

**Excerpt from the Report on the Eighteenth and Nineteenth Sessions  
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DAY OF GENERAL DISCUSSION**

**A. Eighteenth session, 11 May 1998**

**Globalization and its impact on the enjoyment of economic, social and cultural rights**

I. Introduction

436. Recent developments, particularly in the fields of trade and finance as well as in science and technology, have led to increasing reference to the phenomenon of “globalization”. While this term has been most often used in the context of economics, especially to emphasize the impact of market liberalization and its global consequences, it is also more and more being used in relation to developments in other spheres in which international cooperation is seen to be increasingly necessary. It is also a phenomenon which has heavily influenced the outcome of the series of world conferences that have taken place in recent years at which members of the international community have committed themselves to take action in such areas as children (1990), the environment (1992), human rights (1993), social development and women (1995), food (1996) and, most recently, the establishment of an international criminal court (1998).

437. The Committee on Economic, Social and Cultural Rights has expressed the view that the concept of globalization should not be categorically equated with economic rationality and curtailed government action. Achieving greater market interaction among nations and businesses does not automatically ensure that questions of equity among nations or among individuals will be addressed. Nor has international regulation been abandoned. It is, in fact, not only accepted in the traditional government domains of security and law and order, but is also used extensively in the realms of commerce and justice precisely to further the goals of liberalization. The question therefore arises as to how globalization affects the enjoyment of economic, social and cultural rights and to what extent additional methods need to be explored in order to ensure that developments relating to globalization are conducive to the promotion of those rights.

438. To explore these aspects of globalization, the Committee on Economic, Social and Cultural Rights decided to hold a day of general discussion on the topic on 11 May 1998. It was attended by representatives of ILO, IMF, UNCTAD, UNESCO, WIPO and the NonGovernmental Liaison Service. Representatives of the following nongovernmental organizations also participated: American Association of Jurists, Centre EuropeTiers Monde, DroitSolidarité (France), Habitat International Coalition, the Indian Movement “Tupaj Amaru”, Indigenous World Association, International Confederation of Free Trade Unions, International Federation of University Women, International Service for Human Rights and the International League for the Rights and Liberation of Peoples.

439. In addition, the following institutions and organizations contributed written materials for the discussion: ILO and WHO, American Association of Jurists, Foodfirst Information and Action Network International, the Institute for Agriculture and Trade Policy, and the International Confederation of Free Trade Unions.

II. Opening remarks

440. The Chairperson of the Committee, Mr. Philip Alston, introduced the subject of globalization as a complex phenomenon aimed primarily at the liberalization of markets. In its extreme version, the role of the State was greatly reduced and the facilitation of liberalization, whether through privatization or deregulation, was one of its dominant objectives. The results of existing policies demonstrated their inadequacy in relation to economic and social rights. This was evidenced in reports of UNDP, the World Bank and other statisticscollecting agencies. The poorest 20 per cent of the world's people owned only 2.3 per cent of the world's wealth, less than half of the percentage they owned in 1960. Contrary to common belief, the debt crisis was not an issue of the past; today, according to the World Bank, the accumulated debt of the 41 most highly indebted poor countries was nearly four times its level in 1980. In Africa, the amount spent per capita on debt servicing was twice the amount spent per capita on primary education and health. Yet while IMF rigorously monitored loan recipient countries' compliance with loan conditions for financial reform, it only "lamented" the illeffects on economic, social and cultural rights and left them to be dealt with by other international organizations and bodies.

441. In that regard, the Chairperson noted with regret that the activities and funding of many international organizations and bodies that undertook economic and social programmes were being scaled back, while those of the WTO and the financial institutions were being expanded. He pointed out that while the mandates of the latter institutions were concerned with questions of finance, economic structure, structural adjustment, debt and other Macroeconomic issues, those questions could not be isolated from their effects on the enjoyment of economic, social and cultural rights. However, the programmes pursued by the institutions in question seemed directed not at addressing the needs of recipient countries or of their peoples but at promoting the globalization agenda. He noted that international trade and financial institutions had never referred in their work to the Covenant, or the obligations thereunder assumed by the Governments with which they were dealing. The Chairperson expressed regret that the United Nations had abandoned efforts to formulate a code of conduct for transnational corporations (TNCs). Moreover, there was a problem of transparency, particularly in the case of IMF, with regard to the data and process by which it arrived at policies, decisions and loan conditions.

442. The Chairperson thus argued that globalization was not valuenneutral. It affected the right to work and to favourable conditions of work, as well as the rights to health and education. The monitoring of the enjoyment of those rights could not be left exclusively to a committee of 18 experts with no mandate for monitoring the development of international financial markets, with no capacity for technical analysis and with diminishing secretariat support. It was time for the main international organizations involved in the globalization process to assume a role in the promotion and protection of human rights.

### III. Statement by the United Nations High Commissioner for Human Rights

443. The United Nations High Commissioner for Human Rights, Ms. Mary Robinson, welcomed the discussion on globalization and human rights, a timely subject which in her view was only beginning to receive the attention it deserved and which evidently required greater indepth exploration. She drew attention to efforts being made on several fronts to place economic, social and cultural rights high on the United Nations agenda, particularly through the Executive Committees in which she participated actively, and the United Nations Development Group, in which the Office of the United Nations High Commissioner for Human Rights was playing a leading role with respect to articulating how the right to

development could be implemented. She also reported on the sixth workshop on regional arrangements for the promotion and protection of human rights in the Asian and Pacific region held in Tehran from 28 February to 2 March 1998, in which 36 diverse countries from the region had reached agreement on regional arrangements for technical cooperation. She pledged that she would ensure wide dissemination of the results of the roundtable discussion on benchmarks for the realization of economic, social and cultural rights, held on 25 March 1998 in Geneva, and chaired by the Chairperson of the Committee.

444. In response to questions from members of the Committee, the High Commissioner explained that the agreement reached at the Tehran workshop would allow participating States to proceed with implementation of international human rights standards at their own pace and that one of the aims of the exercise was to produce a compendium of good practices that might serve as models for other countries or regions. In response to other questions, she informed the meeting that she had undertaken contacts with IMF in relation to the need to take into consideration the impact of its programmes on human rights, especially the rights of members of vulnerable groups, and with the World Bank as part of that organization's efforts in postconflict situations. Contacts with both institutions were also taking place within the framework of the Administrative Committee on Coordination.

#### IV. Statements by representatives of intergovernmental organizations

445. Mr. Guy Standing (ILO) highlighted some key features of the globalization phenomenon. Change and reactions to it were accelerating at a remarkable pace, which left the vulnerable much less equipped to cope. From the point of view of labour rights, globalization was encouraging fragmentation and uncertainty; as TNCs escaped national accountability, the poor were becoming increasingly disenfranchised, subsidies formerly granted to labour were being redirected to attract international capital, and the burden of taxes was shifting increasingly from capital to labour. Mr. Standing pointed to a close correlation between globalization and the level of social benefits offered in society. The World Bank and IMF had adopted a minimalist approach to social security, based on strict meanstesting. Social services were viewed not as rights but as grants given by the State and were increasingly being privatized or semiprivatized. He agreed that it was very difficult to obtain the data and models that served as the basis for IMF recommendations. A background paper submitted by ILO for discussion is contained in document E/C.12/1998/8.

446. Mr. Grant Taplin (IMF) acknowledged the problem of transparency. IMF strongly encouraged countries to make their IMF agreements available to the public and issued its own Public Information Notice on them, which were publicly available. With regard to suggestions that IMF should take responsibility for matters relating to economic and social rights, he stressed that loans were agreed by decision of the IMF governing body following negotiations with recipient countries. Recipient countries could not be coerced into consenting to loan conditions that they did not wish to accept. Nevertheless, IMF was making efforts to protect human rights, including through provisions for social programmes in its structural adjustment programmes, operation of special lending facilities for the "poorest of the poor", and attention to labour rights in the context of lending agreements.

447. Mr. Januz Symonides (UNESCO) discussed the dangers posed by globalization to cultural diversity worldwide. The benefits of free and rapid information exchange and enhanced enjoyment of freedom of expression were offset by the culturally homogenizing effect of globalization, which undermined existing cultural identity and weakened various

ethical norms and social cohesion. He cautioned that Governments must continue to bear the main responsibility for the implementation of human rights. Markets could not replace Governments in the determination of economic, social, educational and cultural policies or in providing social services and infrastructure.

448. Mr. A. Woodfield (UNCTAD) presented globalization as a conflict of ideas between market efficiency and the role of the State in economic development. He suggested that that conflict was being won by the market approach and presented empirical evidence of its negative effects with respect to income inequality and vulnerability to external shocks. Liberalization in developing countries had been accompanied by boom and bust cycles where upperincome groups benefited most from the booms and lowerincome groups were most hurt by the extreme demand compression policies and higher inflation associated with busts. Liberalization in trade and investment had also left many countries with depressed wages owing to increases in labourintensive imports from lowincome countries. He suggested, however, that globalization could promote sustained economic growth and improved income distribution in developing countries if it was preceded by Stated strategic planning.

449. Mr. Erik Chrispeels (UNCTAD) said that UNCTAD was preparing a policy paper on human rights and development and that an effort would be made to ensure that the Committee received UNCTAD documents. While UNCTAD would continue to cooperate with the Committee, he believed that considerations should be given to the kind of cooperation desired.

450. Mr. Wend Wendland (WIPO) expressed the strong support of his organization for article 15 of the Covenant. He enumerated areas in which the protection and promotion of intellectual property rights was essential, primarily that of the development and transfer of technology but also entertainment, knowledgebased industries, employment in those industries, and exports and investment, both foreign and local. The WIPO programme for 1998 and 1999 aimed at the exploration of new ways in which the intellectual property system could serve as a catalyst for the social and economic progress of diverse peoples, placing emphasis on traditional knowledge, the study of folklore protection and the preservation of biological diversity. In commemoration of the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights, WIPO planned to organize an expert panel on the relationship between intellectual property rights and economic, social and cultural rights. In response to requests by members that WIPO participate more actively in the work of the Committee to help it better monitor the implementation of article 15 of the Covenant, as well as to comments and questions by other participants, Mr. Wendland agreed that closer cooperation with the human rights mechanisms was needed. The new biennium programme for 1998 1999 had only been approved six weeks previously. As those types of activities were new to WIP O, the initial focus was on studying the issues. His presence at the day of general discussion and the active participation of WIPO in other forums, such as the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, were first steps by WIPO towards improving that cooperation. He suggested that WIPO and the Committee on Economic, Social and Cultural Rights should undertake to help each other better understand the human rights aspects of intellectual property rights.

451. Mr. Hamish Jenkins (Non-Governmental Liaison Service) reported on the results of a seminar organized jointly on 26 March 1998 in Geneva by the NonGovernmental Liaison Service of the United Nations and the International Service for Human Rights on the theme

of globalization, income distribution and human rights. NGLS was motivated to facilitate discussion on those issues to help bridge the gap between economists and human rights specialists. He cited one speaker's reference to the prevailing tendency to treat economic rationality as distinct from social aspirations. The seminar aimed to analyse two reports, one of the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on income distribution and human rights (E/CN.4/Sub.2/1998/8) and the 1997 Trade and Development Report produced by UNCTAD. Both reports associated globalization with mounting inequalities, between as well as within nations. Mr. Jenkins expressed regret that few of the arguments used by development NGOs were framed in terms of the human rights instruments. The Non-Governmental Liaison Service called upon the Committee to consider the proposal by the Special Rapporteur to establish a "Social Forum" that would bring economists and human rights specialists together for an institutionalized discussion on the relationship between globalization and human rights.

#### V. Statements by representatives of non-governmental organizations

452. Mr. Dan Cunniah (International Confederation of Free Trade Unions) made a statement additional to the written contribution of the International Confederation of Free Trade Unions to the discussion (E/C.12/1998/4). He considered that the liberalization of world markets had led directly to greater impoverishment of most developing countries. The Asian crisis was a test for globalization; whether the international community could respond by constructing a social dimension to globalization would determine the stability of the process. In trying to lower costs of production, firms were searching the world for workers willing to work longer hours, with the lowest level of pay and social security benefits. Large companies were merging, not to cover losses but to increase their profits. Mr. Cunniah expressed the hope that at the forthcoming second ministerial meeting of the WTO concrete decisions would be taken on the question of international labour standards.

453. Ms. Conchita Poncini (International Federation of University Women) drew attention to the unequal effects globalization was having on women and men. According to UNCTAD, women dominated the labour market in export-oriented production (70 per cent). The right to work had traditionally been based on a male conception of employment in the formal sector of the economy. That model had failed to recognize the many forms of remunerated and unremunerated labour that women performed. The Human Development Report 1995 projected that by the year 2000, half of the world's active population would be women, but that 94 per cent of them would be working in the informal sector and only two thirds would be engaged in remunerated work. Furthermore, conditions of employment for women in a globalized economy were not likely to improve. Among several suggestions for narrowing gender inequalities in the context of globalization, Ms. Poncini said that attention should be paid to ensuring that the skills of women and men were equitably upgraded and that women were not crowded out of industries as they become more sophisticated.

454. Mr. Alejandro Teitelbaum (American Association of Jurists) noted that while the production of goods and services had increased greatly in recent decades, problems such as malnutrition, lack of health care and impoverished living conditions had, paradoxically, worsened. The devices that engendered globalization also facilitated trade in nonproducts, such as illegal drugs. The process of globalization was irreversible; the urgent question was who was directing it. Globalization had taken real power from States and vested it in an apparatus governing the world's political, financial, economic and military systems, consisting principally of the Group of Seven, IMF, the World Bank, WTO (and, by extension,

the major transnational corporations), the Security Council and the North Atlantic Treaty Organization. Mr. Teitelbaum called upon international organizations, particularly the United Nations system, to play a role in helping nations and peoples win back the fundamental right and ability to direct the course of their lives. The American Association of Jurists contributed two written contributions to the discussion, which were available in documents E/C.12/1998/6 and 7.

455. Mr. Stephen Marks (International Service for Human Rights) referred to recent discussions between the Office of the United Nations High Commissioner for Human Rights and UNDP, in which the participation of UNDP in the work of the Committee had been explored. In a recently concluded memorandum of understanding between the two institutions, UNDP had pledged to assume an advocacy role for human rights. Mr. Marks had suggested several ways in which UNDP and the Committee could contribute to each other's work. UNDP could assist the Committee in the development of benchmarks for monitoring economic, social and cultural rights; share its country profiles on States whose reports were due to be examined by the Committee; contribute staff and resources to the Committee in a way comparable to the role played by UNICEF in relation to the Committee on the Rights of the Child; and modify its resource allocations to facilitate better implementation of the Covenant, as foreseen in article 22. For its part, the Committee could assist UNDP in developing an understanding of a "rights perspective" in its work, particularly with respect to the Covenant, and help it integrate that understanding into the work of UNDP and its country cooperation framework.

456. Ms. MarieDominique Govin (International Service for Human Rights) spoke on three other salient results of the seminar organized on 26 March 1998 by the International Service for Human Rights and the Non-Governmental Liaison Service of the United Nations. The first was the question of income distribution and human rights. Income distribution was an indicator within any society of how power was distributed and, while economies had developed rapidly in recent years, income distribution had deteriorated. Second, the important role of civil society had been raised at the seminar. The process of globalization carried along with it the globalization of standards, which was resulting in a new system of ethics in various communities. Lastly, the seminar had discussed the proposal of the Special Rapporteur of the SubCommission on Prevention of Discrimination and Protection of Minorities on income distribution and human rights to establish a "Social Forum", with the participation of the Committee. The Special Rapporteur had proposed that the social forum be established within the SubCommission and that it should, inter alia, propose legal standards on income distribution, poverty and human rights, and consider followup to the World Summit for Social Development (Copenhagen, 1995) and the Earth Summit (United Nations Conference on Environment and Development, Rio de Janeiro, 1992).

457. Mr. Nuria Albala (on behalf of DroitSolidarité (France) and the International League for the Rights and Liberation of Peoples) drew attention to the proposed draft investment agreements that were under discussion at both the OECD and WTO. The Multilateral Agreement on Investment (MAI) was most disturbing, as its disputesettlement mechanisms only addressed interstate disputes but did not allow for complaints to be filed against investors. Mr. Albala urged the Committee to request that the Economic and Social Council authorize an indepth study of the compatibility of MAI with the Covenant.

458. Mr. Miloon Kothari (Habitat International Coalition) presented several problematic aspects, from a human rights perspective, of MAI, which had been characterized by some as a

“bill of rights and freedoms for transnational corporations”. Legally, such international trade and investment agreements could be incompatible with multilateral human rights and environmental treaties. An initial review of MAI had led to strong suspicions that this was the case. Second, the human rights concept of non-discrimination ran counter to that used in the context of tradeinvestment liberalization; measures to eliminate discrimination and promote equality of vulnerable groups, which often required positive action by the State, might be subject to challenge as discriminatory by trade and investment bodies. In addition, the agreement contained no binding obligations on corporate conduct in regard to human rights; corporate conduct would at best be governed by voluntary codes. A large and growing NGO coalition had worked to mobilize public opinion and Governments to act against MAI. Mr. Kothari suggested that the Committee might raise a voice by: calling for an immediate technical review of the impact of the proposed MAI on human rights; demanding full recognition of survival rights; calling for the establishment of a committee on trade, investment and human rights within WTO, IMF and OECD; considering the formulation of a general comment on obligations in relation to transnational corporations; and when examining the reports of States parties raising the matter of their human rights obligations in respect of future agreements.

459. Mr. Malik Özden (Centre EuropeTiers Monde) expressed the belief of Centre EuropeTiers Monde that globalization was an obstacle to the realization of economic, social and cultural rights, particularly the rights contained in articles 1 and 2 of the Covenant. The demands made by the World Bank and IMF in conferring loans to developing countries resulted in decreased social services, increased unemployment and a diminished role for the State. The international trade agreements being negotiated aimed at protecting the monopolies of transnational corporations, reducing their operation costs and facilitating tax evasion. Centre EuropeTiers Monde urged the Committee to undertake an indepth study of the role of the international financial institutions and to recommend that the Economic and Social Council examine the compatibility of MAI with the Covenant.

460. Mr. Lázaro Pary (Indigenous World Association and the Indian Movement “Tupaj Amaru”) supported the view that the activities of transnational corporations were directly linked with the enjoyment of economic, social and cultural rights. Host countries were losing their capacity to exert influence or jurisdiction over branches of TNCs in their territories. Mr. Pary believed it essential that measures be taken to establish the nationality of transnational corporations and that clear rules be drawn up regarding responsibility for such social phenomena as environmental pollution and poverty. He urged the Committee to give priority to setting up a working group on the effects of the activities of transnational corporations on the enjoyment of economic, social and cultural rights, on the right to development and on civil and political rights. The working group could also examine how capital was being transferred from poor to rich countries, including in the form of interest, debt servicing, speculation and money laundering, and look into the exploitation of natural resources by TNCs and their responsibilities with regard to the rehabilitation of the environment.

461. As a result of the rich exchange that took place during the day of general discussion, the Committee adopted a statement on globalization and economic, social and cultural rights (for the text, see chap. VI below).