

UNESCOINTERNATIONAL MEETING OF EXPERTS ON FURTHER STUDYON THE CONCEPT OF THE RIGHTS OF PEOPLESFINAL REPORT AND RECOMMENDATIONS

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International Meeting of Experts on further study
of the concept of the rights of peoples

Unesco, Paris
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FINAL REPORT AND RECOMMENDATIONS

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Division of Human Rights
and Peace

I. REAFFIRMATION OF THE RIGHTS OF PEOPLES

1. Even as the participants in this international meeting gathered at Unesco Headquarters in Paris, there was vivid and tangible evidence in many lands of the affirmation of the rights of peoples. Amongst the most dramatic was the evidence of the great popular movement for democracy and openness of government in the countries of Eastern Europe. Coinciding with the meeting were large, peaceful and democratic gatherings of peoples in these countries. These popular movements are made up of individuals asserting their fundamental human rights. But individuals acting in isolation or in small groups, could not explain the assertion of group will demonstrated by the popular movements just described. The spontaneous and widespread movements must be explained by reference to the assertion of group rights.

2. The foregoing events should not overshadow or obscure other contemporary but quite different assertions of the rights of peoples, fresh in mind during the meeting. The recently successful achievement of independence of Namibia - by an act of self-determination and the conduct of democratic elections - represented the most familiar and traditional assertion of the principle of self-determination of peoples, which is reflected in Article I(2) of the United Nations Charter and in Article I(1) of the Human Rights Covenants of 1966.

3. In addition to these extraordinary and welcome assertions of the peoples' right to self-determination and democratic forms of government allowing diversity of viewpoints, other more regular or less dramatic manifestations of the same phenomenon can too easily be overlooked. The conduct of democratic elections in Brazil was proceeding at the time of the meeting. This election - and the forthcoming election in Chile - see the completion of a process of democratization in South America which has been remarkable and has arisen from the will of the peoples of that continent. The conduct of national elections in India has produced a change of government by the peaceful, democratic process of the ballot box. Sadly, in other countries, peaceful change of this kind is not open to all peoples. As the Preamble to the United Nations Charter contemplates, such peoples do not forever have to accept an unacceptable form of government, unresponsive to the human rights of individuals and the collective aspirations and rights of their peoples. Many contemporary examples of assertions of the rights of peoples, particularly to self-determination and democratic self-government were mentioned during the meeting. The rights of the peoples of South Africa, Palestine, the rights of the Kurdish people or peoples in other parts of the world were amongst those most frequently referred to.

4. Usually, the rights of peoples are represented in international law by the State in which the peoples live. Frequently, even in States without a homogeneous population, respect for linguistic, cultural and other sources of the diversity of its peoples - and the democratic process of rendering governments accountable for their acts - provide sufficient means on the national level for the assertion and protection of the rights of peoples, for example to existence and to self-determination. But it is not always so. The State may be unresponsive to the legitimate aspirations and rights of some - or even virtually all - of the peoples living within its borders. It may (as colonial States illustrate) serve only the interests of the metropolitan power. It may exhibit indifference to minorities within its borders, particularly where a minority is a powerless indigenous people whose rights come into apparent conflict with the perceived needs of economic development. It may be incapable or unwilling adequately to represent a people who are scattered in several contiguous States. Such peoples thus become minorities within each State in which they exist by reason of the earlier drawing of State boundaries in ways indifferent to the sense of unity and identity of

such people. Some States are vigilant in the protection of these issues. Alternatively, the State may be slow to reflect the concerns of peoples about urgent issues of global concern. Issues such as peace and disarmament and the global environment (the so-called Greenhouse Effect) are examples of this.

5. The right of peoples to self-determination is now well established by international law in the case of colonial peoples, peoples in dependent territories and peoples living under racist regimes. The right of peoples to self-determination in other States may sometimes come into conflict with the principle of State sovereignty which is an important element in the international legal order for safeguarding the right to peace. There is an understandable fear that, understood in one way, the peoples' right to self-determination might lead to the fragmentation of States, the disruption of settled international boundaries, the breakdown of governmental authority and even manipulation of peoples for the purpose of disrupting the internal affairs of States. It is this concern which makes the further study of the rights of peoples both legitimate and important. Especially important is a further attempt to describe the features of a 'people' to whom, by international law, rights such as to existence as a people and to self-determination attach. This subject was the topic of much discussion during the meeting. History teaches that where a State does not have the appropriate legitimacy to represent a people or peoples living within its borders, the right of such peoples to self-determination may assert itself in popular unrest, revolution, or even war.

6. The experts recognized that these issues raise very large questions of great sensitivity and controversy, some of which are more appropriately dealt with in the political organs of the United Nations. Many of them are beyond the particular competence of Unesco, as a Specialized Agency concerned with educational, scientific and cultural matters. This is not to say that they are irrelevant to Unesco's concerns. Because war and conflict begin in the minds of human beings, it is still true that it is in the minds of people that the defences to peace must be built. Few ideas are as enduring and powerful as those of cultural, religious, linguistic, racial or other forms of group identity. However, the full dimensions of peoples' rights, including to self-determination, go beyond the immediate and useful involvement of Unesco at this time. It was for that reason that the experts decided to concentrate their attention on those aspects of peoples' rights which are of particular relevance to the mandate of Unesco. In doing so, however, they were not unaware of the wider questions which the issue raises.

II. EARLIER UNESCO INVOLVEMENT IN PEOPLES' RIGHTS

7. The meeting took place against a background of many years' involvement by Unesco in studies of the issue of the rights of peoples. Without pretending to a full chronology, the following events should especially be remembered:

In 1982 the General Conference decided that the second Medium-Term Plan (1984-1989) would include a Major Programme on 'Peace, International Understanding, Human Rights and the Rights of Peoples'.

In 1984, at the invitation of the Executive Board, the Director-General constituted a panel of counsellors on this topic. This panel reported that there were grounds for pursuing studies on peoples' rights but not towards the establishment by Unesco of new legal standards. It also recommended emphasis on promoting the wider knowledge of relevant international instruments. A minority of counsellors expressed the view that the concept of 'peoples' rights' was still in the process of development in international law. Those counsellors urged that Unesco's activity in this area should proceed with regard to the plurality of

In 1985, at the invitation of the Government of Zimbabwe, Unesco organized an international meeting of experts on this topic in Harare. The final report of that meeting recommended that further work of scientific analysis should continue with particular emphasis upon intercultural exchanges. Research into particular topics was recommended in order to give greater precision to the expression 'peoples' rights'.

Also in 1985, at the twenty-third session of the General Conference, the Chairman of Commission V summarized the debate related to peoples' rights by emphasizing the high level of unanimity achieved about the concept. It was stressed that the rights of peoples were not the rights of States and that Unesco should encourage further reflection on the relationship between peoples' and human rights.

In 1986, at the invitation of the Australian Government, Unesco organized an international symposium on the topic in Canberra. The meeting concluded that Unesco should further international co-operation and encourage scientific debate, leaving the elaboration of any possible new normative instruments to other competent bodies of the United Nations.

In 1989, a regional seminar on the implementation in the fields of competence of Unesco of the African Charter on Human and Peoples' Rights was held in Kampala, Uganda. This meeting paid particular attention to the right to education and cultural rights.

8. There have been other relevant activities carried out by National Commissions for Unesco or by international non-governmental organizations under the auspices of Unesco or supported in various ways by it. Amongst the most important of these have been:

In 1982, the National Commission of San Marino organized in collaboration with Unesco, an international symposium of experts on 'Solidarity Rights, Peoples' Rights'.

Also in 1982, the 'Institut international Jacques Maritain', Rome under the auspices of Unesco convened an international symposium on the theme 'Human Rights, Peace and International Social Justice'.

In 1985 the Australian National Commission for Unesco sponsored two meetings of experts in an endeavour to clarify the discussion of the rights of peoples. The papers presented have been published in a book, The Rights of Peoples, J. Crawford (ed.), Clarendon Press, Oxford, 1988.

In 1986, at the invitation of the International Institute of Human Rights in Strasbourg, a European Symposium was organized in Klingenthal, following an internal symposium of the German Commission for Unesco in Munich (1982).

Also in 1986, in collaboration with Unesco, the Latin American Association of Human Rights (ALDHU) organized an international seminar on the relationship between human and peoples' rights. This was followed up in December 1988 by a further seminar on 'Human Rights and Development' organized with the assistance of Unesco by the Association of International Studies (Tunis).

In 1988, the Netherlands Commission for Unesco, in conjunction with the Roosevelt Study Centre and with the support of Unesco, called a meeting at Middelburg, Netherlands, on 'Human rights - rights of individuals - rights of collectivities'.

Also in 1988, a Joint Commission on co-operation between the Organization for African Unity and Unesco set in train a series of activities to be carried out jointly for the study of human and peoples' rights.

In collaboration with Unesco, the Tunisian Association des études internationales held a seminar from 23 to 25 November 1989 in Tunis. The seminar dealt with the African Charter on Human and Peoples' Rights. One of the topics which was discussed in depth was the concept of the law of peoples.

9. The above list is not exhaustive. For instance, in November 1989 a workshop was convened in Banjul, The Gambia, under the auspices of the African Commission of Human and Peoples' Rights of the African Association of International Law. The general topic of this workshop was the relationship between internationally recognized individual human rights and group rights. The workshop specifically examined the concept of peoples' rights.

10. These activities show the considerable interest in the subject of peoples' rights in the international scientific community. The same interest is reflected in scholarly literature - some of it stimulated by the meetings set out above.

III. MANDATE OF THE EXPERT GROUP

11. It was against this background that the present meeting of experts was convened by the Director-General of Unesco. In 1987, the General Conference invited the Director-General to contribute to the further reflection on human rights and to the elucidation and better understanding of the concept of rights of peoples and of the relationship between rights of peoples and human rights as they are defined in existing international instruments of universal scope.

12. Accordingly the Director-General called this meeting of experts. In doing so, he drew particular attention to a further resolution of the General Conference (13.1 - Human rights and cultural identity in existing international instruments of universal scope). By paragraph 1 of this resolution the Director-General was invited:

'Within the context of Unesco's contribution to reflection on human rights and to the elucidation and better understanding of the concept of rights of peoples, and to clarifying the relationship between rights of peoples and human rights as they are defined in existing international instruments ... to prepare an analysis of the relevant provisions of such instruments relating to the preservation, safeguarding and development of cultures and cultural identities.'

13. The meeting duly convened. It elected Justice Michael Kirby (Australia) as Chairman and Professors Vamireh Chacon (Brazil), Walter Poeggel (German Democratic Republic) and Guy Rajaonson (Madagascar) as Vice-Chairmen. It elected Professor Charles Leben (France) as Rapporteur. It had the assistance of the United Nations Centre for Human Rights. The experts had before them, in addition to a Secretariat paper outlining the above background of Unesco involvement in the issue of peoples' rights, two papers commissioned for the meeting:

'Relations between rights of peoples and human rights' by Mr L. Matarasso.

'Compilation of provisions relating to the rights of peoples in existing international, universal and regional instruments' by Mrs A. Kaboré.

Also before the meeting were the reports of the earlier Unesco meetings. Various other papers were distributed as referred to during the meeting, including papers expressing reservations or concern about the concept of peoples' rights and its implications for international human rights law.

IV. THE CONTROVERSY OF PEOPLES' RIGHTS

14. The experts decided to face directly the expressions of concern (some of them voiced in the meeting and others referred to in the papers circulated) about the concept of peoples' rights. In the context of the recent history of Unesco no other approach was acceptable. The experts recognized and respected some of these expressions of concern. They shared the determination that the concept of peoples' rights should on no account be used as a means of diminishing or derogating from individual human rights. Unfortunately, some of the language used in some contributions to the debate on peoples' rights over the past ten years has given rise, perhaps unwittingly, to confusion. Thus, the image of 'third generation' human rights, as including peoples' rights, is liable to be misunderstood as suggesting that earlier generations of rights - such as the 'first' generation of civil and political rights, might now be discarded. Nothing could be further from the truth. The notions of peoples' and human rights are distinct. Although each is an aspect of the international 'rights' debate, and each ultimately impinges on individual human beings, the two concepts should not be confused. Each of them has its own history and legal sources. Each is a pre-condition to the fulfilment of the other. A full enjoyment of individual human rights will not be possible if the people, of whom the individual is one, is denied its rights - such as to existence, self-determination, cultural identity, economic development, etc. Similarly, the attainment of peoples' rights e.g. to self-determination, requires for its fulfilment freedom of expression and the exercise of other individual human rights.

15. The experts recalled that reservations about the concept of peoples' rights as discussed in the context of Unesco were amongst the reasons given for the withdrawal of the United States of America and the United Kingdom from the Organization. Explicitly it was said, in a summary of the United States State Department Policy Review of US-Unesco Relations (1984), that Unesco had been 'pressured ... to give equal or greater attention [than to human rights] to "the rights of peoples"'. The latter were described as 'generally economic in character, ... exceedingly vague and ill-defined ... [laying] stress on 'collective rights' [which] tend to strengthen the prerogatives of a non-democratic State, at the expense of human rights of individuals'. The experts gave anxious consideration to these reservations and to others expressed by writers on the subject, particularly in (but not limited to) the United States. It is in their opinion timely to reconsider these objections, in the context of the above-described international moves to reduce ideological tensions and to increase democracy, respect for human rights and diversity of opinion in all parts of the world.

16. To the extent that objections to the notion of peoples' rights is a slogan on which to hang international political or economic policies, the experts recognized that there was little that they could contribute. However, to the extent that the reservations about peoples' rights represent genuine intellectual differences of opinion, the experts considered that they should express their opinions in response to the principal objections which have been expressed about the concept.

17. First, it is said in some quarters that peoples' rights do not exist at all, or do not exist separately from individual human rights. This objection cannot now be admitted. Whilst it is true that the content of peoples' rights is not settled and the catalogue of such rights is in the process of

refinement and development, it is equally clear that peoples' rights, as such, are now represented in international law. Indeed, the foregoing document of the United States State Department acknowledges this in these terms. It says 'A political "right of self-determination" has long been recognized and endorsed by the United States'. In the light of the history of the United States of America itself so much could not seriously be disputed. Perhaps the first text in which both human and peoples' rights are simultaneously proclaimed, is the Declaration of Independence of the United States. In familiar words, it begins:

'When in the course of Human Events it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume among the Powers of the earth, the separate and equal station to which the laws of Nature and Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation' (emphasis added).

18. The insistence by Presidents Wilson and F.D. Roosevelt in turn that self-determination of oppressed peoples should be included in Allied war aims in both the First and Second World Wars reflected the United States' commitment to the rights of peoples - as distinct from States (the normal subject of international law) - to enjoy such a right to self-determination. This insistence has profoundly, and beneficially, influenced the course of events of this century. The power of the idea of self-determination of peoples including its relevance to democratic modes of internal government - is still exercising its influence throughout the world. It was the insistence of the United States which led to the opening words of the United Nations Charter being expressed in these terms:

'We the peoples of the United Nations determined ...'.

The authority of the Charter is therefore founded not upon the States, as such, but upon the peoples. The second of the purposes of the United Nations includes 'to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples' (emphasis added). The Human Rights Covenants give similar priority and emphasis to this peoples' right.

19. Therefore peoples' rights exist. They clearly also extend beyond the right to self-determination to the right to existence (Genocide Convention) and to other peoples' rights now recognized in universal instruments. They are also elaborated and are in the process of development in regional instruments (such as the African Charter of Human and Peoples' Rights) and in relevant resolutions of the General Assembly of the United Nations. Thus the debate amongst experts is no longer whether peoples' rights are recognized by international law. Clearly they are. The debate now is about their content. This is a subject of legitimate difference of opinion. It is a dynamic subject where the content of peoples' rights is changing and developing. These self-evident facts make it appropriate to continue the dialogue about peoples' rights in the international fora appropriate for that purpose. Unesco is one such forum. It is by the exchange of ideas and opinions that progress and clarification of concepts is made not by opting out of the debate or by erroneously rejecting the idea out of hand.

20. Then it is said that the concept of peoples' rights is a 'statist' concept which runs the risk of over-emphasizing duties, diminishing individual human rights and justifying non-democratic State oppression of individuals. The experts wish to make it plain once again that:

peoples' rights are not State rights;

peoples' rights may not be used to derogate from individual human rights;

peoples' rights, to the contrary, provide the pre-conditions necessary to the fulfilment of individual human rights; and

peoples' rights, far from justifying anti-democratic actions by States against peoples, assert and protect peoples from anti-democratic actions against them by the State, where it is undemocratic or otherwise illegitimate.

In the context of the recent developments in Eastern Europe, peoples' rights advance and do not restrict democracy. The same is true elsewhere in the world. In the context of poor countries, heavily burdened by debt, famine, poverty and other afflictions, talk of individual human rights is hollow without the establishment of the necessary political, economic and environmental pre-conditions to the enjoyment of these rights expressed in peoples' rights.

21. Next it is said that peoples' rights are vague and that they represent a needless proliferation of rights and a lack of 'quality control' in the expression of rights. It is true that the content and definition of several of the rights sometimes expressed as peoples' rights are not yet precisely settled. It is also true that about some of them there is no present agreement. But this is not surprising. In earlier times there were similar controversies about the content and definition of individual human rights. For example, it was long contested that human rights should be extended to be enjoyed by slaves, women, intellectually handicapped or other groups. It has taken a remarkable effort of the international community, particularly over the past 40 years, to clarify the concepts of individual human rights and to establish institutions for their implementation and protection. We are now embarked upon a similar process in the elucidation of the rights of peoples. The fact that this will take time and result in vagueness and uncertainty on the way should surprise least of all a person brought up in the legal tradition of the common law. International law has similar features of dynamism. The development of the concept of peoples' rights is merely one example of this feature of law, domestic and international - its constantly evolving character.

22. Then it is said that the definition of 'peoples' is uncertain and that the notion of peoples' rights could lead to dangerous proliferation of claims, undermining settled borders, national sovereignty and international peace and security. In earlier times, and in some places today, individual human rights were equally criticized as dangerous and subversive to law and order. It is true that there is need for further efforts to define 'peoples' for the purposes of peoples' rights. It is possible that the concept has universal features. For example, during the meeting the following characteristics were amongst those mentioned as inherent in a description (but not a definition) of a 'people' for this purpose:

1. a group of individual human beings who enjoy some or all of the following common features:
 - (a) a common historical tradition;
 - (b) racial or ethnic identity;
 - (c) cultural homogeneity;
 - (d) linguistic unity;
 - (e) religious or ideological affinity;

(f) territorial connection;

(g) common economic life;

2. the group must be of a certain number which need not be large (e.g. the people of micro States) but which must be more than a mere association of individuals within a State;
 3. the group as a whole must have the will to be identified as a people or the consciousness of being a people - allowing that groups or some members of such groups, though sharing the foregoing characteristics, may not have that will or consciousness; and possibly;
 4. the group must have institutions or other means of expressing its common characteristics and will for identity.
23. It is possible that, for different purposes of international law, different groups may be a 'people'. A key to understanding the meaning of 'people' in the context of the rights of peoples may be the clarification of the function protected by particular rights. A further key may lie in distinguishing between claims to desirable objectives and rights which are capable of clear expression and acceptance as legal norms. The experts were of the opinion that there is a need for further study and reflection on this topic. Such study and reflection should recognize the diversity of viewpoints which already exist. Further study is appropriately done in the context of Unesco. It should include not only legal experts but anthropological, sociological, psychological and other studies to help identify the meaning of a people for the purposes of particular suggested peoples' rights and the content of those rights as legal norms.

V. CONCLUSIONS

24. Against the background of these deliberations, the experts therefore concluded as follows:

1. The concept of peoples' rights is now established by universally recognized international law. Its existence cannot now validly be controverted.
2. Some peoples' rights are universally accepted. These include the right to existence, the peoples' right to self-determination and other rights.
3. There is however a continuing and legitimate debate about the precise content of still other rights claimed to be peoples' rights.
4. The concept is a dynamic one which is in the process of elucidation and clarification. International and regional legal instruments, resolutions of the General Assembly of the United Nations, national Constitutions, scholarly writings and other texts contribute to this process.
5. Unesco is an appropriate forum for such elucidation and clarification, particularly because of the direct relevance of peoples' rights to cultural identity, educational practices and other established areas of Unesco's competence.

VI. GENERAL RECOMMENDATIONS

25. Unesco should continue the work of elucidation and clarification of the concept of peoples' rights. It should be sensitive to the diversity of viewpoints which have been expressed on the subject. It should not be dissuaded from continuing its exploration of the subject by the problems to which peoples' rights, as a slogan, have sometimes given rise in the past. But it should endeavour, as this meeting of experts has done, to answer and accommodate so far as possible, the concerns that are expressed about peoples' rights. It should try to find common ground, for it is the belief of the experts that such common ground exists.

26. The work of elaboration within Unesco should not be directed, at least at the present stage, at the elaboration of standard-setting measures. However, learning from the valuable experience of the United Nations Commission on Human Rights, and the work of the Centre for Human Rights referred to in this meeting, Unesco should provide further reflection on the institutional means for the definition or description of a people for this purpose, the elaboration of peoples' rights, the further exploration of the relationship of human and peoples' rights and the evaluation of claims that particular peoples' rights have not been observed.

27. In the context of the contemporary changes in the ideological debates which have so profoundly affected the international community - and necessarily Unesco - in the recent past, Unesco should extend the reflection on the rights of peoples to new subject areas. Without limiting the generality of this observation, such extension should include:

- (a) the implications of peoples' rights, including to internal self-determination, especially democratic forms of government;
- (b) the implications of peoples' rights including to a safe global environment for such issues as the so-called Greenhouse Effect and global warming or in response to disasters of transnational significance, such as occurred at Chernobyl; and
- (c) the implications of peoples' right to peace (see United Nations General Assembly Resolution 39/11).

VII. RECOMMENDATIONS CONCERNING UNESCO'S FUTURE ACTIVITIES

A. Elucidation of the concept of rights of peoples

28. For the sake of future work, it was felt necessary not just to hold an over-general discussion of the concept of rights of peoples but to try and make progress by identifying specific research topics.

(a) International law of States, international law of peoples

29. Given that the concept of the rights of peoples now appears in international legal instruments, thought should be given to the relationship which could exist between the State, which is the subject par excellence of classical international law, and peoples, which are the new subjects of international law (according to many observers). In particular, is there, alongside the inter-State legal order, an international legal order of peoples? If such exists, will it remain lastingly independent or will the principles on which it is based penetrate inter-State society and be assimilated by it?

(b) Representation of peoples

30. Like the concept of the State, the concept of a people designates a community which can act only through representation. Nevertheless, whereas the forms of representation of the State in international law are well known, those relating to peoples are poorly documented. There are instances in which representativeness has been recognized, as in the case of national liberation movements struggling against colonization, apartheid or foreign domination. However, the problem is more general and concerns the forms of representation of peoples within States, even when there are no separatist intentions, in the context of the peaceful assertion of certain specific rights.

31. Unesco should examine the possible forms of legitimate representation of peoples and various types of minority (linguistic, ethnic, religious, etc.). This research should bring out the relation between the recognition of the rights of peoples and the operation of the democratic system within States and within peoples themselves.

(c) Foundations of the rights of peoples

32. On the basis of an inventory of the various categories of peoples' rights in international and domestic legal instruments (see below C), it would be a good idea to try to identify the philosophical, political and legal foundations underlying the recognition of the rights of peoples and their protection in legal systems.

33. It would also be advisable to consider how the particularism which may follow from the assertion of the rights of peoples may be reconciled with the defence, more necessary now than ever before, of the universality of the great principles of freedom, equality and respect between men.

(d) Cultural identity

34. One of the most important tasks for future research is to go more deeply into the concept of cultural identity and to recognize the problems which it could create from the point of view of the defence of peoples and minorities and from the point of view of the States within which these peoples and minorities reside. At the same time, it should not be forgotten that the preservation of cultural identity may also contribute to the protection of human rights.

35. The problem is to discover specifically how to preserve and develop the language, writing, religion and all valuable expressions of the culture of peoples (i.e. excluding intolerance and racism) in the face of the threat of acculturation posed by modern societies. Education is certainly one of the keys to this problem. At the same time, the defence of cultural identity should not place the members of the group in a situation of inferiority with regard to the general culture of the State nor prevent them obtaining access to a universal culture which would enable them to conceive the modern world and coexistence on a basis of friendship between peoples and cultures.

36. The next studies should certainly consider how these two requirements can be reconciled.

(e) Rights of peoples and extreme poverty

37. The issue of the right to development has been linked to the general problem of the rights of peoples since the 1970s. It implies the creation of a new international economic order, of which there are yet no visible signs. On the contrary, the position of certain countries in Latin America, Africa, Asia

and the South Pacific provides examples of absolute pauperization in which the very existence of the least privileged strata of the peoples is at stake. In this connection, Unesco should focus its research on the consequences of extreme poverty for the defence of human rights and on the differentiation brought about in the very life of peoples by the contrast between the very rich and the very poor.

(f) Research on the property of indigenous peoples

38. This is a problem which has often been touched on but which should continue to be studied. More specifically, the dividing up of the property of indigenous populations is something which cannot be settled within the legal framework which exists at present in most States. Serious problems, which must be cleared up, arise when, for example, the profits deriving from the exploitation of certain natural resources located on the territory of a tribe are to be shared out in a way which takes account of the general sovereignty of the State.

B. Clarification of the relation between people's rights and human rights

39. The discussions held by the group of experts led, as did previous studies, to the unanimous conclusion that peoples' rights could not be defended to the detriment of the defence of the rights of individuals. On the contrary, both these categories of rights should be seen as closely linked in the defence of the human person. On the basis of this observation, several questions should be given further study.

(a) How to make peoples' rights as effective as human rights?

40. The main difference today between human rights and peoples' rights is that highly developed enforcement procedures exist in some legal systems for human rights whereas the procedures for enforcing people's rights are still embryonic. The problem now to be faced by Unesco is that of defining the procedures which could be established (or which already exist, see below C) to ensure respect for the rights of peoples and, most especially, the rights of minorities.

41. In this connection, the existing machinery for the protection of individuals should be examined to see whether it can be transposed to the protection of groups. This refers primarily to the maximum level of protection afforded in the procedures for submitting cases to international, regional and State courts and quasi-judicial bodies. This, however, is not the only kind of machinery which can be envisaged here. Monitoring within an intergovernmental organization, with the need to prepare reports and provide explanations between States, has produced appreciable results in the case of various international agencies. It would be a good idea to consider the effectiveness of this approach, particularly with a view to the protection of the rights of minorities. Likewise, with the same end in view, it might also be advisable to look again at the system for the protection of minorities established under the auspices of the League of Nations, in spite of the difficult situations to which it gave rise in the past.

42. Other ways of monitoring the application of the rights of peoples depend on the work of non-governmental organizations and the vigilance of public opinion. The ways in which non-governmental organizations and people within States can play a part in defending the rights of peoples is a subject which should be given further study.

(b) How to assert the rights of peoples without weakening the universality of human rights?

43. This is a cause of concern for many experts, who want future work to remove any possible ambiguity. It is worth recalling that the Charter of the United Nations, which is one of the sources of the concept of people's rights, declares in its Preamble the faith of the United Nations 'in fundamental human rights, in the dignity and worth of the human person ... and of nations large and small' and its determination to 'practice tolerance and live together in peace with one another as good neighbours'.

44. It is clear in this context that the rights of peoples and the various minorities and their cultures are not to be defended at the expense of these principles, which are the most fundamental principles of the law of nations (jus gentium). Nevertheless, the defence of certain group rights sometimes ends up by encouraging manifestations of intolerance and violence or even anti-democratic activities. Another most important area of research is also the identification of means to defend democratic culture against all forms of extremism inimical to human rights.

(c) Relations between the rights of peoples, human rights and the rights of migrants and refugees

45. Linguistic, religious and cultural minorities are forming today in various regions of the world as a result of the large-scale migration of workers. This has already been extensively studied by ILO and other organizations. In nearly all parts of the world in the 1980s, large numbers of migrant workers settled permanently with their families in countries of immigration. During the same period, there was a considerable increase in the number of refugees. These two developments have led in many countries to the emergence of the problem of how to protect those groups. It is necessary to make clear how migrants and refugees can be successfully accepted while showing due regard for their cultural traditions and those of the host State. Manifestations of mutual intolerance and lack of understanding must be combated, especially through education. The forms that such an education, heedful of the rights of peoples, should take ought to be the subject of fresh studies by Unesco.

C. Examination of provisions relating to the rights of peoples in existing universal international instruments, regional instruments and national constitutions and analysis of the provisions of the instruments in question relating to the preservation, safeguarding and development of cultures and cultural identities

46. The study presented at the meeting of experts by Mrs Kaboré should be continued with two aims in view:

- (a) selection from the range of legal instruments listed of those which set out specific rights of peoples;
- (b) identification of the form of inspection provided for in these instruments to monitor enforcement of the rights specified.

47. This would provide a list of the different forms of action already existing in substantive law particularly for the purpose of protecting cultural identity.

48. Research should be further expanded to include legal procedures which were not specifically designed for the protection of the rights of peoples but which may be employed to defend a common interest by a group of persons who

have suffered from breaches of the law. This is the case, for example, in French law which recognizes the right of associations to take action when there is prejudice to the interests which they have made it their business to defend (associations for the defence of human rights, trades unions, consumers' associations). Another instance which comes to mind is the 'class action' of United States law, and there are certainly other examples. It would also be a good idea to demonstrate that certain procedures already in existence, such as the provisions in Article 25 of the European Convention on Human Rights and Article 44 of the American Convention, enable not only individuals but also groups of individuals whose rights have been violated to bring the matter before the monitoring body (see also the provision for 'Other Communications' apart from those of the States parties, in Article 55 et seq. of the African Charter on Human and People's Rights).

49. In general, further research on the concept of the rights of peoples should combine the preparation of a detailed review of substantive law with future studies taking account of the legitimate wishes of individuals and communities.

ANNEX I

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ANNEX II

AGENDA

Official opening of the meeting by the representative of the Director-General

Election of a President, three Vice-Presidents and a Rapporteur

Elucidation of the concept of rights of peoples

Clarification of the relations between rights of peoples and human rights

Examination of provisions relating to the rights of peoples in existing universal international instruments, regional instruments and national constitutions and of an analysis of the provisions of the instruments in question relating to the preservation, safeguarding and development of cultures and cultural identities

Main conclusions drawn from the discussions

Formulation of recommendations on Unesco's future activities

Adoption of the final report and recommendations

Closing session