the current unjust international economic order, of which warfare, illegal arms sales and drug trafficking were symptoms, could foster the right to development which was fundamental to world peace and security. The cost, which included the destruction of the environment through the use of chemicals whose sale benefited only the transnational corporations, was being borne by the developing countries.

52. Implementation of the right to development required the collaboration of all States and non-governmental organizations. Her Organization welcomed the initiative taken by the Andean Commission of Jurists for the convening of an international conference of NGOs on the right to development (E/CN.4/1989/NGO/16). The Working Group of Governmental Experts on the Right to Development had made some positive moves, but its work had not yet been concluded, since the right in question had to be given effect in a world of changing realities. If that right was not respected then neither were any other rights, collective or individual; and unless the inequitable economic and social order was changed, it would be impossible to secure equal rights and dignity for all without distinction.

53. Ms. GUZMAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that those seeking news of disappeared detainees had not known, at the outset, that international instruments existed for the protection of human rights. To begin with, they had had recourse to national procedures such as habeas corpus or amparo, before appealing to international bodies such as the Commission. The disappearance of persons arbitrarily detained or abducted, under the repressive practices carried out by dictatorial military régimes and also, regrettably, some constitutional and democratic Governments, was a violation of the rights enshrined in the Universal Declaration of Human Rights and the International Covenants which the countries concerned had signed, ratified or acceded to. And in spite of the international concern for the protection of children, reflected in the

preparations for a convention on the rights of the child, hundreds of children - who could in no way be considered subversive or criminal - continued to disappear.

54. Her organization had revealed that most of the disappearances and killings involved peasants, indigenous peoples and workers. Since the majority were men, the main breadwinners, the resultant loss of income led to an increase in infant mortality, malnutrition and illiteracy. The problems were aggravated in many cases when families were uprooted in the flight from violence and communities' society and traditions were disrupted. Thus the provisions of the International Covenant on Economic, Social and Cultural Rights were being violated in countries which had signed or ratified it.

55. The grave external debt problem faced by most Latin American countries had political, social and ethical consequences also. As a result of the steady, precipitous fall in commodity prices over the past four years, Latin America had paid \$144 billion in interest and debt repayment to international creditors. The resultant increase in hunger, infant mortality, unemployment, and shortages in housing and health care had led to unrest and political instability, producing repression and its consequent victims.

56. Her Organization was grateful for the efforts of international human-rights bodies and non-governmental organizations; at a recent national meeting at Lima of families of disappeared persons, information had been disseminated about human rights and the bodies which existed to support them. Without wishing to seem pessimistic, however, she had to stress that the right to life, which included the right to work in order to sustain the family, remained the foremost priority. There would always be unrest, with a reaction of repression and human-rights violations, so long as an economic gap prevailed between countries and within a country between its citizens. Until the economic and social injustices were removed, it would be hard to give effect to the desire for peace, national reconciliation and true democracy.

57. Mr. BARSH (Four Directions Council) said that, over the past few years, there had been a convergence of interests in the field of economic and social rights, reflected in the establishment of a new supervisory committee, the ongoing activities of the Working Group of Governmental Experts on the Right to Development, and the proposal by the Sub-Commission for the appointment of a Special Rapporteur on the realization of economic, social and cultural rights.

58. About half of the United Nations regular budget was devoted to economic and social programmes, as opposed to about 1 per cent for human rights, and responsibility was divided among more than a dozen United Nations bodies as well as the specialized agencies. To be effective, therefore, the Commission must find appropriate ways to work with the other parts of the United Nations system.

59. His delegation viewed the role of the Committee on Economic, Social and Cultural Rights as necessarily involving three tasks: monitoring relevant trends in the enjoyment of economic, social and cultural rights among the States parties; relating those trends to the specific efforts of States to comply with their obligations under the Covenant; and helping States parties

to identify effective, practical ways of complying more fully with the Covenant. He wondered whether the Committee, as currently constituted, was in a position to play that vital role and whether it had adequate data and appropriate expertise.

60. With regard to the first problem, the Committee as yet had no standardized questionnaire or clear framework of essential economic and social indicators on which to build up a useful data base. In the development field, much work had been done since the 1960s on the problem of indicators and a great many United Nations bodies already collected data of that kind. There was no need for the Committee to design a whole new system nor was it necessary to request additional statistics from States parties. The work needed was to select the most useful indicators and carry out the tedious but essential task of building up a data base to which information from other United Nations bodies could be periodically added.

61. Such a data base would enable the members of the Committee to ascertain within minutes whether any significant changes had occurred in the economic and social life of a State party since its last report. It would relieve States from duplicate reporting and would tend to focus discussion in the Committee on major trends. The Committee could not be seriously regarded as a monitoring body without such a straightforward quantitative basis for its work.

62. There were two things that needed to be done in relation to the Committee. First, it should be provided over the next two or three years with adequate meeting time and professional resources to devise an appropriate framework of standardized indicators drawn from existing intergovernmental data sources. In that connection the proposal to entrust Mr. Türk with the task of preparing a study on the realization of economic and social rights was extremely timely. Timely also was the proposal by the Working Group of Governmental Experts on the Right to Development (E/CN.4/1989/10, para. 35) for a global technical consultation, which could also contribute to the design of an appropriate methodology for assessment. Secondly, steps should be taken to ensure that the Committee had the staff to maintain a standardized data base and prepare statistical summaries for the Committee's members. That staff would have to work in close co-ordination with United Nations data-gathering agencies.

63. With regard to the problem of expertise, while it was not his intention to criticize the members of the Committee, they might have difficulty in penetrating all of the economic, sociological and even technological aspects of evaluating, for example, a programme for retraining unemployed workers. More importantly, they might be unable to offer a State party any professional advice.

64. The current state of affairs inclined the Committee to be rather legalistic in its approach to State reports. It looked for evidence that the States parties had enacted laws which purported to guarantee economic and social rights. However, laws did not in themselves build houses or schools. Even the prohibition against discrimination was impossible to monitor without a communications procedure or a detailed breakdown of all relevant statistics by ethnicity, gender and other categories.

65. To resolve the problem it would be more appropriate to consider supplementing the expertise of the Committee's members from three sources:

first, an expanded role for the specialized agencies in the work of the Committee by inviting them to make specific written suggestions to respond to problems identified in reports of States parties; secondly, increased participation by non-governmental organizations with relevant expertise, which might also be encouraged to submit written suggestions; and thirdly, the establishment of a special unit within the advisory services context which would serve two functions: working directly with States parties on meeting their obligations under the Covenant and assisting the Committee itself in evaluating State reports and formulating suggestions.

66. If adequately supplied with information and expertise, the Committee could also contribute substantially to filling in the content of the right to development and advising the Commission periodically on both national and global trends and problems in that field.

67. With regard to the United Nations Seminar on the effects of racism and racial discrimination on the social and economic relations between indigenous peoples and States, his Organization emphatically endorsed its recommendation that a technical conference of Governments, specialized agencies and indigenous peoples' organizations be organized to study ways of improving the economic and social conditions of indigenous peoples more directly through existing United Nations operational programmes.

68. With regard to financial resources, it was often assumed that correcting violations of human rights was simply a question of political will. A greater effort should be made to distinguish between will and capacity, particularly in the field of economic and social rights. If the problem was truly one of bad will, he was not sure that United Nations resolutions would have much effect, except perhaps against the weakest countries, or in the rare case that criticism actually resulted in multilateral or bilateral sanctions. On the other hand, where the problem was one of a State's technical or material capacity to achieve the changes, no amount of criticism would be effective.

69. Mr. PARADA (International Union of Students) said that, in many developing countries, a large section of the population was excluded from the educational system, a deplorable situation that had worsened in recent years. Indeed, with growing economic and social difficulties, education remained a neglected sector in many countries and the International Monetary Fund and the World Bank dictated conditions for debt-reimbursement, which meant that money was withdrawn from sectors such as education, although access to education was a fundamental right which must be ensured to every human being. Education was the key to scientific and technological knowledge and culture and thus a factor that could lead a country to genuine development and total democracy.

70. Moreover, given the limitations on access to education in general, special attention must be given to certain categories of young people, such as girls, handicapped persons and students living outside their own country. In many countries scientific and technological education was largely restricted to male students. The competence required and the free choice of the person concerned should be the only criteria for the choice of subject in secondary schools and universities, a principle which should also apply to employment.

71. In a number of countries of the world - the most recent example being China, foreign students had to face xenophobia and administrative red tape of all kinds. In most cases, studying outside their own country was less the

result of a deliberate choice than a means of remedying the deficiencies in their own developing countries or, in some cases, a positive response to the ideal of international co-operation and solidarity. All the minority rights set forth in international instruments should thus be extended to students.

72. However, access to education became meaningless if it was not accompanied by the right to work and become integrated in society upon the conclusion of the studies. Unemployment among young people led to marginalization, drug abuse and other deplorable behaviour.

73. Students represented an important factor of society but their organizations were often dissolved or the leaders of student organizations were arrested or tortured. Popular participation implied that all sectors of society were entitled to form organizations. More particularly, students should have the right to be associated with the decision-making process in universities. The university system, which was one of the most important instruments for promoting development, required a minimum of stability and independence in the decision-making process and the conduct of research.

74. His organization, which was well aware of the difficulties encountered by the developing countries in meeting the educational requirements of their populations, reaffirmed its belief that, as in many other aspects of the problems of underdevelopment, a new international economic order established on a just and equitable basis was needed.

75. Mr. GONZALES (International Indian Treaty Council) said that an adequate standard of living for indigenous peoples in the United States was non-existent despite the statement made by former President Reagan during the summit meeting in Moscow in June 1988 that the American Indian had become rich from the land and its mineral resources. He wished to make it clear that Indians had allowed the whites to take large portions of their lands provided that their territories were protected by treaties ratified by the United States Congress and that they had the right to development. President Reagan had also said that he would arrange to meet with American Indians when he returned home. In fact, he had met 16 "friendly Indians" for an insulting 20 minutes

76. The indigenous peoples of the Americas had been the first victims of European aggression, which had deprived them of the right to enjoy an adequate standard of living and the right to develop. The situation in the Indian lands was currently no better than in October 1492. Unemployment, lack of education, substandard housing and poor medical care created depressed conditions which made them unable to compete on equal terms with non-Indians.

77. Under the Alaska Native Claims Settlement Act (ANCSA), adopted in 1971 without the consent or participation of the vast majority of Alaska natives, the traditional rights of Alaska's native peoples had been reduced to shares of stock in so-called "native corporations". Their land rights, water rights, hunting and fishing rights and right to self-government had been extinguished or drastically curtailed. Alaska native children born after the passage of the Act were no longer recognized as natives by the United States Census Bureau. On Indian reservations also, the development of natural resources was conducted by non-Indians and the construction of highways, schools and houses benefited non-Indian companies.

78. In the case of El Salvador, popular participation as a mechanism to improve living standards was not the result of good will on the part of the Government but rather a goal attained through organizational self-determination. The generalized structural crisis caused serious problems and its continuation would finally prevent the growth and development of the Salvadorian people, whose fundamental rights were being violated.

79. Popular participation meant that peoples should be able to rely on the courts to protect their social, economic and cultural rights. If the courts tended to support the repressive Governments, the people had few means of redress. His Organization requested the Commission to demonstrate solidarity with the right of the indigenous peoples to development and popular participation and help make world opinion aware of their plight by declaring 1992 to be the International Year of Indigenous Peoples' Rights.

80. The CHAIRMAN said that the Commission had completed its consideration of agenda items 8 and 18.

REPORT OF THE SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES ON ITS FORTIETH SESSION (agenda item 19) (E/CN.4/1989/3-E/CN.4/Sub.2/1988/45; E/CN.4/1989/51 and 67; E/CN.4/1989/NGO/14)

81. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing the item, said that the report of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on its fortieth session (E/CN.4/1989/3) had been drafted in accordance with the guidelines contained in Commission resolution 17 (XXXVII). The confidential part of the report, published in another document, would be considered by the Commission under agenda item 12 (b).

82. Chapter I of the report listed all issues referred to the Commission for its attention, action and consideration. Section A of chapter I contained the draft resolutions recommended for adoption by the Commission, while section B contained the draft decisions of the Sub-Commission. The resolutions and decisions of the Sub-Commission dealing with questions to which the Commission's attention was drawn and requiring consideration or adoption of measures were listed in section C.

83. Annex 3 consisted of three parts, the first part indicating studies which had no financial implications, the second part referring to studies not likely to have new financial implications and the third part to those involving new financial implications.

84. He recalled that at its forty-fourth session, the Commission had examined the Sub-Commission's work and adopted resolution 1988/43 under which the Chairman of the Sub-Commission was requested to report to the Commission on the implementation of the guidelines contained in the resolution.

85. Mr. HILGER (Federal Republic of Germany) said that there had been a remarkable change in the work of the Sub-Commission and in the results of that work. His delegation had noted the constructive dialogue among the experts and the fact that the lengthy procedural debates of former years had disappeared almost completely, leaving room for exchanges of views on the substance of various issues.

86. It was particularly gratified to note that the draft second optional protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty had been transmitted to the Commission for its consideration and for further action. He was convinced that the systematic preparation of well-researched studies and reports was a most important element of the expert work of the Sub-Commission.

87. As for the discussion in the Sub-Commission on its methods of work, it was noteworthy that the ensuing debate had concentrated to a large extent on how to deal with the ever-growing number of allegations of human-rights violations brought before the Sub-Commission. Only two non-governmental organizations and two Governments had addressed the Sub-Commission in 1977 while 10 years later, non-governmental organizations and Governments had addressed the Sub-Commission 169 times and the experts had spoken only 137 times. Specific allegations of human-rights violations and specific countries were increasingly becoming the subject of statements by non-governmental organizations and government representatives.

88. An important problem was the conclusions that the Sub-Commission should draw from the various allegations of human-rights violations voiced in public meetings. In the first place, it was essential to determine what the Sub-Commission could do to verify the accuracy of such allegations. In his delegation's view, therefore, the Sub-Commission should discuss further what avenues might be open to it to develop fact-finding procedures.

89. In the case of human-rights situations in particular countries, the important confidential procedure established under Economic and Social Council resolution 1503 (XLVIII) should be maintained. The question as to the relationship between country situations and the confidential procedure, on the one hand, and country situations in the public debates of the Sub-Commission, on the other, was a difficult one that should be examined further.

90. The Sub-Commission's agenda still appeared to be overloaded. While the Sub-Commission should certainly pay due regard to new developments in the human-rights field, it should be careful not to take up issues mentioned in the press which were not specific human-rights issues on which the Sub-Commission could make a distinctive contribution of its own. Such issues were often discussed extensively elsewhere in the United Nations system.

91. It was important that the members and alternates appointed to the Sub-Commission should be independent experts and discharge their functions in that capacity. That meant, first and foremost, that Governments should not interfere with the freedom of movement and expression of experts. It was most disturbing, therefore, that Mr. Mazilu of Romania, a former member of the Sub-Commission who was still a special rapporteur, was apparently still not in a position to travel to Geneva to establish the necessary contacts with the Centre for Human Rights.

92. The Government of Romania seemed to be unwilling to co-operate with the United Nations and continued to disregard the privileges and immunities to which a United Nations expert was entitled. The course of action which the Commission had to take had been outlined in Sub-Commission resolution 1988/37. The Secretary-General should be requested, through the Economic and Social Council, to seek an advisory opinion from the International Court of Justice. His delegation awaited further clarification on the matter from the Secretariat.

93. In contrast to that particular case where there was an apparent lack of co-operation, it was noteworthy that many States had made a genuine effort to answer allegations, clarify issues and outline programmes of action and legislation aimed at strengthening the human rights of individuals and groups within their jurisdiction. That attitude was most encouraging. Regrettably, however, there were still a few Governments that used the argument of "internal affairs". Any Government that still put forward such an argument forty years after the proclamation of the Universal Declaration of Human Rights obviously had a bad conscience.

94. His delegation would always defend the right of non-governmental organizations to address the Sub-Commission as well as the Commission on Human Rights on all issues, particularly in cases of specific human-rights violations. There had been joint statements by a large number of non-governmental organizations in the Sub-Commission on some specific issues and his delegation would encourage them to continue along those lines. By the same token, the representatives of States should restrict themselves in their statements, avoiding politically motivated exchanges in particular.

95. Monsignor MULLOR (Observer for the Holy See) said that Pope John Paul II had proposed two principles as premises for the just solution of the problem of minorities namely the inalienable dignity of every human person which, in its turn, constituted the basis for a minority's "right to collective identity", the fundamental unity of humankind, whose origin was in a single God and Creator.

96. Those two principles were the cornerstones on which the rights and duties of minorities must be based. Such rights included the right to existence, the right to maintain a special relation with the earth on which the identity or the tribal, cultural or religious traditions of certain peoples was based, the right to preserve and develop one's own culture and the right to religious freedom.

97. The duties of a minority were to co-operate with its fellow citizens for the common good, to promote the freedom and dignity of each of its members and to respect the choice of each individual, even if one of them decided to become part of the majority culture. Emigré minorities must exercise great circumspection and clear judgement when calling for the observance of the legitimate rights of members of their group who remained oppressed in their place of origin and whose voices could not be heard.

98. The Holy See believed that, whenever a minority's aspirations for freedom and dignity were realized, a new stone was added to the still unfinished temple of peace. The day when minorities who were still ignored or despised, made their voices heard by the dominant majorities, a step would have been taken towards a more just world, worthy of man and his destiny.

99. Mr. Bossuyt (Belgium) resumed the Chair.

100. Mr. HAWKES (Observer for Ireland) said that, the Sub-Commission on Prevention of Discrimination and Protection of Minorities had drawn the attention of the Commission to its concern at the human-rights situation in five countries. While the situation in those countries certainly merited the Commission's attention, his delegation regretted that resolutions regarding other country situations had been blocked through the use of a procedural

mechanism, an action that had cast a shadow on an otherwise fairly creditable performance by the Sub-Commission. Some members of the Sub-Commission had acted neither objectively nor independently, and that experience underscored once again the need for Governments to nominate genuinely independent experts for election to the Sub-Commission. Failure to do so would bring the Sub-Commission as a whole into disrepute and betray the cause of human rights.

101. One of the positive aspects of the Sub-Commission's fortieth session had been the full debate on its methods of work. Some very constructive proposals had been put forward as to how the Sub-Commission could better complement the work of the Commission in the examination of allegations of human-rights violations. Any action which the Sub-Commission could take to provide an "early warning system" to detect deteriorating human-rights situations would be particularly useful.

102. The fortieth session of the Sub-Commission had been overshadowed by members' concern for the fate of a former member, Professor Mazilu. There was incontrovertible evidence that Professor Mazilu's right to leave his own country, Romania, was being denied and that he was being prevented from completing the work assigned to him as Special Rapporteur. The conciliatory gesture made by the Sub-Commission in its offer to send one of its members to meet Professor Mazilu and assist him in completing his study for the Sub-Commission had been rebuffed by the Romanian authorities. The Secretary-General's efforts to get those authorities to fulfil at very least their obligations under the Convention on the Privileges and Immunities of the United Nations had also failed.

103. That display of contempt for the human rights of an individual, for the Commission on Human Rights and its Sub-Commission and for the United Nations as a whole, was quite intolerable. It was to be hoped that the Romanian authorities would heed the requests addressed to them by the Sub-Commission and by the Secretary-General. If not, the Commission should not only take the specific action requested of it in Sub-Commission resolution 1988/37 but should also clearly indicate to the Romanian authorities the unacceptability of their behaviour.

104. Mr. SWEPSTON (International Labour Organisation) said that ILO was responsible for the supervision of the Indigenous and Tribal Populations Convention of 1957 (No. 107), which had been adopted in close co-operation with the United Nations and its specialized agencies. At its seventy-fifth session, the International Labour Conference had begun revising that Convention, and it was expected that the revision would be completed at the Conference's seventy-sixth session in 1989. In view of the discussions taking place in the Sub Commission's Working Group on Indigenous Populations, he wished to inform the Commission of the progress made.

105. First and foremost, the Conference had agreed to remove all the integrationist language and assumptions contained in the Convention and to replace them by a recognition of the right of indigenous and tribal peoples to their own languages, religions, cultures and way of life. The draft revision also incorporated other basic changes from the original Convention, such as the recognition of the duty of ratifying States to undertake discussions and consultations with indigenous and tribal peoples when planning or implementing development projects or other activities which affected them, and to include them in the planning and operation of such activities. The draft also

contained a provision for those peoples to assume responsibility for the management of activities of fundamental importance to the maintenance of their cultures and ways of life, such as educational and health programmes.

106. Two matters of fundamental importance were to be resolved in June 1989; whether to replace the term "populations" by the term "peoples" and how the provisions of the revised instrument relating to land rights should be framed. The entire text would be reviewed on second reading.

107. Non-governmental organizations, particularly those representing indigenous and tribal peoples, had participated very actively in the discussions, at both the national and international levels. A number of indigenous representatives had been members of delegations representing Governments or employers' or workers' organizations, and many others had attended as observers.

108. It was necessary to ensure close co-ordination between the standard-setting efforts of ILO and of the United Nations, and the secretariats of the two organizations maintained close contacts on a regular basis while the deliberative bodies of both organizations were kept informed of developments. Care had been taken to ensure that nothing in the draft revised ILO Convention would preclude the development of more stringent standards in the declaration currently under consideration by the Sub-Commission's Working Group. ILO would keep the Commission fully informed of further developments and expected that, before the next session of the Commission, a new international convention on that important subject would have been adopted.

109. Mr. NCHAMA (International Movement for Fraternal Union among Races and Peoples) said that Burundi was an ancient kingdom in central Africa which had been occupied by the Germans from 1895 to 1919, when it had been placed under a Belgian mandate. In 1952, Belgium had begun to democratize Burundi's political institutions, and the elections of 18 September 1961 had been won by the Party of the Union for National Progress (UPRONA).

110. On 13 October 1961. Prince Louis Rwagasore, the head of the UPRONA Party, had been assassinated, and the political void left by his death was to be a determining factor for the future of Burundi. On 1 July 1962, the independence of Burundi had been proclaimed, and the multi-party system had remained in force until 1965. In January 1965, King Mwambutsa IV had appointed Pierre Ngendandumwe as Prime Minister. On 15 January 1965, Ngendandumwe, who belonged to the Hutu people, had been assassinated.

111. In May 1965, King Mwambutsa had refused to ratify the popularly elected Parliament, and that unfortunate situation had led to a failed coup d'état against the monarchy on 19 October 1965. The result had been the first large-scale massacre in Burundi. On 8 July 1966, Prince Charles Ndizeye had deposed his father and had assumed the throne under the name of Ntare V. On 28 November of the same year, the young monarch had been overthrown by Captain Micombero Michel, who proclaimed the Republic. On 18 April 1968, the Minister of Information, Commander Ndayahoze Martin, had revealed in a political report to President Micombero, a genocidal plan directed against the majority population. The plan had been originated by Simbananiye Arthémon, one of the most influential men in the country. In 1969, several hundred members of the Hutu elite had been massacred.

112. In April 1972, the massacres spread to the rural population, taking the lives of between 150,000 and 300,000 people and forcing more than 400,000 people to flee the country. The act of genocide had been directed against the Hutu people. On 1 November 1976, General Micombero had been replaced by Colonel Jean-Baptiste Bagaza, who had initiated a policy of "intellectual genocide". Bagaza had adopted a number of measures aimed at depriving the Hutu people of the right to education and to serve in the army. Bagaza had opposed the Church, which was capable of promoting the rights of the Hutu population, and had introduced a system of rotation in military training in order to give the Tutsi minority control of the army.

113. On 3 September 1987, Bagaza had been overthrown but the situation had remained very tense. Major Pierre Buyoya had been unable to handle the legacy of the Bagaza régime and his machinations had led to the emergence of a genocidal plan which recalled that of 1972.

114. The tragic events of August 1988 had taken 5,000 lives according to government sources (more than 50,000 lives according to other sources) and forced 65,000 people to flee Burundi. On 22 August 1988, 27 intellectuals had denounced that act of genocide in an open letter to the President of Burundi. All 27 had been persecuted, dismissed from their jobs or expelled from university. Some had been imprisoned and others had been forced into exile. They were all members of the Hutu population. On 19 October 1988, a government had been formed, which included 11 Hutu, including the Prime Minister, and 12 Tutsi. However, power in Burundi was held by the Military Committee for National Safety, which consisted of 31 members, all from the Tutsi minority.

115. From 9 to 11 November 1988, a quadripartite Ministerial Conference, consisting of Burundi, Rwanda, Zaire and the Office of the United Nations High Commission for Refugees (UNHCR), had been held at Butare in Rwanda. The Conference had resulted in an agreement to repatriate refugees from Burundi to their country of origin. There were still approximately 1,300 refugees from Burundi in Rwanda who did not wish to return to Burundi. Although the Government of Burundi had promised not to ill-treat refugees who returned to Burundi, it was difficult to predict how long the agreement concluded at the Ministerial Conference would be respected.

116. On 2 February 1989, Lieutenant-Colonel Ndakazi Edmond and three other military officers had been killed in a helicopter accident. Edmond had been regarded as the most moderate of the 31 members of the Military Committee for National Safety.

117. The only guarantee for stability and development in Burundi was the promotion and protection of human rights and the rights of peoples. Consequently, the Commission should appoint a special rapporteur to study the situation of human rights and fundamental freedoms in Burundi within the context of the advisory services. The African States members of the Commission should endeavour to promote such a resolution in order to end the repeated massacres that had been taking place in Burundi for almost 30 years.

The meeting rose at 6 p.m.