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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

PROBLEMS RELATED TO THE RIGHT TO ENJOY AN ADEQUATE STANDARD
OF LIVING; THE RIGHT TO DEVELOPMENT

Report of the Working Group of Governmental Experts
on the Right to Development

Vice-Chairman Rapporteur: Mr. Kantilal Lallubhai Dalal (India)

I. INTRODUCTION

1. The Working Group of Governmental Experts on the Right to Development was established by Economic and Social Council decision 1981/149 of 8 May 1981, by which the Council took note of Commission on Human Rights resolution 36 (XXXVII) of 11 March 1981 and approved the Commission's decision to establish a working group of 15 governmental experts appointed by the Chairman of the Commission, taking into account the need for equitable geographical distribution.

2. The Working Group was instructed to study the scope and content of 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.

3. Between 1981 and 1984, the Working Group held nine sessions (three in 1981, two in 1982, two in 1983 and two in 1984). It was composed of experts nominated by the Governments of the following countries: Algeria, 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 the eighth session, the expert from Poland was replaced by an expert from Bulgaria.

4. After the eighth and ninth sessions held in 1984, the Group adopted a report contained in document E/CN.4/1985/11 which was submitted to the Commission on Human Rights at its forty-first session. The Commission, after taking note of the report, decided, by its resolution 1985/43, to transmit that report to the General Assembly through the Economic and Social Council, so as to enable the Assembly to adopt a declaration on the right to development. The Commission also decided to convene the Working Group for three weeks in January 1986 to study the measures necessary to promote the right to development.

5. By its decision 40/425, the General Assembly, having considered the question of a draft declaration on the right to development, decided to transmit to its forty-first session the draft declaration on the right to development (A/40/970, para. 11) as well as all relevant documents. Also, in its decision 40/427, the Assembly considered that the meeting of the Working Group scheduled to be held in January 1986, should be postponed to a later date.

6. At its forty-second session, the Commission on Human Rights, by its resolution 1986/16, decided to convene the Working Group of Governmental Experts on the Right to Development for three weeks in January 1987 with a mandate to submit to the Commission, at its forty-third session, a report and proposals concerning concrete measures to promote the right to development. The Economic and Social Council, in its decision 1986/133 of 23 May 1986, approved the Commission's decision to convene the Working Group.

7. In 1986, the General Assembly, by its resolution 41/128 of 4 December 1986, proclaimed the Declaration on the Right to Development. The General Assembly also adopted resolution 41/131 entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms", in which it welcomed the decision of the Commission in its resolution 1986/16 on the future work of the Working Group on the Right to Development and requested the Secretary-General to transmit to the General Assembly at its forty-second session a report containing information on the progress made by the Working Group in the accomplishment of its tasks. In addition, the Assembly adopted resolution 41/133 entitled "Right to development".

Composition of the Working Group and its Bureau

8. At its tenth session, the Working Group was composed of experts from Algeria, Bulgaria, Cuba, Ethiopia, France, India, Iraq, the Netherlands,

Panama, Peru, Senegal, the Syrian Arab Republic, the Union of Soviet Socialist Republics, the United States of America and Yugoslavia and was chaired by the expert from Senegal; the experts from Cuba, India and Yugoslavia were Vice-Chairmen. At the same session, the Group agreed to entrust the expert from India with the functions of Rapporteur.

Dates of sessions

9. The Working Group held its tenth session from 5 to 20 January 1987 at Geneva.

Attendance

10. A list of the governmental experts, alternates, States and organizations represented by observers at the tenth session appears in annex I.

Organization of work

11. At its tenth session, the Working Group held 11 plenary sessions as well as a number of informal consultations of regional groups.

12. The Working Group had before it the following documents: E/CN.4/AC.39/1987/L.1, Provisional agenda; E/CN.4/AC.39/1987/WP.1, Information note prepared by the secretariat; E/CN.4/AC.39/1987/WP.2, Working paper presented by the expert from Cuba; E/CN.4/AC.39/1987/WP.3, Working paper submitted by the experts of the Eastern European Group; E/CN.4/1985/11, Report of the Working Group on its eighth and ninth sessions; and General Assembly resolutions 41/128, 41/131 and 41/133.

II. WORK OF THE GROUP AT ITS TENTH SESSION

13. The Working Group noted the adoption of the Declaration on the Right to Development by the General Assembly at its forty-first session. It was stressed that the adoption of that instrument constituted a significant step towards the full recognition, exercise and realization of that crucial human right. The active role played by the Working Group during its first nine sessions in preparing and drafting the relevant texts for the Declaration was repeatedly noted.

14. The tenth session of the Working Group of Experts was opened by Mr. Kurt Herndl, Assistant Secretary-General for Human Rights. In his introductory remarks, he mentioned that the Declaration was the most significant human rights instrument to come out of the forty-first session of the General Assembly. The present Working Group was meeting under the mandate entrusted to it, by the Commission on Human Rights in resolution 1986/16, to study the measures necessary to promote the right to development and to submit to the Commission, at its forty-third session, the report and proposals concerning concrete measures to promote that right. In his statement, the Assistant Secretary-General referred to the procedural and substantive aspects of the promotion of the right to development.

15. The Chairman of the Working Group, Mr. Alioune Sène (Senegal), in an opening statement, welcomed the Assembly's adoption of the Declaration on the Right to Development. He noted that although the Declaration was a compromise text, efforts by many States to achieve consensus on the adoption

of the Declaration had not been successful. Nevertheless the adoption of the Declaration opened a new era with regard to the right to development, in which the principal task of the international community was to find ways and means to promote that right. The Chairman stated that, at its tenth session, the Working Group could consider the programme for its future work as well as a new structure in light of the interest many States had expressed in taking part in the Group's work when the Declaration was under consideration by the Assembly.

16. The Working Group conducted its deliberations on the basis of the mandate given to it by the Commission in resolution 1986/16. It was noted that the Working Group was now entering a new phase of its deliberations. Many experts stressed that the task of promotion of the right to development must be undertaken in its broader perspective and cover both the procedural and substantive sectors. Some experts, however, took the view that the tenth session should confine itself mainly to procedural matters.

17. Some experts emphasized the need to shorten the tenth session of the Working Group by at least one week and preferably by two in view of the financial constraints faced by the United Nations, as well as the short time which had passed since the adoption of the instrument which had not allowed for its detailed examination by the various capitals. It was agreed that carrying out the mandate was the most important task before the Group of Experts and that the Group should make every effort to complete its work ahead of the allotted period.

18. The discussion in the Working Group was wide-ranging and in-depth. A working paper was introduced by the expert from Cuba and another working paper by experts from the East European Group of countries. An informal paper was also prepared by the experts from non-aligned countries, which formed the basis for the discussion of recommendations to be made by the Group to the Commission on Human Rights.

19. Most experts were agreed upon recommending to the Commission steps to be taken to disseminate the text of the Declaration on the Right to Development as widely as necessary, to provide general information on the nature and content of the right to development, and to organize educational and research activities. With a view to deepening and broadening the understanding and acceptance of the concept of the right to development as a human right among the populations of the world, many experts also favoured recommending additional measures such as translation by Governments of the Declaration on the Right to Development into as many languages as necessary, the holding of seminars and workshops, preparation of audio-visual material and broad-based study of existing problems, especially in developing countries, with regard to the right to development. Others said that any action beyond requesting comments from Member States on the subject would be premature. It was pointed out that all the measures should be carried out within the budgetary resources available to the Commission.

20. The question of the restructuring of the Group of Experts also engaged the attention of the Group. A number of experts stated that, with the adoption of the Declaration, there was greater interest in the work of the Group of Experts among Governments and a possible enlargement of the Group, taking into account the interest shown by different Governments in the subject, should be considered. Other experts expressed the view that the

restructuring of the Group could be based on the establishment of an open-ended group of government representatives during the session of the Commission on Human Rights.

21. On the substantive sector of the promotion of the right to development, the development of the concept of the right to development and basic features of the Declaration were reviewed in some detail and many experts stressed that all promotional and implementational measures should be undertaken from the point of view of the human person as the central subject of development.

22. A number of members stressed the link between disarmament and the right to development. Other experts said that there was not necessarily such a link. Some members expressed the view that the directive role of States in measures at national and international levels to promote the right to development was vital and they also stressed the role of States in the realization of the right to development. Many experts referred to the need for active involvement of the specialized agencies of the United Nations, intergovernmental organizations, non-governmental organizations and academic institutions in measures to promote the right to development. In this context also, several references were made to the necessity of identifying the various obstacles facing development in order to facilitate the promotion of the right. Some members stated that consideration should be given to the codification and progressive development of the right to development as a principle of international law. Other experts said that any efforts at codification would be unacceptable. According to other members, a distinction was to be drawn between national laws and international laws in measures to promote the right to development.

23. Some experts drew the attention of the Group of Experts to the report of the Working Group of Governmental Experts on the Right to Development circulated by the Commission on Human Rights at its thirty-eighth session (E/CN.4/1489) and stated that that document elaborated the measures to promote the right to development, at national and international levels, and provided a sound basis for the future work of the Group of Experts.

24. Observers from Brazil, China, Japan and Pakistan made statements.

25. The text of the working paper submitted by the experts from East European countries is annexed to this report (annex III).

III. PROPOSALS TO BE FORWARDED TO THE COMMISSION ON HUMAN RIGHTS

26. The Group of Experts agreed, by a large majority, to a set of proposals to be forwarded to the Commission on Human Rights. These proposals are set out below in paragraphs 27 and following. The expert of the United States said that he could not join a consensus on the proposals and submitted a statement reflecting his views which is attached to this report as annex II. The expert of France stated that the recommendations in paragraph 29 seemed to him, firstly, to overlap with some of those in paragraph 28 and, secondly, to go too far. In his view activities should be confined to research aimed at analysing and clarifying the concept of the right to development, in particular by means of a questionnaire to be sent to States, specialized international organizations and non-governmental organizations.

27. The members of the Group believe that concrete measures to promote the right to development should be viewed both considering the human person as its central subject and in its wider perspective and therefore the task before the Working Group should be tackled in stages and step by step.

28. Therefore, in the light of past experience in the field of human rights, the Group of Experts recommends to the Commission on Human Rights the following:

(a) Dissemination of the text of the Declaration on the Right to Development to all Governments, United Nations agencies and other governmental organizations and non-governmental organizations in all the official languages of the United Nations;

(b) Dissemination of general information on the nature and content of the right to development;

(c) Organization of educational and research activities to familiarize all countries with the provisions of the Declaration on the Right to Development.

29. It is also necessary to take measures to deepen and widen the understanding and acceptance of the concept of the right to development among the peoples of the world. With this objective in view, the Group recommends the following:

(a) All Governments should be requested to translate and publish the text of the Declaration on the Right to Development in all national, regional and subregional languages in current use;

(b) A series of seminars and workshops could be organized over the next few years beginning with 1988/89;

(c) Audio-visual material could be published in as many languages as possible;

(d) A broad-based study should be carried out on the problems that exist with regard to the realization of the right to development, particularly in developing countries;

(e) Special publications could be prepared such as a glossary of published research works on the right to development.

30. The Working Group of Experts noted the adoption of the Declaration on the Right to Development by the General Assembly at its forty-first session. In the light of this Declaration, and particularly as provided by article 10, the Working Group recommends that the Commission should request the Secretary-General to invite comments and views from the Governments of all States, the specialized agencies and other international organizations, as well as non-governmental organizations, on the subject of the implementation of the Declaration on the Right to Development.

31. A detailed questionnaire should be formulated eliciting information on different aspects of the realization of the right to development and listing obstacles to the realization of that right and the ways and means to overcome

them. Pending receipt and detailed examination of the comments and views of Governments, specialized agencies and other international organizations and non-governmental organizations concerned with human rights on the implementation of the Declaration on the Right to Development, the Working Group recommends consideration of the need for study initially of a few important issues with immediate, direct and vital bearing on the implementation of the right to development. In these studies to be undertaken from the point of view of the human person as the central subject of development, specialized institutions and bodies within and outside the United Nations system, such as universities and other academic institutions qualified to undertake such studies, may be involved.

32. The adoption of the Declaration on the Right to Development further implies a much greater involvement and interest among Governments, specialized agencies and non-governmental organizations in their future work which may devolve on the Working Group. The Group is therefore of the view that its further activities and possible enlargement, taking into account the interest of States in this subject, should be considered by the Commission if necessary.

33. The Group is of the opinion that, in promoting the right to development, in addition to the obligation to encourage a greater awareness of the Declaration by the appropriate dissemination and popularization of its provisions, the identification of the various obstacles that may thwart the efforts of States and the international community in this field must not be neglected.

34. As mentioned in the Declaration on the Right to Development and, inter alia, in the report of the Working Group (E/CN.4/1489), there are some obstacles that prevent the international community from securing the promotion of the right to development. Accordingly, the Group of Experts recommends that the Commission on Human Rights should request the Secretary-General, through the Economic and Social Council, to invite States, United Nations specialized agencies and non-governmental organizations in consultative status to identify the obstacles at the national and international level which they consider likely to thwart any effort to promote the right to development.

35. As mentioned in the Declaration on the Right to Development and, inter alia, in the Working Group's report (E/CN.4/1489), the efforts of the international community should include specific and practical measures. In this regard, the Group would like to recommend that the Commission on Human Rights should request the Secretary-General, through the Economic and Social Council, to invite States and interested intergovernmental and non-governmental organizations to indicate the specific legislative, economic, administrative and other measures that should be taken at the national or international level to further the promotion of the right to development. Within this framework the United Nations should encourage or organize appropriate exchanges of information and research into various questions relating to the enjoyment of the right to development, drawing on replies from States and intergovernmental and non-governmental organizations.

36. On the basis of replies thus received on the report to be prepared by the Secretary-General on this subject, the Working Group of Experts could make recommendations to the forty-fourth session of the Commission on Human Rights on practical measures to implement the right to development.

37. With a view to assisting countries in their efforts to promote the right to development, and, in particular, to bring into operation a legal framework for the attainment of the objectives of the Declaration, the United Nations could make available advisory services on human rights questions to the countries that requested such services.

IV. ADOPTION OF THE REPORT

38. At the 11th meeting of its tenth session, the Working Group adopted the present report.

Annex I

List of participants

<u>Country</u>	<u>Name</u>
Algeria	Mr. Abd-el-Naceur Belaïd Miss Fatiha Bouamrane <u>a/</u>
Bulgaria	Mr. Konstantin Andreev
Cuba	Mr. Julio Heredia Pérez Mrs. Ana María Luetngen de Lechuga <u>a/</u>
Ethiopia	Miss Kongit Sinegiorgis
France	Mr. Jean-Pierre Le Court
India	Mr. Kantilal Lallubhai Dalal Mr. Jayant Prasad <u>a/</u>
Iraq	Mr. Riyadh Aziz Hadi
Netherlands	Mr. Johannes Zandvliet Mr. Jan Eric Van Den Berg <u>a/</u>
Panama	Mr. Luis Aguirre Gallardo <u>b/</u>
Peru	Mr. Juan Alvarez Vita Mr. Felipe Beraún Ugaz <u>a/</u>
Senegal	Mr. Alioune Sène Mr. Samba Cor Konaté <u>a/</u>
Syrian Arab Republic	Mr. Fahd Salim
Union of Soviet Socialist Republics	Mr. Grigori Morozov Mr. Kirill Khitrov <u>a/</u> Mr. Vladimir Poliakov <u>a/</u> Mr. Teimouraz Ramichvili <u>a/</u>
United States of America	Mr. Thomas A. Johnson Mr. Richard K. McKee <u>a/</u>
Yugoslavia	Mr. Danilo Türk Mrs. Marija Djordjevic <u>a/</u>

States Members of the United Nations represented by observers

Argentina, Bangladesh, Brazil, China, Cyprus, Czechoslovakia, Finland, Germany, Federal Republic of, Indonesia, Iran, Islamic Republic of, Japan, New Zealand, Pakistan

United Nations body

Office of the United Nations High Commissioner for Refugees

Intergovernmental organizations

League of Arab States

Non-governmental organization in consultative status

Category II

International Movement for Fraternal Union among Races and Peoples

Notes

a/ Alternate.

b/ Not present at the tenth session.

Annex II

STATEMENT BY THE REPRESENTATIVE OF THE UNITED STATES OF AMERICA

The representative of the United States expressed the appreciation of his Government for the wisdom and sense of fair play displayed at every session of the Working Group by the representative of Senegal as Chairman. The representative of the United States repeatedly stated that too little time had passed since adoption by the General Assembly, at its forty-first session, of the Declaration on the Right to Development for Governments to analyse it thoroughly, that therefore the current session of the Working Group should have been cancelled or postponed and that in any event the session should last for no more than one week. Since the Declaration had been adopted by a vote of the General Assembly already, and noting that the consensus approach on the right to development had clearly ended with the adoption of Commission on Human Rights resolution 1985/43, he questioned the usefulness of maintaining the Working Group at all and said that the Commission would have to decide on what, if any, future activities the Group undertook. If the Commission did decide to continue the Working Group in some form, he said, it should meet during the session of the Commission to ensure the most efficient utilization of the limited resources available to the United Nations.

With regard to the work product of the current session, the representative of the United States made clear that there could be consensus only on very moderate, procedural measures, and he stated that it would be premature for the Working Group to do anything other than recommend to the Commission that member States, international organizations, and other interested parties be given an opportunity to submit comments on the question of the right to development. Any other actions were not acceptable to him, including studies or other measures within the existing resources of the United Nations. In his view, the limited resources devoted to human rights in the United Nations budget could be used for activities that had a much higher priority than continuation of work on the right to development.

While noting that the original informal paper submitted by the non-aligned countries was a useful basis for discussion and commending several members of the non-aligned group of countries for their obvious efforts to maintain a reasonable text, he declared that he and his government could not accept the final version of the non-aligned group paper (set forth in chapter III of this report) because of unacceptable elements which had been incorporated into it from other working papers submitted to the Working Group. In particular, several of these elements were not only inaccurate or absurd, but related to economic, international trade, and arms control matters far beyond the mandate or competence of the Working Group. Not wishing to take up the time of the Group with detailed comments on these working papers, he referred other members to the statements of the United States on the question of a right to development and the Declaration made during the forty-first session of the General Assembly.

On the matter of every individual's right to development, the representative of the United States said that the obligation of governments was to facilitate that process and that some of the most vociferous proponents of the right to development denied their citizens the opportunity to develop themselves in every possible way. On the matter of economic development

generally, he noted that it was more important to look at the tremendous contributions made by countries like the United States to the actual development of developing countries than to listen to rhetoric on the right to development from countries that had contributed nothing positive to assist developing nations. On the question of a legal status for the right to development, he rejected any notion that the right to development was somehow a principle of international law, pointed out that the Declaration was merely a recommendation to Member States, and maintained that any attempts at codification connected with the right to development were pointless and should not be undertaken.

He reported that the United States Government had had serious reservations about participating at all in the current session of the Working Group. During the current session, the undue influence of some representatives with extreme views and no desire for consensus had become obvious. Taking into account such factors and the negative vote of the United States on the Declaration set forth in General Assembly resolution 41/128, the United States had concluded, far more in sorrow than in anger, that there was no purpose in continued United States participation in the Working Group if its existence was in fact extended by the Commission on Human Rights. Accordingly, the United States would ensure that a complete and accurate Working Group report was formulated for the tenth session, but would not participate in any future sessions.

15 January 1987

Annex III

Working paper on agenda item 2 submitted by the experts
from the East European group of countries

The experts from the East European group of countries taking part in the Working Group's session consider it necessary to stress the exceptional importance of General Assembly resolution 41/128, by which the Declaration on the Right to Development was proclaimed. The overwhelming majority of countries in the world community recognize the urgent need for the adoption of this document, given the complexities of an international situation characterized by the growing threat of a nuclear catastrophe and the continuation of the senseless arms race, which imposes a heavy burden on all peoples of the world, and above all on the peoples of the developing countries, whose economic situation is getting worse and worse.

Furthermore, being drawn into the arms race, the developing countries are obliged to allocate their extremely limited resources for this purpose, thus undermining their chances of political, economic and social development.

In accordance with resolution 1986/16 adopted by the Commission on Human Rights at its forty-first session, by which the Working Group was invited to submit a report on questions relating to the promotion of the right to development, the experts from the East European countries consider it appropriate to make the following proposals:

Aims of the Working Group at its tenth session

In view of the exceptional importance and timeliness of the adoption of the Declaration, special importance attaches to the process of implementing its provisions, which imposes an additional responsibility on the members of the Group of Experts for drawing up concrete measures to promote the right to development, in accordance with the Group's terms of reference.

In accordance with Commission on Human Rights resolution 1986/16, the Working Group should begin work on preparing the corresponding report on concrete measures to promote the right to development, including:

- (a) Attempts to find ways to bring about general and complete disarmament and the utilization of the resources thus released for purposes of development, and in particular for the development of the developing countries;
- (b) Respect for civil, political and economic human rights;
- (c) Immediate measures to alleviate the extremely heavy burden of the developing countries' external debt;
- (d) Effective measures to establish a new international economic order guaranteeing equal opportunities for development and tending towards the democratization of international relations, among other things in the decision-making machinery of different international organizations.

It seems essential that the final document of the session should reflect the opinion of the experts from different countries regarding the importance of the adoption of the Declaration and the ways and means of implementing its provisions.

Tasks facing the Working Group after the tenth session

1. In our opinion, one of the Working Group's main lines of activity should be research designed to identify the potential capacities and obligations of the States which are the subjects of the Declaration and are responsible for implementing its provisions, both at the national level and in the field of international co-operation to that end.
2. They consider it necessary to stress once again that the right to development is an inalienable right of every people and individual, comprising a range of civil, political and economic rights, the chief of which is the right to life. An essential condition for guaranteeing the right to life in the nuclear and space age is to eliminate the threat of omnicide - the annihilation of every living being on the earth, including man as a biological species.
3. It would in our view be desirable to point out that universal acceptance of the right to development presupposes not only recognition of the reasons leading to the existing unequal politico-economic situation of different countries, but also efforts to remove the existing factors which hinder the process of bringing all States closer to each other on the socio-economic level, including: the senseless arms race and the growing threat to international peace and security; the existence of apartheid and interference in the internal affairs of sovereign States; massive, flagrant and blatant violations of human rights; denial of the opportunity for individuals to take part in the determination of national development goals; the existence in the world of poverty, starvation, malnutrition, illiteracy and other negative consequences of colonialism and the policy of neo-colonialism pursued by the western countries and transnational corporations. It will be recalled that over a year ago the Soviet Union laid before the international community a concrete and constructive plan for the cessation of the arms race and disarmament with a view to eliminating weapons of mass destruction by the end of the present century, and particularly nuclear and chemical weapons. This proposal opens up a real opportunity for setting free vast resources, part of which could be used for development purposes in the interests of the developing countries. It has unfortunately to be recognized that this plan, like a number of other important proposals by the socialist countries, was not accepted by the West, and particularly the United States, which is seeking to give a new twist to the arms race and extend it to space, further increasing the threat to international peace and security.
4. We consider that there are wide opportunities open to the United Nations for promoting the implementation of the right to development. They include: organization of exchanges of related information; preparation of research on individual aspects of the implementation of the right to development on the basis of the information provided by States; provision of legal and technical assistance to States in this field where necessary. In this connection, it might be recommended, in our view, that closer co-operation should be established between the appropriate United Nations bodies concerned with questions of international co-operation in the field of human rights and the United Nations Development Programme (UNDP).

16 January 1987