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COMMISSION ON HUMAN RIGHTS

Forty-first session

SUMMARY RECORD OF THE 42nd MEETING

(First part) */

Held at the Palais des Nations, Geneva,
on Tuesday, 5 March 1985, at 3 p.m.

Chairman: Mr. CHOWDHURY (Bangladesh)

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

*/ The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.42/Add.1.

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- (b) The effects of the existing unjust international economic order on the economies of developing countries, and the obstacle that this represents for the implementation of human rights and fundamental freedoms;
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The meeting was called to order at 3.35 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES (agenda item 12) (continued) (E/CN.4/1985/17, 18 and 21)

1. Mr. WAKO (Special Rapporteur on Summary or Arbitrary Executions) introduced his report (E/CN.4/1985/17). He recalled that when his mandate had been renewed, he had been requested to respond as effectively as possible when a summary or arbitrary execution was imminent or threatened. Consequently, he had sent urgent appeals to 13 Governments in the course of the preceding year. Of that number, only two had replied, the Governments of Bangladesh and Somalia. The Governments of Afghanistan, Angola, Cameroon, Guatemala, the Islamic Republic of Iran, Kuwait, Liberia, Nigeria, Pakistan, Sudan, and the United Arab Emirates had not responded. However, he had received information that in Angola, Pakistan, Sudan and the United Arab Emirates some of the death sentences had been commuted to terms of imprisonment.
2. In his conclusions and recommendations, in paragraph 78 of his report, he had stressed that he had addressed urgent communications to Governments on an entirely humanitarian basis. So far, the procedure had been limited to messages sent by telex, but the Commission might consider other methods of action in urgent cases. In that connection, he wished to thank the Governments of Bangladesh and Somalia for their immediate responses to his telex messages.
3. The previous year, he had, for the first time since the beginning of his mandate, visited a Member State, Suriname, at the invitation of the Government. The purpose had been to inform himself about the unfortunate events that had taken place in that country in December 1982. The account of his visit to Suriname appeared in annex V of the report E/CN.4/1985/17. As he had stated in paragraph 14 of the annex, he had not conducted a formal investigation which might "correspond to or replace the investigations envisaged in criminal procedure in the domestic legal system". He had simply wanted to describe as comprehensively as possible the information which he had gathered about the events of December 1982. In his task, he had received the full co-operation of the Suriname Government, to whom he addressed his thanks.
4. There were several versions of what had happened in Suriname in December 1982 but whatever version was accepted, summary or arbitrary executions had indeed occurred on the night of 8 to 9 December 1982; the versions varied only with regard to who was responsible. The question now was what measures had been taken or should be taken to ensure that such events did not recur. The answer must rest primarily with the people of Suriname themselves. As he had stated in the concluding remarks in paragraph 66 of annex V of his report, "what is important is that mutual trust should be created, enabling every Surinamese to participate in the discussions about the future of his country and the democratic structures on which it should be based". That paragraph continued: "Those structures should take into account the international covenants to which Suriname is a party, so as to ensure, in particular, protection of the right to life and to guard against summary or arbitrary deprivation of life". In Suriname, a start had been made with the promulgation of Decrees A-15 of 3 February 1984 and A-16 of 13 July 1984, creating the framework for dialogue between the military, the trades unions and the trade and industry organizations. The delegation of Suriname would be able to provide other information. Moreover, it was up to the people of Suriname to

request the assistance of the international community. He stressed that the invitation of the Suriname Government and its co-operative attitude set an example that other Governments should follow.

5. Allegations of summary or arbitrary executions had been made in respect of 21 Governments. They had been communicated to the Governments concerned and as had been mentioned, a number had replied. As he had stated in paragraph 62 of his report, he felt it necessary to examine those replies from the Governments and to seek, if appropriate, further clarification. Furthermore, Governments must have more time in order to investigate the allegations. Unfortunately, the previous year, three Governments had not replied, in spite of the extended time-limit they had been given: they were those of the Islamic Republic of Iran, the Libyan Arab Jamahiriya and Malawi. Nevertheless, the investigations instituted by certain Governments during the previous year was an encouraging development.

6. He drew the attention of the Commission to the conclusions and recommendations in paragraphs 76 and 77 of his report concerning the responsibility of groups other than Governments and summary or arbitrary executions which were not politically motivated. In view of the close relationship between summary and arbitrary executions and violations of other rights, he welcomed the adoption by the General Assembly of the Convention Against Torture. To eradicate the practice of summary or arbitrary executions, Governments must rise to their responsibilities: he therefore urged Governments which had not already done so to co-operate with him and assist the Commission, in order to ensure universal protection of the right to life. He regarded his mission primarily as initiating a dialogue with Governments. He did not want to level accusations but rather to see, in co-operation with Governments, what could be done to end summary or arbitrary executions. He would be grateful if Governments would make contact with him during the session with a view to holding discussions which could not fail to be useful.

7. Mr. PASTOR RIDRUEJO (Special Representative on the situation of human rights in El Salvador) introduced his report on the situation of human rights in El Salvador (E/CN.4/1985/18) in conformity with Commission resolution 1984/52. He stated that Mr. Duarte's new Government, which had been formed following the presidential elections of 25 March and 6 May 1984, had tended to be more favourable to human rights than had been the case in previous years. It was to be hoped that the trend would be confirmed in 1985. The number of murders, abductions and "disappearances" of a political nature had decreased in 1984. A dialogue had been initiated between the Government and the FDR-FMLN Alliance. However, the talks had not yet brought about a negotiated and stable peace, and the war continued to cause many casualties.

8. The decrease in the number of political murders and "disappearances", about which he had provided data in his report, was primarily due to the measures taken by the Government in 1984 to combat the criminal activities of certain State organs and paramilitary organizations such as those known by the name of "death squads". In particular the new Government had disbanded the intelligence section of the Treasury Police and dismissed 45 local commanders of that unit. In January 1985 however, according to a report from Christian Legal Aid, there had still been 225 arbitrary executions in El Salvador attributable to the army, official services and the "death squads". The New York Herald Tribune of 26 February 1985, had reported that between 15 and 22 January, 157 civilians, rebels and soldiers of the regular army had been killed, according to information supplied by the

Auxiliary Bishop, Mgr. Roca Chávez. Mgr. Chaves and the Archbishop of El Salvador, Mgr. Rivera, had been subjected to threats, probably from the extreme right, which had prompted the Government to give them police protection. It appeared that murders and abductions by the guerrilla organizations had been much less numerous in 1984 than those attributable to the official services and the "death squads". Furthermore, they were reported to have been committed by factions which had broken with the FMLN.

9. The criminal justice situation in El Salvador continued to be far from satisfactory. Most of the criminal violations of human rights committed in recent years had still not been the subject of investigation or proceedings. However the present authorities intended to carry out a thorough reform of the legal system; that would hardly produce tangible results in the short term, but progressive action was being taken.

10. One very disturbing aspect of the human rights situation in El Salvador was the grave violations of the 1949 Geneva Conventions and the 1977 Additional Protocols on the Protection of Victims of War, to which El Salvador was a party and which applied to the current type of internal conflict in El Salvador. It appeared from statements which, taken together, were reliable that the Salvadorian Air Force was carrying out bombing raids which caused numerous casualties in the non-combatant population. Army units were reported to have been guilty of the collective massacres of civilians. The number of such victims was difficult to assess because it was hard to distinguish between combatants and non-combatants and because human rights organizations could hardly conduct on-the-spot investigations in view of the danger. In August 1984, the President of the Republic and the Armed Forces High Command had issued orders that air support operations must not endanger the civilian population; it was to be hoped that those orders would be effectively implemented.

11. For its part, the guerrilla forces stated that they released the soldiers that they had captured through the ICRC but reliable sources such as the Americas Watch Committee reported that they had also murdered regular soldiers they had made prisoner. The FMLN had forcibly recruited young Salvadorians, but it seemed that practice had been discontinued. On the other hand, the systematic attacks by that organization against the economic infrastructure of the country impoverished it and affected the enjoyment of economic, social and cultural rights.

12. Before the global discussions which President Duarte had announced to the United Nations General Assembly and which had started on 10 October 1984 in the town of La Palma, there had been contacts on specific points which had, for example, led to the exchange of prisoners and wounded. The global talks proposed by President Duarte would not be easy, but they were essential and responded not only to the wishes of the international community but also and above all to the Salvadorian people's desire for peace. The objective of the dialogue was a negotiated peace. Unfortunately, information over the two preceding months, which it had not been possible to include in the report E/CN.4/1985/18, made it clear that the talks had been suspended. According to the Washington Post, President Duarte had demanded that the rebels should make a preliminary declaration renouncing the use of force. However, according to articles appearing in the Madrid press, the Salvadorian Government was willing to pursue the dialogue after the legislative elections scheduled for the end of March.

13. At the time of his visit in September 1984, he had been able to observe that in the context of the critical process of democratization currently under way throughout El Salvador, the question of respect for human rights had become a major concern of the Government. That concern was borne out by numerous Government measures, referred to in chapter VII of the report (E/CN.4/1985/18); the authorities had undertaken to disband the "death squads" and to reorganize the security forces; they had also appointed a presidential commission to inquire into certain serious human rights violations; mention could also be made of the activities of the governmental Human Rights Commission, activities aimed at making the war more humane, efforts to make all citizens aware of the need to respect human rights, etc. It was to be hoped that those efforts would be continued and that they would soon have the desired effect, because the Salvadorian people who were bearing the brunt of the present situation needed a great deal more than good intentions.

14. In his previous report, he had stressed the considerable gap between the intentions expressed by the previous Government and the prevailing situation. It was possible to state that the gap had been narrowed during recent months. There was no doubt that the Salvadorian Government had adopted new approaches and that it had the will to establish a pluralist democracy in which the rule of law and respect for human rights would prevail. But it remained none the less true that the gap still existed and that very serious violations were still committed, particularly during the fighting. For that reason, all the powers, legislative, executive and judicial, must combine their efforts to improve the situation.

15. In conclusion, he stated that he was at the disposal of members of the Commission to provide clarification on his report and he thanked the Salvadorian Government, the FDR-FMLN and all the other bodies concerned in the country for their valuable co-operation.

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS (agenda item 22) (continued)
(E/CN.4/1985/9 and Add.1; E/CN.4/1985/30, 31, 32 and 36; E/CN.4/1985/L.39)

16. Mrs. DOLGOPOL (International Commission of Jurists) said that advisory services in the field of human rights had an important part to play in the protection and promotion of human rights. The work of the United Nations in that area had progressed through several stages: after the development of universal standards acceptable by all, Member States had turned their attention to devising implementation mechanisms. The third phase, on which they had now embarked, was concerned with the effective implementation of the standards. That might be achieved in various ways but it must, as a minimum, include the review of national legislation to make sure that it was in conformity with a State's international obligations, the preparation of reports in conformity with the provisions of the relevant international instruments and the adoption of measures enabling individuals in every country to enforce respect for their rights.

17. Although such tasks were easy to define, they were much more difficult and expensive to accomplish. Many countries could not call on the requisite human and financial resources needed to conduct a complete review of their legislation and practices, nor were there adequate resources to review existing institutions through which newly created rights might be enforced. Thus if the international community wanted respect for human rights to become a reality, it must help countries to fulfil their obligations. Such assistance would contribute towards ensuring respect for human rights and, in the long term, would be more effective than belated reactions to abuses already committed.

18. The Commission had recognized the validity of such an approach and had requested the Secretary-General at its previous session, to develop a long-term programme of action in the field of advisory services. Among the suggestions in the Secretary-General's report (E/CN.4/1985/30), certain deserved special attention, for example those relating to the development of public information and promotional activities, regional and field activities, the development of practical training programmes, both in Geneva and in the field, technical assistance for the strengthening of legal institutions, the development of model legislation and measures to promote the ratification of International Covenants on Human Rights and other relevant instruments.

19. It would be well to recall that the most important stage in the implementation of the existing human rights instruments was their ratification by all countries. More should be done to encourage ratification and in that respect, the International Commission of Jurists supported the suggestions made by the Sub-Commission's Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments, including that of requesting the Secretary-General to make informal contacts with Governments to discuss the prospects of ratifying those instruments. It should be noted that countries might be in need of advisory services for the ratification procedure. Several countries had already indicated that they would need expert advice about the obligations they would be undertaking.

20. The International Commission of Jurists had been following the development of the advisory services programme, and believed that the appointment of regional advisers would be a major step forward. The advisers, who would co-operate with the Government officials of the countries concerned, should know the region to which they were assigned and be familiar with its cultural traditions and legal systems. Their presence alone would probably increase the number of requests for advisory services. Although the nature of their duties would depend in part on the services requested by each Government, their primary role should be to assist countries to review their laws and institutions before ratification, and to give whatever assistance was necessary after ratification. The use of independent experts should be considered, particularly when a comprehensive review of national legislation had to be undertaken.

21. With regard to the need to strengthen legal institutions, it was important to realize that lack of financial resources hampered the way they functioned in many countries. Judges often worked with inadequate facilities, and in local courts, they often worked without the necessary legal texts. Lawyers were handicapped by the fact that the authorities did not disseminate the texts of new laws and recent decisions widely enough; new legislation to apply human rights standards would be useless if it did not come to the knowledge of all those concerned.

22. With regard to the development of model legislation, the Centre for Human Rights should not concentrate on drafting detailed texts, but rather on the formulation of basic concepts that should be included in legislation. The object of the advisory service was not to standardize legislation, but to work out schemes which suited a particular national context and which took account of the culture, traditions and specific needs of each people. It would be most useful if the Centre compiled all the information it received about national institutions established for the promotion and protection of human rights, and made it available to the countries which requested it. Subsequently, the regional advisers could assist in the collection and dissemination of such information.

23. Public information and promotional activities were vital to respect for human rights. The International Commission of Jurists had organized several regional

seminars from which it had become apparent that it was essential to do more to educate people about their rights. In the area of human rights, the promulgation of legislation was only a first step.

24. In the view of the International Commission of Jurists, advisory services should be offered for each of the human rights instruments considered annually by the Sub-Commission's Working Group on the Encouragement of Universal Acceptance of Human Rights Instruments. Several of those instruments contained articles dealing with issues within the competence of the United Nations specialized agencies and some agencies had already developed programmes to assist countries to fulfil their obligations in that respect. Hence, when the Centre for Human Rights prepared its advisory services programmes, it should work in co-ordination with the specialized agencies. That had already become clear from the reports on expert services offered to Bolivia, Equatorial Guinea, Haiti and Uganda.

25. She was well aware of the current funding constraints within the United Nations system, but she thought it was essential to give serious consideration to increasing the resources made available to the advisory services. Alternatively, thought might be given to the establishment of a trust fund which would cover the expenses of projects once the budgetary allocation was exhausted. Some method must be found to develop those services which should become an important part of the work of the Centre for Human Rights.

26. Mr. NCHAMA (International Movement for Fraternal Union among Races and Peoples) said he had read with the greatest interest the report published in document E/CN.4/1985/9 which described objectively, clearly and faithfully the situation of human rights in Equatorial Guinea.

27. He agreed with the author of that report that the United Nations should continue to provide assistance to Equatorial Guinea with a view to the full implementation of the Plan of Action proposed by the United Nations and approved by the Government. Only when all the nationals of Equatorial Guinea were free to participate fully in the life of the country could the Plan of Action be regarded as having been effectively implemented. At the present time, many nationals were still abroad because the Government had not taken a sufficiently clear-cut position or indicated the measures that it intended to take to restore respect for human rights and fundamental freedoms.

28. When the Fundamental Law of Equatorial Guinea had been drafted, the main political leaders of the country had not yet returned home. The Government had not convened a constituent national assembly to prepare the Law; it had confined itself to appointing a pro-Government group to discharge that task, without taking account of other viewpoints. If one considered the Fundamental Law in its entirety, one saw that it set out all the duties of the citizen but almost never mentioned his rights. It was a constitutional text designed to secure the President of the Republic's ascendancy over all organs of States, none of which were empowered to monitor the actions of the President himself.

29. Certain parts of the Fundamental Law deserved more detailed comment. Chapter II, which dealt with political rights (articles 23-28), did not specify whether the political system of Equatorial Guinea was a one party or pluralist system; nor was it clear how citizens should go about exercising public functions. In article 90 (e) on the qualifications to be President of the Republic, it was laid down that he must have lived in the country for 10 years. That provision, in his view, would enable the present President of the Supreme Military Council to maintain himself in power for life. Article 93 empowered the President of the Republic, in the event of imminent danger, to suspend the application of chapter III

relating to the rights and duties of individuals: that article was incompatible with articles 6, 7 and 8 (1) and (2), 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights since it suspended the provisions relating to the right to life. Under article 94, the President of the Republic might proclaim a state of siege or emergency without specifying its duration: that issue had already been studied by a member of the Sub-Commission (E/CN.4/Sub.2/1982/15) in 1982. The author of the study had recommended that emergency measures should have time-limits. Articles 99 to 103 defined the powers of the "Council of State", the supreme organ of the State, all of whose members, however, were appointed by the President of the Republic. Article 119 prescribed that the Chamber of Representatives of the People was empowered to approve the amendments submitted by the Government on constitutional matters, and that it did not have the power to reject them. Finally, it appeared from article 147 that justice could not be impartial in Equatorial Guinea since the President and the members of the Supreme Court were appointed by the President of the Republic who in addition appointed all the other members of the judiciary. The supplementary provision to the Fundamental Law a priori appointed Mr. Obian Nguema Mbasago as President of the Republic: that fact in itself proved that the authorities of Equatorial Guinea, far from worrying about the public interest, were concerned primarily to keep themselves in power for good.

30. Specialists on constitutional law who had analysed the Fundamental Law of Equatorial Guinea were in agreement on the fact that it did not guarantee respect for human rights and fundamental freedoms. In a study carried out in 1983, Mr. Joseph Owona, Professor at the University of Yaoundé (Cameroon), concluded that "two conflicting constitutions" coexisted in the Fundamental Law of Equatorial Guinea: the "programme Constitution" granted rights universally recognized and made a gesture towards a representative régime while the "latent" and "transitional Constitution" annulled the former by the way it "constitutionalized" duties and institutionalized emergency legislation. He considered that such institutions opened the door to the worst abuses. The International Commission of Jurists had also conducted a study (E/CN.4/1984/NGO/27) whose conclusions had been similar.

31. The International Movement for Fraternal Union among Races and Peoples supported the recommendations and conclusions in document E/CN.4/1985/9, since they were calculated to promote the restoration of human rights and fundamental freedoms in Equatorial Guinea.

32. With regard to the assistance provided in the area of human rights, he stressed that so far, the international community had been very active in the way of economic and military assistance, but had done virtually nothing for human rights. It would be preferable to provide over-all assistance, linking aid to countries in the southern hemisphere to the way in which they respected human rights and fundamental freedoms. The provision of economic and military assistance to entrenched oligarchies helped them to commit the human rights violations of which they were guilty, whereas the tying of such assistance to respect for human rights would contribute to world peace, international solidarity and the North-South dialogue. It was strange that, at the present time, the more a Government violated human rights the more assistance it received from abroad. When the International Monetary Fund imposed a line of conduct on Governments, nobody mentioned interference, but if the question arose of tying technical assistance to respect for human rights, everyone complained about interference in the internal affairs of States; what was involved was not interference, but rather an effective method of promoting and protecting human rights throughout the world.

33. Mrs. BOJKOVA (Bulgaria) said that her country had always appreciated the valuable contribution the advisory services could make to the development of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms.

34. Her delegation had carefully studied document E/CN.4/1985/30. Section B of that document, on a long-term programme of action, was based on the report of the meeting of the Chairmen of the Commission on Human Rights, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights, which had been held in Geneva in 1984 (see document A/39/484 of 20 September 1984 and E/CN.4/1985/30, paragraph 4). At the thirty-ninth session of the General Assembly, Bulgaria had already expressed its view on the organization of that meeting, namely, that the chairmen of the various organs set up in implementation of the relevant international instruments were not representative of those organs, particularly when controversial issues were addressed. Furthermore, the Chairman of the Committee for the Elimination of Discrimination against Women and the Chairman of the Group of 3 had not attended the meeting.

35. However, she noted that the suggestions for a long-term programme of action, included a proposal to hold more seminars. Her delegation completely endorsed that suggestion, and had always been ready to support the organization of such seminars and to participate in them. For example, her delegation had supported the decision to organize, in December 1984, a seminar on the encouragement of understanding, tolerance and respect in matters relating to freedom of religion or belief; Bulgaria had not been invited to participate in the seminar, however, even as an observer. It was still wondering about the reasons for that omission and the criteria applied by the Centre for Human Rights in that respect. In such cases, participants should be selected from States Members of the Commission in accordance with the provisions of document E/CN.4/1192, on advisory services. It was evident from the list of participants in the seminar that they had not been chosen in accordance with that method.

36. However, Bulgaria, which was a long standing member of the Commission, was ready to continue supporting all projects for the organization of seminars in the area of human rights; in particular, it supported the proposal made at an earlier meeting by the representative of the Soviet Union. Her delegation thought that the recent adoption by the General Assembly on the Declaration on the Right of Peoples to Peace (A/RES/39/11) was a major landmark both from the standpoint of the over-all activities of the United Nations and from the specific standpoint of human rights. The adoption of the Declaration was not an isolated event; for example, it would be recalled that article 20 of the International Covenant on Civil and Political Rights stipulated that any propaganda for war should be prohibited and that at its twenty-third session in November 1984, the Human Rights Committee had deemed it necessary to adopt by consensus a "General comment on the right to life". That unequivocal moral stand by the Committee on the threat which nuclear weapons posed to the right to life and the very existence of mankind constituted in her view an important advance in United Nations human rights activities. It was for that reason that Bulgaria supported the proposal made by the Soviet delegation to organize a seminar on the right of peoples to peace and life in 1986, a year which would also be International Peace Year. By adopting the proposal, the Commission would make a significant contribution to the celebration of International Peace Year.

37. Mr. PEARCE (Australia) said that his country had for many years held the view that advisory services in the area of human rights played a critical but much underrated role in international co-operation in that regard. Governments and the public tended to pay greater attention to the activities of the Commission in combating gross violations of human rights, while the unspectacular but essential task of supporting the developing in all countries of the knowledge and expertise which could prevent the occurrence of such violations had proceeded in an atmosphere of inertia, if not neglect. Of course, questions of resources were involved and it was true the funds available for the programme were not adequate to enable it to operate at an optimum level. Nevertheless, various commendable innovative steps had been taken over recent years to provide advisory services to States which had suffered massive violations of human rights to help them to improve their institutional framework and to promote a better understanding of, and respect for, the obligations they had accepted under the various international human rights instruments.

38. His delegation had noted the suggestions made under the programme of advisory services and expert assistance to Governments in the field of human rights, as set out in paragraph 7 of document E/CN.4/1985/30. It supported the proposal contained in (a), and it agreed that training courses might offer more practical long-term benefits to the people of the regions concerned than the organization of seminars on more general topics. His delegation also noted the economies which could be achieved by conducting such training courses in only one language. With regard to practical aids to promote the teaching of human rights, mentioned in (c), it would be sensible for the Secretariat, in seeking to develop teaching aids and materials which could be used in a variety of contexts, to take due account of the work which had been done at the national level. It should be pointed out, for example, that the competent Australian authorities, including the Australian Human Rights Commission, had developed effective teaching materials.

39. Australia had taken a particular interest in methods to enhance the effectiveness of the reporting obligations of States under the international instruments on human rights. In that connection, it had been a sponsor of General Assembly resolution 38/117, under which the meeting of the Chairmen of the various organs responsible for considering reports submitted in conformity with the different human rights instruments had been convened. The recommendations which had come out of that meeting, some of which were of greater practical value than others, deserved serious consideration. His delegation supported in particular the recommendation concerning a manual providing practical advice on the preparation, submission and consideration of such reports (paragraph 4 (a)). Furthermore, the idea of the development of a system of regional advisers should be considered in more detail in conjunction with the development activities of the regional organizations and regional offices of the United Nations.

40. Mr. PAZ CLAROS (Observer for Bolivia), referring to document E/CN.4/1985/36, observed that the advisory services provided in 1984 in the field of human rights had been valuable, although limited, since few countries had requested such assistance.

41. The seminars scheduled for 1985 should have a broad base of participation and should preferably take place in countries requesting them.

42. Since the fellowship programme was crucial for the promotion of human rights, the duration of fellowships should not be limited, as the Secretary-General had announced in note G/SO 216/21 of 21 February 1985 which he had addressed to

Governments but, instead, extended in duration as well as in number. In 1984, against 73 nominations for scholarships, only 30 had been recommended, all for different countries. It was to be hoped that the figure would be higher in 1985.

43. It was clear that the Commission must ask for the resources allocated to the advisory services programme in the field of human rights to be increased.

44. His delegation noted that in 1984 no training course on human rights had been organized and it observed with regret that few Governments had availed themselves of the expert advisory services which had nevertheless been available since 1956.

45. The Bolivian Government itself was interested in advisory services in the field of human rights, training courses and the organization of seminars. Accordingly, it had submitted to the Centre for Human Rights various projects which were under consideration and it hoped that they would be implemented as soon as possible (E/CN.4/1985/31, paragraphs 4 and 7).

46. Referring to paragraphs 2 and 3 of that document (E/CN.4/1985/31), he thanked the Governments of Cyprus, the Netherlands and Venezuela, together with ILO, FAO, UNESCO, WHO, UNDP, the Department of Technical Co-operation for Development and UNHCR which had stated their readiness to contribute to the economic and social recovery of Bolivia, in accordance with the suggestions made by the Special Envoy of the Commission in his report on assistance to Bolivia, submitted to the preceding session (E/CN.4/1984/46). Everyone was aware that Bolivia, a country in which democratic liberties had been restored on 10 October 1982, was currently passing through a serious social, economic and political crisis as a consequence of the military dictatorships under which it had lived, its current state of dependence, and the world economic recession. Its situation was aggravated still further by natural disasters - drought and floods - that had afflicted a great part of the country in 1983. Furthermore, the foreign debt of over \$4 billion considerably hampered the economy of the country, which had to allocate 70 per cent of its export earnings to pay the interest on that debt. In 1984, the inflation rate in Bolivia had soared to a lamentable world record of 2,700 per cent. According to preliminary estimates, the rate of increase in GDP was close to zero, exports had fallen by 20 per cent, while the price of the main export commodity, tin, had recently been quoted at under \$5 per lb. of pure metal. That situation naturally had a disastrous impact on the level of employment and living standards of the majority of the population. The economic crisis was reflected in constant strikes, which were likely to make the problem still worse.

47. Nevertheless, his Government was continuing and would continue to respect fundamental freedoms and human rights. In that spirit, it appealed to the international community for the assistance recommended in Commission resolution 1984/43 and Economic and Social Council resolution 1984/32 to be provided as soon as possible. Specifically, it hoped that the recommendations in the Special Envoy's Report (E/CN.4/1984/46) would be implemented rapidly, particularly the following: a project submitted by the Ministry of Education and Culture, for the teaching of human rights at all levels of education in urban and rural areas; a project submitted by the Bolivian University for the creation of a Human Rights Chair in institutes of higher education; a project submitted by the Ministry of the Interior, Migration and Justice relating to the reorganization of penal establishments and the training of specialized staff; the allocation of a greater number of fellowships in the area of human rights; a project submitted by the Ministry of Health concerning the improvement of basic economic conditions in order to solve problems in the health services; a project submitted by the Ministry of Planning

and Co-ordination to evaluate the extent of extreme poverty. Finally, his Government would like to receive technical assistance to clear up cases of forced or involuntary disappearances, as recommended by the Working Group on Enforced or Involuntary Disappearances in its latest report (E/CN.4/1985/15).

48. His delegation requested the Commission to give consideration to those requests and to the draft resolution which it was submitting through the Colombian and other delegations.

49. His delegation wished to thank the Centre for Human Rights for allocating two fellowships to Bolivia, for translating into the vernacular languages of Bolivia the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Optional Protocol thereto, and for facilitating the co-ordination of bilateral and multilateral assistance to Bolivia.

50. The CHAIRMAN gave the floor to the French delegation which wished to make an official statement.

51. Mr. CLEMENT (France) noted that the delegation of an observer country had just distributed in the conference room, during an official meeting of the Commission, several documents which contained a number of accusations against France. Accordingly, his delegation reserved the right to give the appropriate clarifications.

52. The CHAIRMAN said that the French delegation would be able to exercise that right.

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 DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS, INCLUDING:

- (a) PROBLEMS RELATING 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 DEVELOPING COUNTRIES, AND THE OBSTACLES 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) (E/CN.4/1984/12 and Add.1; E/CN.4/1984/13 and Corr.1 and 2; E/CN.4/1985/10 and Add.1; E/CN.4/1985/11; E/CN.4/1985/NGO/7, 9, 21 and 33)

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) (E/CN.4/1985/4; A/C.3/35/L.75; A/39/461 and 484)

53. Mr. HERNDL (Assistant Secretary-General for Human Rights) first introduced agenda item 8. He recalled that by its resolution 2 (XXXI) of 10 February 1975, the Commission had decided to keep the question on its agenda as a standing item with high priority, that by its resolution 6 (XXXVI) of 21 February 1980, the Commission had expanded the title of the item to include subitems (a) and (b) and had decided at its thirty-ninth session, in response to General Assembly resolution 37/55, to include subitem (c).

54. At its thirty-fifth session in 1979, the Commission had had before it a study entitled "The international dimensions of the right to development as a human right in relation to other human rights based on international co-operation, including the right to peace, taking into account the requirements of the New International Economic Order and fundamental human needs" (E/CN.4/1334). That study had been prepared pursuant to Economic and Social Council Decision 229 (LXII).

55. By its decision 1979/29, the Economic and Social Council had endorsed a recommendation of the Commission to invite the Secretary-General to undertake a follow-up study on the regional and national dimensions of the right to development as a human right, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of that right. At its thirty-seventh session, the Commission had had before it the first part of that study (E/CN.4/1421) and at its thirty-eighth session, the remaining parts (E/CN.4/1488).

56. By its decision 1981/149, the Economic and Social Council had approved the Commission's decision in resolution 36 (XXXVII) of 11 March 1981 to establish a Working Group of 15 governmental experts appointed by the Chairman of the Commission, taking into account the need for equitable geographic distribution, to study the scope and content for the right to development and the most effective means to ensure the realization, in all countries, of the economic, social and cultural rights enshrined in various international instruments, paying particular attention to the obstacles encountered by developing countries in their efforts to secure the enjoyment of human rights. At each of its subsequent sessions, the Commission had had before it the reports of that Working Group and had renewed its mandate. At its fortieth session, the Commission had considered the report of the Working Group on its sixth and seventh sessions (E/CN.4/1984/13 and Corr.1 and 2). In its resolution 1984/16, the Commission had taken note with satisfaction of the progress made so far by the Working Group and had requested it to submit to the Commission at its forty-first session a report and concrete proposals for a draft declaration on the right to development. It had decided to consider the question as a matter of high priority at its forty-first session, with a view to taking a decision on the work undertaken on the draft declaration submitted by the Working Group and to review the need for the Working Group to continue its activities. The Working Group had held its eight session from 24 September to 5 October 1984 and its ninth session from 3 December to 14 December 1984. Its report on the work of those last two sessions appeared in document E/CN.4/1985/11.

57. In its resolution 39/145, the General Assembly had expressed concern at the present situation with regard to the achievement of the objectives and goals for establishing the new international economic order and its adverse effects on the full realization of human rights and, in particular, the right to development; it had affirmed that the right to development was an inalienable human right and that international peace and security were essential elements in achieving the full realization of the right to development. Accordingly, the General Assembly had requested the Commission on Human Rights to take the necessary measures to promote that right, taking into account the results of the Working Group of Governmental Experts on the Right to Development and it had welcomed the Commission's decision in its resolution 1984/16 that the Working Group should continue its work with the aim of presenting as soon as possible a draft resolution on the right to development. The General Assembly had further requested the Secretary-General to transmit to it at its fortieth session a report containing information on the progress made by the Working Group in the drafting of the declaration.

58. He further recalled that by its resolution 34/152, the General Assembly had requested the Secretary-General to organize, within the programme of advisory services and bearing in mind the goals and objectives of the new international development strategy when adopted, an international seminar to compare policies, institutions and experiences of Member States in the participation of all sectors of society in their economic and social development, as well as collective bargaining, worker participation in management and workers' self-management, and to submit a report on the results of that seminar to the General Assembly at its thirty-seventh session. By its resolution 37/55, the General Assembly had taken note with appreciation of the report of the Secretary-General on the International Seminar on Popular Participation (A/37/442) and had requested the Commission to consider at its thirty-ninth session the question of popular participation in its various forms as an important factor in development and in the realization of human rights, taking into account, inter alia, the results of the deliberations of the seminar, as contained in the Secretary-General's report, and to submit to the Assembly, through the Economic and Social Council, appropriate suggestions for the more complete realization of human rights.

59. In its resolution 1983/14, the Commission had considered that the full exercise of the right to popular participation was an important factor not only in the development process but also in the realization of the full range of human rights, civil and political as well as economic, social and cultural and had recommended a draft resolution for adoption by the Economic and Social Council which had been adopted by the Council as resolution 1983/31. In that resolution, the Council had requested the Secretary-General to undertake a comprehensive analytical study on the right to popular participation in its various forms as an important factor in the full realization of all human rights, and to submit a preliminary study to the Commission at its fortieth session and the final study at its forty-first session.

60. By its resolution 38/24, the General Assembly had requested the Commission to continue to consider at its fortieth session the question of popular participation in its various forms as an important factor in the realization of all human rights and it had requested the Secretary-General to submit a report to it at its fortieth session in order to review the progress made in that field, taking into account, inter alia, consideration of the item at the fortieth and forty-first sessions of the Commission.

61. By its resolution 1984/15, the Commission had invited those Governments, United Nations organs and specialized agencies that had not yet done so to transmit their comments and views to the Secretary-General, as called for in Council resolution 1983/31 and had decided to continue the consideration of the question at its forty-first session. That resolution had been endorsed by the Economic and Social Council. Consequently, the Commission had before it the final study by the Secretary-General on the right to popular participation in its various forms as an important factor in the full realization of all human rights (E/CN.4/1985/10 and Add.1). He drew the Commission's attention to General Assembly resolution 39/145, by which the Assembly urged all States to co-operate with the Commission in the promotion and protection of human rights and fundamental freedoms and reaffirmed once again that, in order to facilitate the full enjoyment of all rights and complete personal dignity, it was necessary to promote the right to education, work, health and proper nourishment through the adoption of measures at the national level, including those that provided for workers' participation in management, as well as the adoption of measures at the international level, including the establishment of the new international economic order.

62. Finally, he also drew the Commission's attention to Economic and Social Council decision 1983/140, by which the Council, noting Commission resolution 1983/16, had authorized the Sub-Commission to entrust a Special Rapporteur, Mr. Asbjørn Eide, with the preparation of a study on the right to adequate food as a human right. The Special Rapporteur had presented his preliminary report to the Sub-Commission at its thirty-sixth session (E/CN.4/Sub.2/1983/25) and his progress report at its thirty-seventh session (E/CN.4/Sub.2/1984/22 and Add.1 and 2). By its resolution 1984/15, the Sub-Commission had requested the Special Rapporteur to continue his work on his study with a view to submitting his final report at its thirty-eighth session. It should be noted that the Sub-Commission had also adopted resolution 1984/19 on the new international economic order and the promotion of human rights.

63. He then introduced agenda item 18, under which the Commission had before it a report by the Secretary-General (E/CN.4/1985/35).

64. The International Covenants on Human Rights had come into force in 1976. The International Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 83 States and the International Covenant on Civil and Political Rights by 80 States. Since the last session of the Commission, the two Covenants had been ratified or acceded to by Cameroon, Togo and Zambia. Cameroon, France and Zambia had also acceded to the Optional Protocol of the International Protocol on Civil and Political Rights, thus bringing the number of States parties to the Optional Protocol to 34. Seventeen States had made the declaration under article 41 of the Covenant.

65. The Human Rights Committee, established under the International Covenant on Civil and Political Rights, had submitted its eighth annual report to the General Assembly at its thirty-ninth session (A/39/40). The report covered the activities of the Committee at its twentieth, twenty-first and twenty-second sessions. It included the consideration of reports submitted by 12 States parties under article 40 of the Covenant, as well as the text of 10 decisions formulating the views of the Committee concerning communications submitted under the Optional Protocol. The report also included a description of the Committee's approach and procedure for consideration of the second periodic reports of the States parties, commentaries on the consideration of communications under the Optional Protocol and a new set of General Comments under article 40, paragraph 4 of the Covenant. The work of the Committee's twenty-third session, which had been held from 22 October to 9 November 1984, would be covered in its next annual report.

66. The Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights, established in accordance with Economic and Social Council resolution 1982/33 and decision 1978/10, had held its sixth session at United Nations Headquarters from 16 April to 4 May 1984. It had considered reports submitted by States parties and had submitted a report to the Economic and Social Council at its first regular session of 1984, making suggestions and recommendations of a general nature, based on its consideration of reports submitted by States parties and by the specialized agencies, in order to assist the Council to fulfil in particular its responsibilities under articles 21 and 22 of the Covenant.

67. By its resolution 1984/9, the Economic and Social Council, having considered the report of the Sessional Working Group, had invited States parties to the Covenant, in preparing their reports, to comply with the guidelines established by the Secretary-General concerning the form and content of reports and had requested

the Group to continue to consider including in its report to the Council brief summaries of the consideration of each country report. The Council had also requested the specialized agencies, on the basis of experience gained in other bodies and of reports so far submitted and considered by the Group, to report on the progress made in achieving the observance of the provisions of the Covenant; it had requested the Secretary-General to take all appropriate measures to ensure that the United Nations press service issued press releases on the proceedings of the next session of the Sessional Working Group. It would be recalled that by its resolution 1984/18, the Commission had reaffirmed the importance of the Covenants as major parts of international efforts to promote universal respect for and observance of human rights and fundamental freedoms; it had encouraged all Governments to publish the text of the Covenants and the Optional Protocol in as many languages as possible and to distribute them and make them known as widely as possible in their territories and it had welcomed the measures taken by the Secretary-General to publish the documentation of the Human Rights Committee in annual bound volumes.

68. In its resolution 39/136, concerning the International Covenants on Human Rights, the General Assembly had urged the Secretary-General to continue to expedite the publication of the official records of the Human Rights Committee in bound volumes. In that connection, he was happy to inform the Commission that the documentation relating to the first to fifth sessions of the Committee, held in 1977-1978, had now been edited and indexed and would shortly be submitted to the printers. The Secretary-General would also make an effort within the next biennial term to submit to publication other documents of the Committee within available resources.

69. In the same resolution, the General Assembly had requested the Secretary-General to keep the Human Rights Committee informed of the relevant activities of the Commission and to transmit to the latter the Committee's annual reports.

70. Finally, he drew the Commission's attention to General Assembly resolution 39/138, concerning the reporting obligations of States parties to United Nations conventions on human rights, in which, inter alia, the General Assembly had taken note with interest of the report on the meeting of the Chairmen of the Commission on Human Rights, the Human Rights Committee, the Sessional Working Group of Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination, containing suggestions made by the Chairmen with regard to exchange of information among their respective bodies, co-ordination of guidelines for the submission of the reports of States parties, advisory services and assistance to States parties to the various human rights conventions and other matters; it had requested the Commission to consider the suggestions made by the Chairman on advisory services in the context of its standing item concerning advisory services in the field of human rights.

71. Mr. SENE (Chairman of the Working Group of Governmental Experts on the Right to Development), introducing the working group's report (E/CN.4/1985/11), stressed that the group had reached the crossroads in its pursuit of the mandate entrusted to it by the Commission on Human Rights, the Economic and Social Council and the General Assembly. In spite of the modest results achieved, it had carried out a considerable work of investigation and consolidation in an attempt to delimit the complicated legal problem of defining standards for the right to development. At its eighth and ninth sessions, the Working Group had been composed of experts from the following countries: Algeria, Bulgaria, Cuba, Ethiopia, France, India, Iraq, Netherlands, Panama, Peru, Poland, Senegal, Syrian Arab Republic, Union of Soviet Socialist Republics, United States of America and Yugoslavia. At its sixth session,

it had adopted a technical consolidated text (E/CN.4/1984/13 and Corr. 1 and 2) and at its seventh session it had adopted certain preambular paragraphs of the draft declaration on the right to development and the corresponding operative paragraphs, subject to a consensus. At its eighth and ninth sessions, it had made a thorough study of preambular paragraphs 6, 9, 12, 15 and 16 and of articles 1, 2, 3 and 4 of the operative part.

72. The intention of preambular paragraph 6 was to state the right of peoples to self-determination and to permanent sovereignty over their natural resources. The problem was that of reconciling differing viewpoints, some experts considering that the link between the principle of permanent sovereignty and its exercise in accordance with international law must be made clear, others being of the opinion that the mere reference to international law through international instruments was insufficient, while still others took the view that there should be a reference to the principles of international law, mutual respect and equity. A proposal by the expert from Yugoslavia, taken up by the expert from India, had greatly contributed to narrowing the gap between the points of view, although it had not been possible to reach agreement. The proposal of the expert from India appeared in annex VIII to document E/CN.4/1985/11.

73. Preambular paragraph 9 referred to the obstacles to development and the relations between civil and political rights on the one hand and economic, social and cultural rights on the other hand. The paragraph was of capital importance to some experts because the denial of human rights constituted an obstacle to development and to the fulfilment of the human being, whereas other experts considered that obstacles to development were not confined to the denial of human rights. The expert from Bulgaria had stated that the process of development could be achieved only within a just order, while the expert from the Netherlands had said that the enjoyment of certain human rights could not justify the denial of other rights and the expert from Cuba had observed that the satisfaction of economic, social and cultural rights was a guarantee for the enjoyment of civil and political rights. The expert from Panama recalled that the denial of civil, political, economic, social and cultural rights constituted a serious obstacle to development. The Working Group of Intergovernmental Experts agreed that emphasis should be placed primarily on the means conducive to overcoming the obstacles in question, as well as on the indivisibility and interdependence of the two categories of rights. The expert from India had made a proposal for paragraph 9 whose text appeared in annex VIII of the report and whose passages on which there was disagreement might be modified in order to achieve a compromise text.

74. With regard to preambular paragraph 12, the experts had referred to General Assembly resolution 38/124 and to the Final Document of the first special session of the General Assembly devoted to disarmament, held in 1978. The expert from the Soviet Union had stressed the need for urgent measures to eliminate the threat of war and to put an end to the arms race, particularly the nuclear arms race. The expert from France had thought that disarmament would make it possible for resources to be released for the development of all countries, particularly the developing countries. The expert from India had considered that progress in the field of disarmament would contribute to bridging the gap existing between the economies of developed and developing countries, an idea shared by the expert from the United States of America, who had stressed the urgent need to resume arms control negotiations in the nuclear field and to reduce the vast stockpiles of armaments in the world. The expert from Senegal had proposed a text which had secured agreement and which appeared in annex VIII (page 2).

75. On preambular paragraph 15, the expert from the Soviet Union had stated that the right to development implied the right to all peoples to peaceful, free and independent development as well as the possibility to exercise the entire complex of rights necessary for the comprehensive development of the personality, the expert from Cuba had stressed equal access to the means of advancement and respect for the values of civilization and cultures, and the expert from Senegal had underlined the interdependence of economic prosperity and political stability. The expert from the United States had thought that there should be efforts at the international level both to promote and protect human rights and to establish a new international economic order; on the other hand, in the view of the expert from the Syrian Arab Republic, States had rights and duties for peaceful free and independent development. However, the majority of experts had agreed that the following text was acceptable: "Recognizing also that the establishment of a new international economic order is an important element for the effective promotion and full enjoyment of human rights and fundamental freedoms."

76. There had been an exchange of views but no agreement on the revised text of preambular paragraph 16, which appeared on page 3 of annex VIII to the report, because some experts thought that its contents were linked with the first article of the operative part, which dealt with the definition of the right to development, whose beneficiaries were individuals, peoples and States. The text as revised and amended by the expert from the Syrian Arab Republic might bring the viewpoints closer and serve as a basis for discussion (see annex VIII, page 4).

77. The experts from the Netherlands and Yugoslavia had submitted an informal draft of article 2 of the operative part (annex VIII, page 4) which had been amended by the expert from Bulgaria, who was anxious to stress that "The State has the right and the primary duty to formulate appropriate national development policies which aim at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom". Disagreement centred on the role of intermediate groups between the State and the individual. For the rest, as article 2 was linked with article 1, obstacles might be removed by negotiations on the two articles.

78. The experts from the Netherlands and Yugoslavia had submitted an informal draft for article 3 which stressed the necessity for an international order based on full respect for the principles of international law, that States had the primary responsibility for the creation of conditions favourable to the realization of the right to development and that States had the duty to co-operate with each other in achieving development. The substance of those proposals had not been disputed, but the concept of "an international order" had raised questions with regard to the principles and legal bases on which the order could be established. The expert from Senegal had suggested that it would be preferable to revert to the concept of a new international economic order.

79. The experts from the Netherlands and Yugoslavia had submitted an informal draft for article 4 which appeared on page 6 of annex VIII. The expert from Senegal had also made a proposal for article 4 paragraph 2 and the expert from the USSR had submitted a draft for paragraph 3 (annex VIII, page 6). There had already been several readings of the other articles of the operative part which appeared in the technical consolidated text (E/CN.4/1985/11, annex IV), and they could be examined at the next session of the Working Group of Governmental Experts.

80. In their extensive work on the topic, the experts had taken the view that development was the prerogative that should be recognized for every people and individual in order to satisfy their requirements by means of equal opportunities to the full extent permitted by the enjoyment of the goods and services produced by the community. Civil and political rights and economic, social and cultural rights were indivisible and interdependent and the premises for the legal standards relating to the right to development were embodied in the Charter of the United Nations, the International Bill of Human Rights and the other treaties, covenants, conventions and declarations on the subject. In all those instruments, the development strategy appeared as a dynamic process to make better use of the capacity of individuals, communities and nations with a view to achieving well-being and the fulfilment of the human being and of his dignity on all levels.

81. The aspiration to development gave an individual, a people or a State the necessary confidence in themselves and in the future, and without which there came about uncontrolled fears, sources of violence or submission to forms of authoritarianism. What was involved was the realization by everyone of economic, social and cultural rights, which were regarded as the basic means of assuring the real enjoyment of civil and political rights and fundamental freedoms. Any misunderstanding must therefore be avoided. Some people had sought to view the activities of the Working Group through the distorting prism of ideological antagonism between East and West or the deadlock of the North/South dialogue. But the discussion had been enriching and fruitful. The day was not far distant when new ways of organizing co-operation would make it possible to satisfy human requirements and respect the dignity of the human person. Those who were suffering from extreme poverty and hunger knew henceforth that they were not the victims of fatality.

82. In spite of some indications of economic recovery, the repercussions of the crisis had made themselves felt to varying degrees in every country, and the premises of economics must be reviewed in the light of the political, economic and social evolution of the contemporary world. Furthermore, tensions of every kind continued to be rife in the most disadvantaged regions and the arms race swallowed up enormous resources which would make it possible to eliminate poverty and to step up efforts to restore peace in the world. All those factors pointed to the need to re-think the problems of development in a concerted and global way, starting from the concept of the future of man and civilizations. As far as the right to development was concerned, therefore, a new legal language must be invented, to meet the challenge of the present and the future, and that in its turn, would require changes in outlook.

83. Disparities in living conditions and economic inequality were incompatible with the maintenance of peace and stability in the world, which were in their turn essential to the enjoyment of human rights and fundamental freedoms. Development included not only material factors but also spiritual and moral ones, and the building of a new economic order could not be considered in isolation from the settlement of other world-wide problems of every sort (education, employment, health, disarmament, etc.) such as would transform civilizations and cultures so radically that one might well wonder what kind of society they would engender.

84. With increasing communications and contacts between men and the interdependence of nations, the draft declaration on development now assumed particular importance. International co-operation and dialogue must replace confrontation, and the experts of the working group had been mindful at all times of that desire for solidarity when working together to formulate the draft declaration.

85. For decades, the United Nations had sought to try to reduce the imbalances between developed and developing countries in order to establish international economic relations based on fairness, sovereign equality, interdependence, common interests and co-operation between States, whatever their economic and social systems, so as to promote respect for human rights and fundamental freedoms.

86. The experts had discussed at length the role of the State in the achievement of the right to development and the role of communities or entities based on the right of association which sometimes had considerable potential for action in development matters. In that connection there had been frequent references to multinational or transnational corporations whose powers should be limited and whose activities regulated. Sovereignty and interdependence were only complementary and mutually enriching concepts when they were regarded by the partners as the reflection of an awareness of mutually beneficial solidarity.

87. Development included an important cultural dimension and it must be recognized that cultural identity was a primary component of independence and a guarantee against the danger of alienation and rootlessness, in other words against new forms of domination. Science and technology should likewise be adapted to the needs of the peoples and, for the third world, it was worth reflecting upon the example of Japan. The right to be different must also be respected, since it was an enriching factor for everyone.

88. In view of the complexity of the issues raised by the right to development, the work of the Group of Experts was a long shot, even in respect of defining the contents of that right, identifying the obstacles to be overcome and the measures to be taken to give it future momentum. The slowness of the work was justified by the need to avoid theoretical discussions and to keep reality in mind. The Working Group would achieve its goal, through a common will.

89. It was vital that there should be the broadest possible awareness of the right to development, with a view to a vast dialogue at the level of the international community. He had had occasion to observe that in all regions of the world Governments were showing great interest in the right to development and were anxious to contribute to the activities of the Working Group of Experts. In view of the fact that their activities seemed to be currently held up, it would be desirable for all the Member States of the United Nations to be informed of the results so far achieved, the issues still under consideration and, above all the immense work of documentation and study so far carried out, and also for States to be requested to transmit their comments and views on the proposals of the Group of Experts. The Group might then meet in a single session in January 1986 to try to compare viewpoints and submit a report to the Commission at its forty-second session. Such a procedure offered the advantage of enabling a large number of members of the international community to participate in the elaboration of the draft declaration on the right to development which, if drafted in that way, would have a better reception by the Economic and Social Council and the General Assembly because it would reflect the views of all Member States. It would also make it possible to avoid fruitless discussions and ideological arguments in the General Assembly and the submission of too many draft declarations. The Governments of certain countries had already announced a number of commendable initiatives, such as the organization of workshops, seminars, symposia and regional conferences on the right to development which would

take place as part of the International Youth Year and which would be of considerable help in making international opinion aware of the importance of that right.

90. Finally, prompted by its desire for dialogue and discussion, the Working Group of Governmental Experts had always observed the rule of consensus in order to achieve a negotiated text adopted without a vote, with a view to strengthening the principle of the support and moral commitment of Member States. Nevertheless, in cases where the effort to achieve a consensus within the Group seemed futile, there was nothing to prevent the rules of procedure of the Economic and Social Council from being applied. It was true that the rule concerning voting would expedite work. There again, the decision lay with the Commission which might, however, leave it in the hands of the Working Group.

The summary record of the second part of the meeting is contained in document E/CN.4/1985/SR.42/Add.1.