

Indian Ocean.⁴⁷ The objectives of the Action Plan for the environmentally sound management of the river basin include number of areas. Broadly, these areas are: exchange of data, soil erosion, deforestation, drinking water supply, community participation, health and hydropower irrigation etc. Further, the following main areas are considered to be elements of the comprehensive Action Plan: (a) Environmental assessment; (b) Environmental management; (c) Environmental legislation; (d) Supporting measures. There are detailed provisions with regard to the implementation of the suggested Action Plan. The scope of this study, however, relates to the "Environmental Legislation". It provides that "National Laws and regulations pertaining to the protection and development of the river basin and its coastal and marine environment should be developed, reviewed, and, when necessary, expanded, updated or strengthened. The enforcement of national laws and regulations relating to the river basin and its coastal and marine resources should be improved, for example with respect to deforestation, soil and water conservation, rural and urban health and development planning, mining and industrial activities, prevention of pollution of the riverine and marine environment and protection of the species living there", It further provides for the "harmonization of national laws and regulations on the protection and development of river basin resources".⁴⁸

The International Law Commission has also noted that the need to protect and preserve the ecosystems of international watercourses is also recognized in the work of international organizations, conferences and meetings. Some of these agreements, were, for example,⁴⁹ agreements concerning the environment in general include the 1968 African Convention on the Conservation of Nature and Natural Resources⁵⁰ and the 1985 ASEAN Agreement on the Conservation of Nature and Natural Resources.⁵¹

47. *International Legal Materials*, Vol. XXVII, No. 5 September 1988 p. 1109. The Conference of Plenipotentiaries on the Environmental Management of the Common Zambezi River System was convened by the UNEP; in Harare, Zimbabwe, May 26-28, 1987. All Zambezi basin states were invited. It was attended by: Angola, Botswana, Mozambique, Tanzania, Zambia and Zimbabwe. The Southern African Development Co-ordination Conference (SADCC) and the South-West Africa People's Organization (SWAPO) also participated, with Observers from other States, U.N. bodies, specialized agencies, inter-governmental and non-governmental organizations.

48. It proposes a regional convention for this purpose; development of national legislation; technical assistance and advice on the drafting of national legislation — are the other important features proposed in the Action Plan.

49. *Draft Articles*, n. 11, p. 130.

50. *Natural Resources/Water Series No. 13*, n. 47, p. 20.

51. *Draft Articles*, n. 11, p. 132.

Conclusion:

In this preliminary study relating to the Regional System Agreements three specific areas as enunciated by the International Law Commission in its draft articles have been examined. Due to paucity of legal materials relating to recent river system agreements in the Afro-Asian region the effort here was confined to the outlining of major objectives and the principles incorporated in these agreements. The study examines, as mentioned above, primarily the following three areas, namely (a) International Watercourse; (b) Equitable and reasonable utilization; and (c) Protection and Preservation of Ecosystems. In the subsequent studies an effort can be made to include other crucial areas as classified under the draft ILC articles.

It is accepted that the concept of a watercourse or river system is not a novel one; it has been in usage for a very long time. However, the definition of a watercourse has undergone significant change. In recent time it has acquired "a more holistic approach", in relation to international water resources management. In addition, the "watercourse" is defined functionally; that is depending upon the tasks which it had to fulfil in a given context. In contrast, the principle of "equitable and reasonable utilization and participation" is more concretely accepted. In its application there may be large-scale differences; accordingly the ILC has not attached same legal validity to all the available sources.

It should be noted that the social and economic development of a basin is closely linked with its fresh waters of all types. While rivers are often considered as dominant features of a basin, lakes, wetlands, ground water aquifers and water contained in the soil are also hydrologically important components of many basins. Therefore, when promoting an environmentally sound policy of any river basin development, all fresh water components should be considered. In the future studies emphasis could be laid more on the river basin development and its linkages with the legal infrastructure needed for its implementation.

conditions whereby everyone might enjoy these rights as set out in the International covenants on Human Rights.

- (c) To examine ways and means to improve implementation of existing human rights standards and instruments.
- (d) To evaluate the effectiveness of the methods and mechanisms used by the United Nations in the field of human rights;
- (e) To formulate concrete recommendations for improving the effectiveness of the United Nations activities and mechanisms in the field of human rights through programmes aimed at promoting, encouraging and monitoring, respect for human rights and fundamental freedoms; and
- (f) To make recommendations for ensuring the necessary financial and other resources for the United Nations activities in the promotion and protection of human rights and fundamental freedoms.

The General Assembly also decided to establish a preparatory committee for the World Conference, open to all States members of the United Nations and of its specialized agencies, and with the participation of observers. The Under Secretary General for Human Rights has been appointed as the Secretary General of the Conference.

As decided by the General Assembly resolutions 45/155 and 46/116, the Prepcom should meet for four sessions at Geneva, once in 1991, twice in 1992, and once in 1993. Each session would last one to two weeks. Pursuant to this mandate, the Prepcom held its first session at Geneva from 9 to 13 September 1991, marking the actual beginning of the preparatory process of the Conference. Subsequently, the second and third sessions were held respectively in March and September 1992. The sessions were attended by representatives from over 100 states and a large number of observers from UN bodies, specialized agencies, international organizations and non-governmental organizations. Ms. Halima E. Warzazi (Morocco) was elected as the Chairman of the Prepcom.

The fourth and final session of the Prepcom is scheduled to take place in April 1993 at Geneva.

In view of the importance of the World Conference on Human Rights and its function, the Committee at its 31st Session held in February 1992 in 'Islamabad' Pakistan decided to mandate its Secretariat to monitor the preparatory process of the World Conference, focussed on the issues with legal implications, and to make necessary studies. It further decided to put the item, "Preparation for the World Conference on Human Rights", on the Thirty-second Session of the Committee.

The brief prepared by the AALCC Secretariat is aimed at reflecting, as appropriate, the current preparatory process of the World Conference, upto the conclusion of the Third Session of the Prepcom, and trying to provide a useful basis for the development of a common position among member states of the Committee on the basic principles concerning the promotion and protection of human rights and fundamental freedoms.

Thirty-Second Session : Discussions

At the thirty-second session of the committee, the President Mr. Abu Baker Mayanja announced the constitution of an open-ended Working Group on Human Rights with a core membership of Egypt, Bangladesh, China, India, Japan, Iran, Kenya, Syria, Thailand, Tanzania and Uganda and entrusted with the mandate of preparing a Draft Declaration or statement to constitute the AALCC's contribution to the forthcoming World Conference on Human Rights. The representative of Uganda Mr. Lucian Tibaruha was elected as the Chairman of the Working Group.

The Working Group had before it two basic documents prepared by the Secretariat (1) Preparation for the World Conference on Human Rights and (2) Draft Working Paper Concerning the General Principles of Human Rights. Other reference documents provided by the member delegations included a Joint Statement of the Attorneys General and Ministers of Justice of Eastern, Central and Southern African states on the Administration of Justice and Human Rights issued in Nairobi in October 1992 and the report of the Asia-Pacific Workshop on Human Rights Issues.

The Working Group Meeting was attended by delegates from Egypt, Bangladesh, China, India, Indonesia, Iran, Japan, Kenya, Syria, Thailand and Uganda. Zimbabwe and Swaziland attended as observers. The representative of the Secretariat Prof. Huang Huikang, Assistant Secretary General introduced the item to the Meeting. He stated that the Secretariat's presentation would be based on two documents namely, (i) Preparation for the World Conference on Human Rights" and (ii) "Draft Working Paper submitted by the Secretariat concerning the General Principles on Human Rights". He stated that both the documents were intended to enable member states to prepare fully for the deliberations of the forthcoming World Conference on Human Rights.

He stated that the first document was divided into three parts namely: (i) Introduction ; (ii) The Present State of Preparations for the Conference, and (iii) General Observations.

He also stated that the World Conference is intended to deal with

crucial questions facing the United Nations in the promotion and protection of Human Rights. The objectives of the Conference were clearly spelt out in the General Assembly Resolution 45/155. The main objective is to review and assess the progress made in this field since the adoption of the Universal Declaration on Human Rights and to identify obstacles and ways in which they could be overcome for further progress in the area of human rights.

Prof. Huang informed that the General Assembly had established a Preparatory Committee (PREPCOM), which is composed of all members of the United Nations and Observers from the U.N. Bodies, Specialized Agencies, International Organisations. It was mandated to meet for four sessions at Geneva.

He then turned to the second document, the draft working paper, which contained a number of principles that the Committee might wish to adopt as the Kampala Declaration on Human Rights. He said it was intended to help member states prepare a joint position on the promotion and protection of human rights, which will make valuable contribution to the preparation of the documentation reflecting the final outcome of the Conference.

The meeting thanked the Assistant Secretary General for having given a lucid exposition of the topic and the brief of the Secretariat.

The Chairman as a representative of his country, presented a position paper on the preparation for the World Conference. His country's position was intended to improve on the Secretariat's draft of General principles on Human Rights.

Consensus had emerged in the Working Group after an exchange of views that the proposed draft Declaration could be based on the AALCC's draft with necessary modifications and improvements. Thereafter the Chairman and the Secretariat were mandated to prepare the draft of the Declaration. Divergent views were expressed during the discussions. The Chairman held a series of informal consultations with various delegations to sort out the differences. Finally the Working Group successfully reached an agreement on the text of draft Kampala Declaration on Human Rights.

The report of the Working Group was presented by the Assistant Secretary General before the plenary. After briefing the proceedings of the working group, he read out the full text of the draft Kampala Declaration on Human Rights. Finally, the Assistant Secretary General pointed out that while the Working Group had unanimously adopted the draft Kampala Declaration on Human Rights, it had taken note of the Japanese delegation's position having reservations on some of its paragraphs, but did not wish to block its adoption.

The Delegate of Japan commended the Report of the Working Group and expressed a few comments on the Kampala Declaration, annexed to that Report. He referred to the relationship between development, human rights and democracy, he observed that while his delegation understood the value of social and economic development in ensuring respect for human rights they believed that there were certain fundamental freedoms and human rights that should be respected by all countries regardless of the degree of their political and economic development. Development should protect and promote the human rights of individuals and could not be sacrificed for development. Referring to paragraph 8 of the Kampala Declaration he said that it would be difficult to consider the right to development as a human right since it was the right of the State and not of an individual. Referring to paragraph 10 of the Kampala Declaration which stated that without the realization of the economic, social and cultural rights, the civil and political rights would not be guaranteed, he expressed the view that the restriction of the civil and political rights could not be justified by the indivisibility and interdependence between political and civil rights on the one hand and economic, social and cultural rights on the other.

As regards the problem of human rights and its relationship with the principle of non-interference in the internal affairs of other countries, his Government's view was that since respect for human rights was a widely accepted principle in international society, it was a matter of international concern and could not be regarded as an exclusive internal problem.

He, however, clarified that despite the different views of Japan, his delegation did not intend to block the consensus on the Kampala Declaration. It requested the Secretariat to keep on record the reservations of his delegation to that Declaration.

The Delegate of the Arab Republic of Egypt proposed an amendment in paragraph 6 of the Kampala Declaration.

The Delegate of Tanzania proposed an amendment in paragraph 21 of the Kampala Declaration and expressed his gratitude to the Japanese delegation for not blocking the consensus on the Declaration.

The Delegate of Kenya referred to the views of the Japanese delegation and stated that in the process of development in the developing countries, human rights were often violated. However, that was not intentional but it was due to lack of investment and financial assistance by the developed countries. He requested the Japanese delegation to study the Joint Statement of the Attorney-General and Ministers of Justice of the Eastern, Central and Southern African states held in Nairobi in October 1992 which contained positive and concrete suggestions to the international community on

how jurisprudence in the area of human rights could be furthered. He appealed to the international community to put in more money on reforming prison facilities.

The President dwelt at length on why the human rights were often neglected in developing countries and clarified that it was due to lack of resources and widespread poverty in the developing countries and not because of any ill-will. He cited an instance of his own country.

The Delegate of Nigeria supported the thrust on the Kampala Declaration and emphasised that development and democracy were inseparable and hoped this aspect would be properly projected at the forthcoming World Conference on Human Rights.

The Delegate of the Libyan Arab Jamahiriya emphasised that there should be no double standards in the application of human rights and supported the Kampala Declaration.

The Delegate of India proposed that the Kampala Declaration should be adopted so that the Secretary General could present it at the World Conference on Human Rights and report on the conference to the Member States.

The Delegate of the Republic of Korea observed that for the easy realization of the universal protection of human rights, the universal acceptance of the International Covenants on Civil and Political Rights and the Economic, Social and Cultural Rights was one of the most essential conditions. He informed the meeting that his country had acceded to these two covenants in 1990; joined the ILO in December 1991 to assist international efforts to ensure fundamental rights relating to trade union activities; ratified the Convention on the Rights of the Child in December 1991; became party to the UN Convention on the status of Refugees; 1951 and its 1967 Protocol, in 1992. He also pointed out that his Government was planning to accede to other International Conventions. He expressed the hope that the forthcoming World Conference on Human Rights would give momentum to enhancing the universal protection and promotion of human rights.

Following these deliberations, the Plenary formally adopted the Report of the Working Group on Human Rights and the attached Kampala Declaration on Human Rights, subject to the reservations of Japan.

The Plenary also formally adopted a decision on this topic, the text of which is reproduced herewith.

(ii) Decision on "Preparation For The World Conference on Human Rights"

Adopted on 6.2.1993

The Asian-African Legal Consultative Committee

Taking note with appreciation of the Brief prepared by the Secretariat on the agenda item (Doc. No. AALCCXXXII/Kampala/93/11) and the report of the Working Group on the subject set up by the Committee at the present session :

1. **Decides to adopt** the Kampala Declaration on Human Rights, and requests the Secretary-General to submit the Declaration to the Fourth Session of the Preparatory Committee for the World Conference on Human Rights scheduled to be held in Geneva in April 1993;
2. **Urges** Member States of the Committee to speed up their preparatory process and intensify their efforts to ensure a successful conclusion of the Conference;
3. **Approves** the Work Programme concerning the World Conference proposed by the Secretary-General. The suggested measures and actions to be taken in this regard during the year 1993 may include:-
 - a) continue to monitor the ongoing preparatory process of the World Conference and take an active part in the preparatory meetings and in the Conference itself;
 - b) prepare a general assessment of the main outcome of the Conference *inter alia*, their legal implications, and follow-up legal aspects, as appropriate, of the programmes to be launched after the Conference;

- c) make further studies on the development of international law in the field of human rights, including the refugee and humanitarian law;
 - d) render appropriate legal assistance to the member States of the Committee at their request in the area of national legislation concerning the promotion and protection of human rights.
4. **Decides** to put the item, "World Conference on Human Rights and its Follow-up", on the agenda of its Thirty-third Session.

(iii) Secretariat Study : The State of the Preparation For the Conference

As far as the process of the preparation for the World Conference on Human Rights is concerned, the attention is drawn to the major items under consideration by the Prepcom at its previous sessions. They are : Dates and Venue of the Conference; Draft rules of procedure for the Conference; Provisional agenda for the Conference and documentation, including the question of the final outcome; Regional preparatory meetings; Preparation of publications, studies and documentation for the Conference; participation of representatives of least developed countries in the preparatory meetings and the Conference. The following is a summary of the present State of the preparation for those items.

Dates, Duration and Venue of the Conference

At its first session, on 13 September 1991, the Prepcom, at the invitation of the Government of Germany, decided to propose that the World Conference on Human Rights be convened in Berlin for a period of two weeks in 1993. The proposal was endorsed by the General Assembly Resolution 46/116 of 17 December 1991. Owing to some new circumstances in February 1992, the Government of Germany withdrew its invitation to host the World Conference. Meanwhile a new invitation was received from the Government of Austria. The Government of Italy also expressed its willingness to consider acting as host to the Conference. The second session of the Prepcom therefore recommended to the General Assembly that it should reconsider the issue concerning the dates and venue of the Conference. On 6 May 1992, the General Assembly adopted decision 46/473, in which

the Assembly, noting with deep satisfaction the decision of the Government of Austria to invite the World Conference to meet at Vienna, decided that the World Conference be convened at Vienna for two weeks in June 1993. During the third Session of the Prepcom, on 14th September 1992, the representative of Austria on behalf of his government proposed that the Conference should take place from 14 to 25 June 1993. The Prepcom took note of this proposal. The final decision on the dates of the Conference will be made by the General Assembly at its 47th Session.

Draft Rules of Procedure For the Conference

As mandated by the General Assembly Resolution 46/116, the Prepcom took up the draft rules of procedure for the World Conference on Human Rights at its Second Session. After a few meetings, the Prepcom reached consensus on most rules of procedure regarding representatives and credentials, officers of the Conference, opening of the Conference, conduct of business, decision-making, subsidiary bodies, languages and records, public and private meetings, other participation and observers, as well as suspension and amendments of the rules of procedure. It was, however, unable to reach an agreement on the number of Vice-Presidents of the Conference and the qualifications of non-governmental organizations' participation at the regional preparatory meetings and the Conference itself. In this context, the Prepcom decided, without a vote, to recommend to the General Assembly that it should adopt the draft rules of procedure proposed by the Chairman of the Prepcom with reservations concerning the number of Vice-Presidents of the Conference and the participation of non-governmental organizations. Those two outstanding issues were left to be dealt with at the third session of the Prepcom.

At its third session, held in September 1992, the Prepcom continued its consideration of the draft rules of procedure for the conference and resolved all the outstanding issues left by the previous session. About the number of Vice-Presidents of the Conference, the Prepcom decided that, following the existing practice of the General Assembly, the number would be 29. The Prepcom further decided to request the General Assembly to decide how these offices should be distributed. With regard to the participation of non-governmental organizations in regional meetings and the Conference itself, the Prepcom recommended to the General Assembly that it should request the Secretary General to invite the following non-governmental organizations to the regional meeting of the Conference : non-governmental organizations with competence in the field of human rights and/or development which have their headquarters in the concerned region.

Consequently, participation of non-governmental organizations in the World Conference was also resolved. It provides that non-governmental organizations with consultative status with the ECOSOC and with competence in the field of human rights, and other non-governmental organizations which participated in the work of the Prepcom or the regional meetings may designate representatives properly accredited by them to participate as observers in the Conference, its main committees and, as appropriate, any of the Committees or working groups, on questions within the scope of their activities.

Finally, on 18 September 1992, the Prepcom adopted by consensus the draft rules of procedure for the World Conference on Human Rights.

Provisional Agenda for the World Conference

Pursuant to the mandate of the General Assembly Resolution 46/116, the provisional agenda for the World Conference on Human Rights and the documentation related thereto, including the question of the final outcome, was taken up by the Prepcom at its second session. A drafting group was established for that purpose. From the very beginning, however, vast diversity of views among the members emerged and remained unresolved. Although intensive debates and consultations, both formal and informal, were held, the drafting group was unable to reach an agreement on a draft provisional agenda for the Conference. The Prepcom thus decided that since consideration of the object subject item had not been concluded it would be carried over to the agenda of the third session of the Prepcom.

The third session of the Prepcom continued to consider as a priority item, the outstanding issues concerning the provisional agenda for the Conference. During the General debate, concrete proposals for inclusion in the provisional agenda were put forward. Some delegations called for consideration of specific problems such as persistent violation of the human rights of women, the plight of refugees and other particularly vulnerable individuals as well as filling the gap between developed and developing countries. Others urged that the provisional agenda should be as broad as possible as that would allow all delegations to pursue the specific issues on which they wanted to focus. When the general debate was concluded, on 15 September 1992, the Chairman of the Prepcom introduced a Working Paper containing a draft agenda for the Conference, which reads as follows:

Working paper submitted by the Chairman of the Preparatory Committee

Draft agenda for the World Conference on Human Rights

- (1) Opening of the Conference.
- (2) Election of the President.
- (3) Adoption of rules of procedure.
- (4) Election of the other officers of the Conference.
- (5) Appointment of the Credentials Committee.
- (6) Establishment of Working Committees
- (7) Adoption of the agenda.
- (8) Commemoration of the International Year for the World's Indigenous People.
- (9) Evaluation of the results achieved and the obstacles to the promotion, full realization and protection of all human rights and fundamental freedoms, (including the right to self-determination, the elimination of foreign occupation, racism, xenophobia, and all forms of racial discrimination, including apartheid,) with emphasis on the implementation of human rights standards and instruments and on the effectiveness of the United Nations machinery.
- (10) Consideration of the relationship between development, democracy and the universal enjoyment of all human rights, keeping in view the inter-relationship and indivisibility of economic, social, cultural, civil and political rights.
- (11) Consideration, in conformity with the fundamental principles which guide United Nations action, of contemporary trends in and new challenges to the full realization of all human rights, including those of persons belonging to vulnerable groups.
- (12) Recommendations to ensure the effective enjoyment of all human rights, noting the variety of contexts and taking into account the universality of these rights and the principles of objectivity and non-selectivity in the implementation of human rights instruments and mechanisms.
- (13) Recommendations for strengthening international cooperation in the field of human rights and improving the coordination and effectiveness of the United Nations activities and mechanisms, as well as the relationship between international and regional instruments and mechanisms as appropriate.

- (14) Recommendations to secure the necessary financial and other resources for United Nations activities in the field of human rights.
- (15) Adoption of the final documents and report of the Conference.

The Prepcom then concentrated its deliberations on the working paper submitted by the Chairman of the Prepcom. The focus of deliberations was whether a list of certain rights and preoccupations, namely, the right to self-determination, the elimination of foreign occupation, racism, xenophobia and all forms of racial discrimination, including apartheid, should be specified in the agenda as did, in square brackets, in paragraph 9 of the working paper.

Two main trends emerged from the debate. Delegations either urged that the human rights or the problems listed in the square brackets be deleted, as the list was far from exhaustive and might give rise to claims of creating a hierarchy of rights or selectivity. The point in this regard was also made that, because the phrase "protection of all human rights" was already included in the paragraph there was no need to list specific human rights issues. Others stressed that the words in square brackets should be maintained, and square brackets be removed, as they reflected the most important human rights concerns facing the world, as well as rights which were considered as sacred to the civilized world. In addition, some delegations proposed that certain additional items such as terrorism and the human rights of women be added to the list.

Many of the speakers underscored the vital importance for the Prepcom to achieve, during the third session, an agreed draft provisional agenda. Otherwise, it would be seriously delaying the preparation for the World Conference.

As a means for resolving the pending issue, the delegation of Canada proposed that the square brackets in paragraph 9 of the Working Paper be removed and that a footnote be added to the provisional agenda which would read as follows: "Nothing in this agenda precludes participants from raising any issue under appropriate agenda item, or from undertaking negotiations with the objective of including particular concerns in the final document." Also in this regard, the delegation of France proposed that the phrase under discussion in paragraph 9 of the Working Paper be deleted and that the Chairman of the Prepcom make a Statement, to be reflected in the report of the third session of the Prepcom, that at the World Conference delegations could raise any thematic issue of interest to them and could also put forward any such issue during the elaboration of the final document. The Chairman asked delegations to think about the French proposal. She