

**ACTIVITIES OF THE UNITED NATIONS  
AND OF THE SPECIALIZED AGENCIES  
IN THE FIELD OF ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS**

*(Report submitted by the Secretary-General)*



**United Nations—Commission on Human Rights**

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# NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

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## A. Introduction

1. A document entitled *Survey of the Activities of Bodies of the United Nations other than the Commission on Human Rights, and of the Specialized Agencies, in Matters Within the Scope of Articles 22-27 of the Universal Declaration of Human Rights*<sup>1</sup> was prepared for the sixth session (1950) of the Commission on Human Rights of the United Nations Economic and Social Council in pursuance of a resolution adopted by the Commission at its fifth session (1949). This resolution required the preparation of such a survey for the purpose of enabling the Commission to determine what action it would take relating to matters falling within the scope of articles 22-27 (dealing with economic, social and cultural rights) of the Universal Declaration of Human Rights, proclaimed by the General Assembly of the United Nations on 10 December 1948, in particular for the inclusion of these subjects either in the Covenant of Human Rights which the Commission was drafting or in later conventions. The survey was brought up to date for the seventh session of the Commission (16 April - 19 May 1951). The present publication is based upon this material.

2. In accordance with the wishes of the General Assembly (resolution 421 E (V) of 4 December 1950) transmitted to it by the Economic and Social Council, the Commission at its seventh session (April-May 1951) drafted substantive articles on economic, social and cultural rights, and provisions which would establish a system of periodic reports, for inclusion in the Draft International Covenant on Human Rights. The provisions on these matters drafted by the Commission and submitted to the Economic and Social Council at its thirteenth session for consideration are set out in the appendix to the present publication.

3. The work of the various bodies of the United Nations and of the specialized agencies having a relevance to the human rights set out in articles 22-27 of the Declaration of Human Rights has been both extensive and varied. A process of selection has therefore been thought essential since without it the useful inferences to be drawn from the experience of these bodies and agencies might easily be lost in a mass of factual material. The purpose of this process has been to attempt to demonstrate the extent to which members of the community of nations, bearing in mind the practical possibilities within their countries and acting through the various bodies and agencies whose work is under discussion, have in the past already found it possible to agree upon what has been in effect a recognition of the applicability, universal or otherwise, of the various rights set out in articles 22-27 of the Universal Declaration of Human Rights. This is the approach which has been adopted in the present paper.

<sup>1</sup> E/CN.4/364.

4. It may be added that a wide range of activities relating to more limited categories of persons and only lightly touched upon in the present study nevertheless have an importance from the point of view of economic, social and cultural rights. This applies for instance to the work of the Trusteeship Council,<sup>2</sup> to the work of the Special Committee on Information submitted under Article 73 e of the Charter of the United Nations and to some of the work of the International Labour Organisation and in particular its industrial committees and other committees and conferences called to consider special problems. As a further example of important steps taken on behalf of more limited categories of persons, reference should be made to the Convention relating to the Status of Refugees, adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, which is based upon a series of international conventions, agreements and arrangements under which, during more than twenty years, ratifying governments have extended to refugees rights relating to, *inter alia*, social security, education and legal redress of wrongs.

5. The material contained in the present study has been divided primarily according to rights protected and not according to the bodies and agencies whose activities are being discussed.

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<sup>2</sup> The Secretary-General circulated to the Commission on Human Rights, at its seventh session, a separate document containing a survey of the activities of the Trusteeship Council within the field of human rights (E/CN.4/364/Add.3).

**B. The extent of recognition granted hitherto to the rights described in articles 22-27 of the Declaration of Human Rights by the United Nations and the specialized agencies**

**I. ARTICLE 22**

6. Article 22 of the Universal Declaration of Human Rights lays down that: "Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality."

7. In this paper treatment has been accorded to the work, not only of various organs of the United Nations, but also of the following specialized agencies: the International Labour Organisation, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, the International Bank for Reconstruction and Development, the International Monetary Fund, the World Health Organization and the International Refugee Organization. The provisions of the constitutions of these international institutions (for instance Articles 55 and 56 of the Charter of the United Nations) and their functioning in practice indicate a recognition of the need for "international co-operation" for the realization of economic, social and cultural rights.

8. It may be argued that the need for "national effort" in the same direction is also thus implicitly recognized. This need is explicitly laid down in the constitutions of some of the specialized agencies. For example, that of the World Health Organization states that: "Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures." The annex to the Constitution of the International Labour Organisation, having laid down the principle that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity", goes on to state that "the attainment of the conditions in which this shall be possible must constitute the central aim of *national and international policy*"; and that "all *national and international* policies and measures, in particular those of an economic and financial character, should be judged in this light and accepted only in so far as they may be held to promote and not to hinder the achievement of this fundamental objective".<sup>3</sup>

9. The annex referred to ends with the following words: "The Conference affirms that the principles set forth in this Declaration are fully applicable to all peoples everywhere and that, while the manner of their

<sup>3</sup> Italics inserted.

application must be determined with due regard to the stage of social and economic development reached by each people, their progressive application to peoples who are still dependent, as well as to those who have already achieved self-government, is a matter of concern to the whole civilized world."

10. The "economic, social and cultural rights" referred to in article 22 receive a measure of definition in articles 23-27 of the Universal Declaration.

## II. ARTICLE 23 (1)

### 1. THE RIGHT TO WORK

11. While the right to work is proclaimed expressly in article 23 (1) of the Universal Declaration of Human Rights, measures taken on the international level which have been likely to secure its observance have usually been those which stressed the desirability of full employment. Since the achievement of full employment would involve a protection of the right to work of the individuals involved, it is relevant here to discuss certain international measures having the achievement of full employment as their aim.

12. Article 55 of the Charter of the United Nations lays down that "with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principles of equal rights and self-determination of peoples", the United Nations shall promote, *inter alia*, "higher standards of living, *full employment*, and conditions of economic and social progress and development".<sup>4</sup> These aims laid down in Article 55 of the Charter were reiterated in article 1 of the Havana Charter for an International Trade Organization, adopted by the United Nations Conference on Trade and Employment on 24 March 1948. In its resolution 308 (IV) on full employment, the General Assembly at its fourth session recommended "that each government consider, as a matter of urgency, its international responsibility under Articles 55 and 56 of the Charter to take action, as the need arises, designed to promote and maintain full and productive employment, through measures appropriate to its political, economic and social institutions".

13. In resolution 290 (XI) the Economic and Social Council, having in mind the obligations of Members of the United Nations under Articles 55 and 56 of the Charter to take joint and separate action to promote higher standards of living, full employment and conditions of economic and social progress and development, recognizing that governments can achieve and maintain full and productive employment in an expanding world economy under conditions ensuring fundamental political and economic freedoms to the individual, and being aware of the determination of peoples and governments to achieve and maintain such full and productive employment, made a number of recommendations to governments and requests to the Secretary-General and to the Economic Employment and Development Commission. The co-operation of "the appropriate specialized agencies" was envisaged in the resolution and specific reference

<sup>4</sup> Italics inserted.



was made to the ILO, the International Bank for Reconstruction and Development and the International Monetary Fund in connexion with certain aspects of the problem. In the same resolution the Council decided to place on its agenda once each year, beginning in 1951, for consideration in the light of economic trends, the problem of achieving and maintaining full employment with progressively improving levels of production, trade and consumption, and maintenance of or progress towards the achievement of equilibrium in balances of payments.

14. The General Assembly at its fifth session adopted resolution 405 (V) noting "with satisfaction the vigorous action taken by the Economic and Social Council in connexion with full employment" and inviting governments "to co-operate with the Secretary-General in carrying out the tasks entrusted to him".

15. The preamble to the Constitution of the ILO includes "the prevention of unemployment" as one of the means whereby an improvement of conditions of labour could be effected and social justice achieved, while article III of the annex to the Constitution records that: "The Conference recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve", *inter alia*, "(a) full employment and the raising of standards of living".

16. A resolution adopted at the thirty-third session of the International Labour Conference concerning action against unemployment expressed, *inter alia*, the belief of the Conference "that mass unemployment and underemployment are social evils which can be eradicated, without prejudice to the fundamental freedoms of individuals, by appropriate policies, to the development of which the United Nations, the various specialized agencies, Governments, and employers' and workers' organizations each have vital contributions to make". The Conference drew the attention of the United Nations, the specialized agencies, governments, and employers' and workers' organizations to a number of types of action which, it considered, should be vigorously pursued for the purpose of eliminating these evils. The Conference expressed the hope that the governments would reaffirm their obligations assumed under the Declaration of Philadelphia and Article 55 of the United Nations Charter to promote and achieve full employment and conditions of economic and social progress conducive to rising living standards. It called attention to the possibility of considering the advantages of an international labour convention covering this subject, but expressed the belief that the importance of the subject requires that each government on its own initiative and at the earliest practicable date implement its obligations to accept full employment as a primary objective of social and economic policy and establish or designate appropriate national machinery responsible for studying continuously the evolution of the employment situation and for making recommendations concerning the action to be taken to maintain full employment; and that all governments, where appropriate through the United Nations, the Economic and Social Council, the specialized agencies and other intergovernmental organizations, co-operate by co-ordination of the activities of all intergovernmental organizations interested in this field and by any other practicable means to promote full-employment measures on an international basis.

17. The purposes of the International Monetary Fund are stated, in article I (ii) of the Articles of Agreement thereof, to be, *inter alia*:

"To facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of *high levels of employment* and real income and to the development of the productive resources of all members as forming objectives of economic policy."<sup>5</sup>

18. The provision of technical assistance for economic development, particularly under General Assembly resolution 200 (III) and under the expanded programme of technical assistance for economic development of under-developed countries,<sup>6</sup> has many human rights aspects, and its relevance to the general question of promoting higher levels of employment should be noted here.

19. The remaining material which it has been thought relevant to mention in relation to the promotion of the right to work through the achievement of full employment is here arranged in three sections according as it relates to:

(a) Measures aimed at promoting the general economic well-being of the world;

(b) Measures aimed at promoting schemes of public works as a means of anti-cyclical timing of investment;

(c) Measures aimed at the more general provision of public employment services.

(a) *Measures aimed at promoting general world economic well-being*

20. The Economic and Employment Commission of the Economic and Social Council<sup>7</sup> was set up, according to its original terms of reference, to advise the Council on, *inter alia*, "the promotion of world-wide full employment, the co-ordination of national full employment policies and the prevention of economic instability".<sup>8</sup> The Economic and Social Council at its second session amended the terms of reference of the Commission, so as to include the words: "In particular, it shall be the function of the Commission to advise the Council on . . . the prevention of wide fluctuations in economic activity and the promotion of full employment by the co-ordination of national full employment policies and by international action."<sup>9</sup>

21. The Economic Commission for Europe was set up so that it should, "acting within the framework of the policies of the United Nations and subject to the general supervision of the Economic and Social Council", and while taking no action in respect to any country without the agreement of the government of that country, "initiate and participate in measures for facilitating concerted action for the economic reconstruction of

<sup>5</sup> Italics inserted.

<sup>6</sup> Compare *Report of the Economic and Social Council* covering the period from 16 August 1949 to 16 August 1950 (document A/1345), paragraphs 56-74, together with documents E/1174, E/1335 with Addenda 1-3, E/1576 and E/1700 (Secretary-General's reports).

<sup>7</sup> Title changed to Economic, Employment and Development Commission by the Economic and Social Council at its eleventh session.

<sup>8</sup> *Journal of the Economic and Social Council*, first year, No. 12, page 126.

<sup>9</sup> *Ibid.*, No. 29, page 512.

Europe, for raising the level of European economic activity, and for maintaining and strengthening the economic relations of the European countries both among themselves and with other countries of the world . . .". The Commission was "empowered to make recommendations on any matter within its competence directly to its Member Governments . . .".<sup>10</sup> The terms of reference of the Economic Commission for Asia and the Far East and the Economic Commission for Latin America include similar statements laying down broad mandates enabling those bodies, within the framework of the United Nations policies and subject to the general supervision of the Economic and Social Council and the principle that no action shall be taken respecting any country without its agreement, to "initiate and participate in measures for facilitating concerted action" for the economic betterment of the areas concerned; they too may make recommendations on any matters within their competence direct to governments of Members.<sup>11</sup>

22. The action of the Economic and Social Council in setting up these Commissions, and in specifically endowing three of them with power to make recommendations to governments, is indicative of the concern of the Council that measures should be taken to advance world economic well-being.<sup>12</sup>

23. A sequence of events arising out of a resolution of the United Nations Conference on Trade and Employment should be outlined at this point. On 4 February 1948, the Conference approved a "Resolution to the Economic and Social Council relating to Employment".<sup>13</sup> At its sixth session, the Economic and Social Council endorsed "the opinion of the Conference to the effect that the studies which have been initiated dealing with the achievement and maintenance of full and productive employment should be advanced as rapidly as possible, and that attention should be given now to methods of ensuring that high levels of employment and economic activity shall be maintained even when special factors of temporary duration now prevailing in many countries have ceased to operate".

24. The relevant resolution 104 (VI) of the Economic and Social Council continues by requesting the Secretary-General to arrange with Members of the United Nations and, where practicable, with non-members, for the submission of information concerning action they are now taking to achieve or maintain full employment and economic stability and concerning any publicly available plans to prevent a future decline; to arrange with the appropriate specialized agencies for reports on plans which they

<sup>10</sup> See resolution 36 (IV) of the Economic and Social Council.

<sup>11</sup> As to the former Commission, see resolutions 37 (IV) and 69 (V) of the Economic and Social Council. As to the latter, see Council resolution 106 (VI).

<sup>12</sup> The work of the Commissions may be studied in the following documents: E/255 and E/255/Add.1, E/445, E/445/Add.1, E/790, E/1356, E/1600 and E/2006 (Economic and Employment Commission); E/451, E/603, E/791, E/791/Add.1, E/791/Add.2, E/1074, E/1328, E/1674 and E/2002 (Economic Commission for Europe); E/452 and E/491; E/606, E/839, E/839/Add.1/Rev.1, E/839/Add.2, E/1088, E/1329 with corrigenda and annex A, E/1578, E/1710, and E/1981 (Economic Commission for Asia and the Far East); E/840, E/1099, E/1330/Rev.1, E/1717, E/1762 and E/2021 (Economic Commission for Latin America).

<sup>13</sup> The text of this Resolution is set out in the *Final Act and Related Documents* of the Conference (Havana, Cuba, March 1948), page 75, and also in document E/635.

have prepared and resources they will have available to assist members of the agency to prevent a decline in employment and economic activity, and to prepare as soon as practicable an analytical report based on the information received.

25. In accordance with this resolution of the Economic and Social Council a questionnaire was sent to the Members of the United Nations and to the associate and participating members of the regional economic commissions concerning the economic policies and measures taken or proposed by individual governments with the purpose of maintaining full employment and economic stability. The International Monetary Fund, the International Bank for Reconstruction and Development, the Food and Agriculture Organization and the International Labour Organisation were asked to submit a report on the plans which each had prepared and the resources which they would have available to assist their members to prevent a decline in economic activity and employment.

26. Replies received from twenty-eight governments and from the four specialized agencies mentioned<sup>14</sup> were analysed in a report entitled *Maintenance of Full Employment*.<sup>15</sup> Certain aspects of this inquiry are referred to below<sup>16</sup> in connexion with the work of the International Monetary Fund, the International Bank for Reconstruction and Development and the Food and Agriculture Organization.

27. The nearest direct approach on the part of the International Labour Conference to promoting planning for full employment, apart from the measures relating to public works and public employment services to be described later,<sup>17</sup> have been the Unemployment (Agriculture) Recommendation, 1921, and the Employment Transition (from War to Peace) Recommendation, 1944. The former recommended, *inter alia*, the adoption of modern technical methods to bring further land into cultivation, the provision of facilities for settlement on the land and the encouragement of the creation of agricultural workers' co-operative societies for the working and purchase or renting of land. The latter Recommendation made certain suggestions as to the fairest and most productive handling of the labour force during the period of demobilization and reabsorption into civilian employment.

28. The International Labour Conference has also, from time to time, approved resolutions dealing with questions of general economic policy, among them a resolution approved in 1945 concerning the maintenance of full employment during the period of industrial rehabilitation and reconversion, in which the Conference expressed its belief that the representatives of governments, employers and workers should formulate their views in regard to policies for the maintenance of full employment in the transition period and outlined a series of suggestions concerning investment, consumer spending, international capital movements and trade, and the planning of industrial reconversion and development in relation to changes in the structure of industry. Paragraph 2 (1) thereof would appear to recognize the right to work of all persons of working age:

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<sup>14</sup> See documents E/1111 and E/1111/Addenda 1-8.

<sup>15</sup> United Nations Publications Sales No. 1949.II.A.2 (previously document E/1378).

<sup>16</sup> See paragraphs 30-34.

<sup>17</sup> See paragraphs 36-48.

"It should be the responsibility of Governments to take all steps within their power, in collaboration with workers' and employers' organizations and industry generally, to establish such economic and financial (including fiscal) conditions as will facilitate the absorption into useful employment, at the highest practicable levels of remuneration, *of all members of the population of working age*, who are able to work and willing to accept such employment."<sup>18</sup>

29. One of the essential aims of the present activities of the ILO is to allow better utilization of manpower resources and in so doing to promote full employment. In this respect, the ILO has vigorously expanded its activities with regard to the organization of employment services and vocational training. The measures taken by the International Labour Organisation which aim at the provision of social security schemes and particularly the provision of benefits in the event of unemployment,<sup>19</sup> are also relevant to a study of the prevention of unemployment by international action; as is also the work of the Organisation in the field of the facilitation of migration for employment which has included the adoption by the International Labour Conference in 1949 of a Convention and a Recommendation on the subject of migration for employment as well as the previous adoption of several other such texts. Resolution 315 (IV) of the General Assembly, dealing with discriminations practised by certain States against immigrating labour and, in particular, against labour recruited from the ranks of refugees, makes specific reference to this Convention.

30. Although the activities of both the International Monetary Fund and the International Bank for Reconstruction and Development are aimed at making a contribution to the general economic well-being of the world and so to the achievement of full employment, the basic instruments of these bodies have not been drawn up in such a way as to permit any direct connexion between their activities and the effective recognition of human rights. The International Monetary Fund has devoted itself mainly to offering financial assistance to its members for monetary stabilization operations, consultation with members on current exchange problems, including the provision of technical advice and expert assistance, and the collection of information and the making of studies. The primary function of the International Bank for Reconstruction and Development is to make loans in suitable instances, being guided in its decisions by the purposes set forth in article I of its Articles of Agreement; like the International Monetary Fund, the Bank is also engaged in the collection of factual data, the execution of studies and the provision of expert technical advice to member governments.

31. In examining and investigating the applications for aid which come before them both bodies have it within their power to exercise a beneficial influence upon national policies. Thus, the reply of the International Monetary Fund to the questionnaire mentioned above<sup>20</sup> includes the following passage:

<sup>18</sup> Italics inserted.

<sup>19</sup> See paragraphs 183-187.

<sup>20</sup> See paragraph 26.

"Leaving on one side its jurisdiction in respect of exchange rates, the Fund has at its disposal two main instruments for influencing the policies of its members, and thereby facilitating the expansion and balanced growth of international trade, and indirectly promoting or maintaining high levels of employment and real income. It is in the first place authorized to make its financial resources available to members under adequate safeguards, and thus to provide them with the opportunity to correct maladjustments in their balance of payments without resorting to measures destructive of national or international prosperity . . .<sup>21</sup>

"The Fund believes that in order to avoid the generation of conditions likely to depress the level of employment one of its most important functions is the examination in the ordinary course of its business of the balance of payments situation of its members, and the working out, in consultation with its members, of realistic policies which will at the same time meet current requirements and be effective in diminishing, if not eliminating, the risk of a deterioration in its future international position. The Fund has no power to control the domestic policies of its members. It is ready at any time to discuss with members the policies which should now be followed in order to diminish the risks of subsequent declines in employment and economic activity, but the responsibility for elaborating and administering these policies necessarily rests with the members themselves."<sup>22</sup>

32. On the other hand, neither body has been concerned with making formal recommendations to its membership in general of such a nature as to call for inclusion of reference to such recommendations in the present study bearing in mind the purpose thereof. It should be added that, according to their replies to the questionnaire mentioned above, both the International Monetary Fund and the International Bank for Reconstruction and Development consider that their financial resources are insufficient by themselves to afford, in the event of a world economic crisis, widespread protection against balance-of-payments pressures or to be a leading influence in anti-cyclical timing of investment.<sup>23</sup>

33. The general purposes of the Food and Agriculture Organization, as defined in the preamble to its Constitution, include "contributing towards an expanding world economy". In a sense, therefore, the entire work of the FAO is related to safeguarding the right to work, just as it is related to the fulfilment of the right of everyone to adequate food.<sup>24</sup> The Organization itself, however, has stated that: "It is difficult to single out any aspects of FAO's work which have particular significance in respect to levels of employment."<sup>25</sup> It is added, however, that "perhaps two may be mentioned, each of which is and will continue to be an important element in the programme of work". The first aspect "comprises FAO's

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<sup>21</sup> Document E/1111, part II.B.1. The reply continues: "And secondly, as a permanent institution which provides machinery for consultation and collaboration on international monetary problems, its collective experience is available as the basis for advice on these problems to any of its members."

<sup>22</sup> Document E/1111, part II.B.1.

<sup>23</sup> See document E/1378, section I.d.

<sup>24</sup> See paragraphs 110-112.

<sup>25</sup> Document E/1111, part II.B.3.

activities in the field of agricultural development. A great of FAO's activity is concerned with assisting technical progress in agriculture, particularly in the less developed countries. The effect of these and other such activities is to increase the demand of the farm population for equipment and commodities of various kinds, and to increase the quantity of farm produce available for sale. Indirectly, it creates a need for new industries to supply the equipment for agriculture and to process and distribute the agricultural products. In most of the less developed countries there is chronic unemployment in rural areas, even if often disguised in character, and any success which nations achieve in expanding agricultural production should have the effect of increasing the quantity of employment, as well as expanding the output per person. It is of course true that agricultural development in the long run tends to reduce the numbers engaged in farming, but in an expanding economy this is more than offset by the expansion in other industries."

34. The FAO then adds: "The second activity of FAO which relates directly to employment problems is that concerned with price levels and price stability. Much of the cyclical unemployment experience in advanced countries is related to fluctuations in prices . . . By keeping the world supply situation constantly under review, and initiating special studies or negotiations where these seem appropriate, it may be possible to achieve a larger measure of stability on international commodity markets, and thereby to make a contribution to the more general problem of economic stability and the maintenance of high levels of employment."<sup>26</sup>

35. It is desirable also to mention here, as an important example of the many activities of the International Refugee Organization, the activities of that body in the direction of finding employment for the many refugees under its care.<sup>27</sup> (Due record must also be made of the interest of the IRO on behalf of the refugees under its care in questions relating to social security,<sup>28</sup> health,<sup>29</sup> general education and vocational training<sup>30</sup> and the general assistance needed by a refugee in order to be fully integrated into the community of a country that receives him.)

#### (b) *Public works schemes*

36. From the outset the International Labour Organisation has been interested in fostering the use of public works programmes as a means of promoting high levels of employment. Thus, article IV of the Unemployment Recommendation of 1919 recommended that "each Member of the International Labour Organisation co-ordinate the execution of all work undertaken under public authority, with a view to reserving such work as far as practicable for periods of unemployment and for districts most affected by it". Similarly, paragraph 1 of the Public Works (National Planning) Recommendation, 1937, states, *inter alia*:

<sup>26</sup> See document E/1111, part II.B.3.

<sup>27</sup> See documents E/1334, section II, E/1675, pages 13-20, 22-23 and 25 and E/2005, paragraphs 14-51.

<sup>28</sup> See document E/1334, section II.

<sup>29</sup> See documents E/1334, section V (a)-(c) and section XI, E/1675, page 24 and E/2005, paragraphs 78-86.

<sup>30</sup> See documents E/1334, section V (c)-(d) and section XI, E/1675, pages 23-24 and E/2005, paragraphs 87-92.

“(1) Appropriate measures should be adopted for the purpose of achieving a suitable timing of all works undertaken or financed by public authorities.

“(2) This timing should involve an increase in the volume of such works in periods of depression and for this purpose it is desirable to provide for the preparation in advance, during periods of prosperity, of works capable of being held in reserve or exceeding ordinary requirements and which should be ready for execution as soon as the need is felt.”

37. The same theme was taken up in two texts approved in 1944 by the International Labour Conference. The Employment Service Recommendation, in its paragraph 3, provides that: “The closest co-operation between the employment service and other authorities whose activities affect the employment situation, including authorities charged with responsibility for accelerating or slowing down public works in accordance with the current state of employment and unemployment, should be established at the national, regional and local levels.”

38. The aim of the Public Works (National Planning) Recommendation of 1944 is set out in its paragraph 1: “Each Member should prepare a long-term development programme which can be accelerated or slowed down in accordance with the employment situation in different parts of the country.”

39. In the Public Works (International Co-operation) Recommendation, 1937, the Conference recommended various methods of international co-operation on public works planning and, in particular, invited the Governing Body of the ILO to set up an international committee to follow the question systematically. This committee, known at first as the International Public Works Committee and subsequently as the International Development Works Committee, was duly appointed, and held meetings in 1938 and 1946.

#### (c) *Public employment services*

40. Although the safeguarding of the right to work depends ultimately on factors other than the provision of public employment services, such services may lower the rate of temporary unemployment by increasing the mobility of labour as between areas and occupations. At its thirty-first session (San Francisco, 1948), the International Labour Conference adopted a Convention and a Recommendation concerning the organization of employment services, whose texts are available in *Third Report of the International Labour Organisation to the United Nations* (attached to document E/1362), pages 130-42.

41. Each member of the International Labour Organisation for which the Convention is in force is to maintain or ensure the maintenance of a free public employment service, of which the essential duty shall be to ensure, in co-operation where necessary with other public and private bodies concerned, the best possible organization of the employment market as an integral part of the national programme for the achievement and maintenance of full employment and the development and use of productive resources.



42. The Recommendation sets out in somewhat greater detail the principles which should guide the organization of the employment service and the work which it is called upon to do. The Recommendation also provides for international co-operation among employment services.

43. The International Labour Conference had already in 1919 approved the Unemployment Convention, of which article 2, paragraph 1, provides: "Each Member which ratifies this Convention shall establish a system of free public employment agencies under the control of a central authority . . ."

44. The Placing of Seamen Convention, 1920, makes provision for the organization and maintenance of systems of public employment offices for finding employment for seamen without charge.

45. The 1948 Employment Service Convention was also preceded by the Employment Service Recommendation, 1944, of which paragraph 1 is of interest in the present study because, like article 1 of the Convention, it recognizes the importance of employment services as one means of approaching continuous full employment, which in turn guarantees the right to work.<sup>31</sup>

46. The Fee-Charging Employment Agencies Convention, 1933, provides in its article 2 that fee-charging employment agencies conducted with a view to profit, as defined in the Convention, shall be abolished within three years from the coming into force for each member concerned of the Convention. Exceptions to the principle laid down in article 2 just quoted may be allowed in exceptional cases but only after consultation of the organizations of employers and workers concerned. Fee-charging agencies not conducted for profit were made subject to specified restrictions. The Convention does not apply to the placing of seamen, which is governed by the Placing of Seamen Convention of 1920, to which reference has already been made and of which article 3, paragraph 2 provides: "Each Member which ratifies this Convention agrees to take all practicable measures to abolish the practice of finding employment for seamen as a commercial enterprise for pecuniary gain as soon as possible."

47. The Fee-Charging Employment Agencies Convention (Revised), 1949, places upon ratifying States obligations concerning the gradual elimination, or alternatively the regulation, of employment agencies which charge fees and are operated with a view to profit.

48. These measures taken by the ILO towards the abolition of fee-charging agencies are a necessary consequence of the principle that each member State should ensure the maintenance of a free public employment service, and as early as 1919 the Unemployment Recommendation approved in that year recommends in its article 1 that "each Member of the International Labour Organisation take measures to prohibit the establishment of employment agencies which charge fees or which carry on their business for profit. When such agencies already exist, it is further recommended that . . . all practical measures be taken to abolish such agencies as soon as possible". Again, paragraph 1 of the Employment Agencies Recommendation of 1933 urges that: "Measures should be taken to adapt the

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<sup>31</sup> See *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), page 131.

free public employment offices to the needs of the occupations in which recourse is often had to the services of fee-charging employment agencies.”

## 2. THE RIGHT TO FREE CHOICE OF EMPLOYMENT

49. Article 23 (1) of the Universal Declaration of Human Rights lays down that “Everyone has the right . . . to free choice of employment . . .”.

50. The work of the ILO on the matter of the provision of employment services<sup>32</sup> is also relevant here, and so is its work concerning vocational guidance, of which the ILO has said: “Vocational guidance enables individuals to choose the occupations they like and are qualified for, with due regard to the economic opportunities available.”<sup>33</sup>

51. On this subject the ILO’s Employment (Transition from War to Peace) Recommendation, 1944, makes certain provisions in article V of its “General Principles” and in its articles 17, 18, 19 and 32 (1), while paragraph 5 of the Vocational Guidance Recommendation, 1949, provides that: “To the maximum possible extent consistent with national and local policy and resources, public vocational guidance facilities should be provided for all persons requiring such assistance.” In paragraph 1 of the latter Recommendation the term “vocational guidance” is defined as “assistance given to an individual in solving problems related to occupational choice and progress with due regard to the individual’s characteristics and their relation to occupational opportunity.”

52. The work of the General Assembly and the Economic and Social Council on the questions of slavery and forced labour and the work of the International Labour Conference aimed at the abolition of forced labour are also relevant to the right to free choice of employment.

53. Acting in accordance with a request contained in resolution 278 (III) of the General Assembly, the Economic and Social Council at its ninth session considered the problem of slavery and instructed the Secretary-General to appoint an *ad hoc* committee on slavery with the tasks, *inter alia*, of surveying the field of slavery and other institutions or customs resembling slavery, assessing the nature and extent of these several problems at the present time, and suggesting methods of attacking these problems. The *ad hoc* Committee presented an interim report (document E/1617), a report on its first session (E/1660) and a report on its second session (E/1988) to the Economic and Social Council at respectively its tenth, eleventh and thirteenth sessions. The Council at its thirteenth session adopted resolution 388 (XIII), requesting the Secretary-General to obtain such information, including information from governments, as was necessary in order to supplement the material presented by the *ad hoc* Committee, to examine that Committee’s recommendations in the light of that information, and to report thereon to the Council as soon as practicable, indicating what action the United Nations and specialized agencies could most appropriately take in order to achieve the elimination of slavery, the slave trade and forms of servitude resembling slavery.

<sup>32</sup> See paragraphs 40-48.

<sup>33</sup> *Third Report of the International Labour Organisation to the United Nations*, (document E/1362), page 10.

54. Resolutions 195 (VIII) and 237 (IX) of the Economic and Social Council concern a proposed impartial survey of forced labour and measures for the abolition of such labour. The first contains, *inter alia*, a request to the Secretary-General "to work in close co-operation with the ILO in carrying forward its work in this field". The Governing Body of the ILO in November 1950 expressed its willingness to co-operate with the Council in the earliest possible establishment of an *ad hoc* committee on forced labour. The Council at its twelfth session adopted resolution 350 (XII) in which it decided to invite the International Labour Organisation to co-operate with the Council in the earliest possible establishment of an *ad hoc* committee on forced labour of not more than five independent members, qualified by their competence and impartiality, to be appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office. The *ad hoc* Committee was "to study the nature and extent of the problem raised by the existence in the world of systems of forced or 'corrective' labour, which are employed as a means of political coercion or punishment for holding or expressing political views, and which are on such a scale as to constitute an important element in the economy of a given country, by examining the texts of laws and regulations and their application in the light of the principles referred to above, and, if the Committee thinks fit, by taking additional evidence into consideration". The Committee was to report the results of its studies and progress thereon to the Council and to the Governing Body of the International Labour Office. The necessary consultations took place between the Secretary-General of the United Nations and the Director-General of the ILO and a meeting of the *ad hoc* Committee was held from 8 to 27 October, 1951, in Geneva. Its first progress report is contained in document E/2153.

55. Article 1, paragraph 1, of the ILO's Forced Labour Convention, 1930, provides that "Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period." "Forced compulsory labour" is defined in article 2, paragraph 1, as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily"; but it is deemed not to include, for the purpose of the Convention, compulsory military service, any work which forms part of the normal civic obligations of the citizens of a fully self-governing territory, labour performed as criminal punishment if properly controlled and supervised, service exacted in emergencies and certain minor communal services.

56. Article 25 of the Convention adds: "The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by Law are really adequate and are strictly enforced."

57. Paragraph III of the Forced Labour (Indirect Compulsion) Recommendation, 1930, provides: "Members should take into consideration the desirability of avoiding any restrictions on the voluntary flow of labour from one form of employment to another or from one district

to another which might have the indirect effect of compelling workers to take employment in particular industries or districts, except where such restrictions are considered necessary in the interest of the population or of the workers concerned.”

58. The Forced Labour (Regulation) Recommendation, 1930, is also intended to reduce or regulate the employment of forced labour.

59. The Recruiting of Indigenous Workers Convention, 1936, prescribed regulations in respect of such recruiting, with a view more particularly to eliminating all forms of pressure and to safeguarding the populations concerned against possible abuses. The Convention was supplemented by a Recommendation concerning the progressive elimination of recruiting.

60. In 1947 the International Labour Conference supplemented its earlier Contracts of Employment (Indigenous Workers) Convention, 1939, by adopting a new Convention concerning the maximum length of contracts of employment of indigenous workers, the Contracts of Employment (Indigenous Workers) Convention, 1947. This Convention lays down that the regulations shall prescribe the maximum period of service which may be stipulated or implied in any contract, whether written or oral; that the maximum period of service which may be stipulated or implied in any contract for employment not involving a long and expensive journey shall in no case extend twelve months if the workers are not accompanied by their families, or two years if the workers are accompanied by their families; and that the maximum period of service which may be stipulated or implied in any contract for employment involving a long and expensive journey shall in no case exceed two years if the workers are not accompanied by their families, or three years if the workers are accompanied by their families. The Convention applies generally to indigenous workers, but provides that the competent authority may, after consultation with the employers' and workers' organizations representative of the interests concerned, exempt contracts entered into between employers and literate workers whose freedom of choice in employment is satisfactorily safeguarded.

61. In connexion with the right to free choice of employment it is also relevant to mention article 6 of the Placing of Seamen Convention, 1920: “In connexion with the employment of seamen, freedom of choice of ship shall be assured to seamen and freedom of choice of crew shall be assured to shipowners.”

### 3. THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

62. Article 23 (1) of the Universal Declaration states that “Everyone has the right . . . to just and favourable conditions of work . . .”.

63. The preamble to the Constitution of the International Labour Organisation specifies “the protection of the worker against sickness, disease and injury arising out of his employment” as being one of the means whereby conditions of labour might be improved and so the peace and harmony of the world promoted;<sup>34</sup> the ILO, through the International Labour Conference, the International Labour Office and Committees of

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<sup>34</sup> See also paragraph 135.

the Governing Body, has devoted much attention to conditions of work and, in particular, to industrial health, industrial safety and inspection of conditions of work.

(a) *Industrial health*

64. In addition to the many studies conducted by the International Labour Office and by the ILO's Correspondence Committee on Industrial Hygiene and by its industrial committees on questions relating to industrial health, the International Labour Conference has approved the following relevant texts: the White Phosphorus Convention, 1919, the Lead Poisoning (Women and Children) Recommendation, 1919, the Anthrax Prevention Recommendation, 1919, and the White Lead (Painting) Convention, 1921. The Night Work (Women) Convention, 1919, the Night Work (Women) Conventions (Revised) 1934 and 1948, the Night Work of Women (Agriculture) Recommendation, 1921, the Night Work (Bakeries) Convention, 1925, the Night Work (Road Transport) Recommendation, 1939, and the Underground Work (Women) Convention, 1935, may also be mentioned. No general code relating to industrial health has been adopted by the International Labour Conference, but a Standard Code of Industrial Hygiene was adopted by the Correspondence Committee on Industrial Hygiene in 1933 and was published by the International Labour Office with the sanction of the Governing Body of the ILO. This Standard Code is devoted entirely to relatively detailed regulations covering various possible sources of danger to the health of work people.<sup>85</sup>

(b) *Industrial safety*

65. In 1929 the International Labour Conference adopted a Prevention of Industrial Accidents Recommendation, which advocates the development of statistical, physical, physiological and psychological research, including research into vocational guidance; and the standardization of industrial accident statistics. It also deals in detail with co-operation between State inspectorates, employers' and workers' organizations and other bodies in the prevention of accidents, with special reference to works safety organization. This co-operation, it states, should cover all phases of safety education and propaganda. The Recommendation sets out the general principles that should be embodied in safety legislation, and suggests the part to be played in accident prevention by insurance institutions. The following general principles are laid down in paragraphs 15, 16 and 19 of the Recommendation:

"15. As any effective system of accident prevention should rest on a basis of statutory requirements, the Conference recommends that each Member should prescribe by law the measures required to ensure an adequate standard of safety.

"16. It should be provided by law that it is the duty of the employer to equip and manage his undertaking in such a way that the workers are adequately protected, regard being had to the nature of the undertaking and the state of technical progress, as well as to see that the workers in

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<sup>85</sup> See the ILO's *International Labour Code* at pages 574-581.

his employment are instructed as to the dangers, if any, of their occupation and in the measures to be observed by them in order to avoid accidents.

“... ”

“19. In view of the importance of the conduct of the worker in connexion with accident prevention, the law should provide that it is the duty of the worker to comply with the statutory requirements on accident prevention and particularly to refrain from removing safety devices without permission and to use them properly.”

66. In addition to this text of more general importance, the International Labour Conference approved the following relevant Conventions or Recommendations: the Power-Driven Machinery Recommendation, 1929, the Safety Provisions (Building) Convention, 1937, the Safety Provisions (Building) Recommendation, 1937, the Co-operation in Accident Prevention (Building) Recommendation, 1937, the Protection against Accidents (Dockers) Convention (1929, and Revised, 1932), the Protection against Accidents (Dockers) Reciprocity Recommendations, 1929 and 1932, the Protection against Accidents (Dockers) Consultation of Organisations Recommendation, 1929, and the Marking of Weight (Packages Transported by Vessels) Convention, 1929.

### (c) *Labour inspection*

67. The Constitution of the ILO, as it existed before its amendment by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, contained in article 41 certain “methods and principles” which appeared to the members to be of “special and urgent importance”. Of these the ninth was to the effect that: “Each State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed.” Paragraph 1 of the Labour Inspection Recommendation approved by the International Labour Conference in 1923 laid down that it should be the principal function of the system of inspection which should be instituted by members in accordance with this principle “to secure the enforcement of the laws and regulations relating to the conditions of work and the protection of the workers while engaged in their work (hours of work and rest; night work; prohibition of the employment of certain persons on dangerous, unhealthy, or physically unsuitable work; health and safety, etc.)”.

68. The general purport of the Labour Inspection Convention, 1947 (which is supplemented by the provisions of the Labour Inspection Recommendation and the Labour Inspection (Mining and Transport) Recommendation of the same year) is set out in its articles 1, 2, 3, 22 and 24.<sup>88</sup> Each member of the International Labour Organisation for which this Convention is in force is to maintain a system of labour inspection in industrial workplaces, and each member for which part II of the Convention is in force is to maintain a system of labour inspection also in commercial workplaces.

<sup>88</sup> See *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), pages 245-246 and 251.

69. The Labour Inspectorates (Indigenous Workers) Recommendation, 1939, states that: "Considering that the law or regulations relating to the employment of indigenous workers can only be satisfactorily administered by labour inspection services, [the Conference recommends] that the Members of the International Labour Organisation concerned should establish labour inspection services in any territories where such services do not already exist."

70. This principle was later elaborated in the Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947, of which the first article provides that: "Labour inspection services complying with the requirements of Articles 2 to 5 of this Convention shall be maintained in non-metropolitan territories."

71. The Labour Inspection (Seamen) Recommendation, 1926, aims at securing, by means of inspection of, in the words of its paragraph 1, "the enforcement of all laws and regulations dealing with [the conditions under which seamen work] and the protection of seamen in the exercise of their profession".

### III. ARTICLE 23 (2)

#### THE RIGHT TO EQUAL PAY FOR EQUAL WORK

72. Article 23 (2) of the Universal Declaration states that "Everyone, without discrimination, has the right to equal pay for equal work".

73. The preamble to the Constitution of the ILO stresses the urgency of the "recognition of the principle of equal remuneration for work of equal value".

74. Article 41 of the Constitution of the ILO, to which reference has been made previously, included among the principles which were regarded as "of special and urgent importance" the following which though of lesser scope is in practice the aspect of the wider principle to which most attention has been given: "Seventh — The principle that men and women should receive equal remuneration for work of equal value."

75. On this aspect of the question reference should be made to the relevant activities of the Commission on the Status of Women as reflected in the reports of its first five sessions (see documents E/281/Rev.1, paragraph 35, E/615, paragraph 25, E/1316, paragraphs 35-36, E/1712, paragraphs 55-59 and E/1997, paragraphs 82-93) and to resolutions 48 (IV), 121 (VI), 196 (VIII) and 242 D (IX) of the Economic and Social Council.

76. In resolution 121 (VI) the Council "reaffirms the principle of equal rights of men and women laid down in the Preamble of the United Nations Charter and approves the principle of equal remuneration for work of equal value for men and women workers"; and "calls upon the States Members of the United Nations to implement the latter principle in every way, irrespective of nationality, race, language and religion". The International Labour Organisation, referred to in resolution 196 (VIII) of the Economic and Social Council as "the recognized specialized agency in the field", was invited by the Council in resolution 121 (VI) "to proceed as rapidly as possible with the further consideration of this subject. . .".

77. At its thirty-fourth session the International Labour Conference adopted the Equal Remuneration Convention, 1951, and Equal Remuneration Recommendation, 1951. The Convention lays down certain general principles concerning equal remuneration for men and women workers for work of equal value; article 2 provides:

"1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

"2. This principle may be applied by means of:

"(a) National laws or regulations;

"(b) Legally established or recognised machinery for wage determination;

"(c) Collective agreements between employers and workers; or

"(d) A combination of these various means."

The Recommendation contains certain methods for the progressive application of the principles laid down in the Convention.

78. A statement of or reference to the principle of equal remuneration for work of equal value appears also in the following ILO texts: the Minimum Wage-Fixing Machinery Recommendation, 1928 (paragraph 96); the Employment (Transition from War to Peace) Recommendation, 1944 (section IX, paragraph 37 (1)); the Social Policy in Dependent Territories (Supplementary Provisions) Recommendation, 1945 (annex, article 2, paragraph 2); the Social Policy in Non-Metropolitan Territories Convention, 1947 (part VI, article 18, paragraph 1); and various resolutions.

79. Although the principle of equality of pay for equal work as between the sexes has received more attention than the more general principle laid down in article 23 (2) of the Universal Declaration and in the preamble to the Constitution of the ILO, that more general principle has also received a degree of treatment by the bodies whose activities fall within the scope of the present study.

80. Thus the Conclusions and Recommendations of the Trusteeship Council arising from its examination of the report of the Government of Australia on the administration of New Guinea for the year 1 July 1946 to 30 June 1947 (A/603, part B, chapter III, 7), included the recommendation "that in establishing rates of wages for indigenous and non-indigenous workers the Administering Authority be guided at all times by the principle of equal pay for equal work".

81. The Conclusions and Recommendations of the Trusteeship Council arising from its examination of the report of the same Administering Authority on the administration of the same territory for the year ended 30 June 1948 (A/933, chapter II, 6), included the following:

"With regard to the principle of equal pay for equal work . . . the Council reiterates its recommendations of last year and in this connexion recommends that the Administering Authority should (a) take all possible steps to readjust the existing salary and wage rates in order that there should be no differentiation except on the basis of skill, and



(b) whenever possible, encourage the establishment of trade unions in the territory."

82. The Trusteeship Council's Conclusions and Recommendations on the annual report of the Australian Government on the administration of Nauru for the year ended 30 June 1948 (A/933, chapter II, 7) included the following passage:

*"Wages and labour conditions*

"The Council, noting the disparities between wages paid to the indigenous, Chinese and European workers, recommends that the Administering Authority review the matter to the end that wages may be based on the principle of equal pay for equal work. . ."

83. In its report to the fifth session of the General Assembly, the Trusteeship Council had recalled its previous recommendation for a review of wages in Nauru to the end that wages might be based on the principle of equal pay for equal work, and recommended that the Administering Authority should take steps to increase the wages of the Chinese, Gilbertese and Nauruan workers.<sup>37</sup>

84. Article 18 of the International Labour Organisation's Social Policy (Non-Metropolitan Territories) Convention, 1947 contains, in its paragraphs 1 (i) and 2, relevant provisions which are available on pages 266-267 of *First Report of the International Labour Organisation to the United Nations*, volume II (attached to document E/586/Add.1).

#### IV. ARTICLE 23 (3)

##### THE RIGHT TO JUST AND FAVOURABLE REMUNERATION

85. Article 23 (3) of the Universal Declaration provides that: "Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity. . ."

86. The preamble to the Constitution of the ILO stresses the urgency of, *inter alia*, "the provision of an adequate living wage", while article 41 of that Constitution before it was eliminated therefrom and the Declaration of Philadelphia annexed thereto by the Constitution of the International Labour Organisation Instrument of Amendment, 1946, laid down as a principle "of special and urgent importance" the following: "Third — The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country."

87. Section III (d) of the Declaration of Philadelphia "recognizes the obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve", *inter alia*, "(d) policies in regard to wages and earnings, hours and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of such protection".

88. The International Labour Organisation's Minimum Wage-Fixing Machinery Convention, 1928, and Minimum Wage-Fixing Machinery Recommendation, 1928, article 14 of the Social Policy (Non-Metropolitan Territories) Convention, 1947, and the Minimum Wage-Fixing Machinery

<sup>37</sup> See *Official Records of the General Assembly, Fifth Session, Supplement No. 4* (A/1306), page 138.

(Agriculture) Convention and Recommendation, both of 1951, relate to the setting up of machinery for wage fixing in certain industries. The Wages, Hours of Work and Manning (Sea) Convention, 1946, and the Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949, prescribe the actual amount of an international minimum wage for seamen; this amount was stated as £16 in United Kingdom or \$64 in United States currency "or the equivalent thereof in other currency".

89. The International Labour Conference has concerned itself with the question of the labour standards, including wages, to be observed in the employment of workers either directly by governments on public works or by private contractors operating under public contracts, and has adopted relevant international regulations in the Reduction of Hours of Work (Public Works) Convention, 1936, the Public Works (National Planning) Recommendation, 1937, the Labour Clauses (Public Contracts) Convention, 1949, and the Labour Clauses (Public Contracts) Recommendation, 1949.

90. In a resolution adopted in 1948 the International Labour Conference drew attention to the desirability of progressively extending, by means of collective agreements, awards or national laws as appropriate, the application of the principle of a guaranteed wage to wage earners who are subject to temporary lay-off.

91. The Protection of Wages Convention, 1949, and the Protection of Wages Recommendation, 1949, seek to protect workers' wages by assuring for instance that they are paid in cash, promptly, in full and directly.

## V. ARTICLE 23 (4)

### THE RIGHT TO FORM AND TO JOIN TRADE UNIONS <sup>38</sup>

92. Article 23 (4) of the Universal Declaration of Human Rights states that: "Everyone has the right to form and to join trade unions for the protection of his interests."

93. The preamble to the Constitution of the International Labour Organisation stresses the urgency of, *inter alia*, the "recognition of the principle of freedom of association", while the annex which is now attached to the Constitution of the ILO declares, *inter alia*, that the General Conference of the ILO "reaffirms the fundamental principles on which the Organisation is based and, in particular, that: . . . (b) freedom of expression and of association are essential to sustained progress".

94. The former article 41 of the same Constitution, like the preamble thereto, treated the matter by laying down a right or freedom; among the principles which were here stated to be "of special and urgent importance" appeared: "Second — The right of association for all lawful purposes by the employed as well as by the employers."

95. Having, in its resolution 52 (IV), requested the International Labour Organisation to place on the agenda of the International Labour Conference the question of trade union rights, the Economic and Social

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<sup>38</sup> It may be noted that the material appearing under this heading is relevant also to article 20, paragraph 1, of the Universal Declaration of Human Rights which provides: "Everyone has the right to freedom of . . . association."

Council, in its resolution 84 (V), decided to request the ILO "to continue its efforts in order that one or several international conventions may be quickly adopted".

96. At its thirty-first session (San Francisco, June-July 1948), the International Labour Conference adopted the Freedom of Association and Protection of the Right to Organize Convention, 1948, the text of which is available in *Third Report of the International Labour Organisation to the United Nations* (attached to document E/1362), pages 124-130. The Convention includes the following provisions:

"PART I. FREEDOM OF ASSOCIATION

"*Article 1*

"Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

"*Article 2*

"Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

"*Article 3*

"1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

"2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

"*Article 4*

"Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

"*Article 5*

"Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

"*Article 6*

"The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

### *"Article 7*

"The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

### *"Article 8*

"1. In exercising the rights provided for in this Convention, workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

"2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

### *"Article 9*

"1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

"2. In accordance with the principles set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

### *"Article 10*

"In this Convention the term "organisation" means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

## *"PART II. PROTECTION OF THE RIGHT TO ORGANISE*

### *"Article 11*

"Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise."

97. The General Assembly, having in its resolution 128 (II) considered "that the inalienable right of trade union freedom of association is, as well as other social safeguards, essential to the improvement of the standard of living of workers and to their economic well-being",<sup>39</sup> expressed in its resolution 279 (III) "the earnest hope that Governments will take prompt action for the early ratification of the Convention on Freedom of Associa-

<sup>39</sup> In the same resolution the General Assembly declared that it endorsed "the principles . . . which are mentioned in the Constitution of the International Labour Organisation and in the Declaration of Philadelphia and, in particular, sub-section (a) of section III . . . ". The Constitution of the ILO and the Declaration of Philadelphia, which constitutes the annex to that Constitution, are the subjects of frequent reference in various parts of the present report.

tion and Protection of the Right to Organize adopted by the International Labour Conference at San Francisco”.

98. The Right to Organize and Collective Bargaining Convention, 1949, of the International Labour Organisation includes the following provisions:

*“Article 1*

“1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

“2. Such protection shall apply more particularly in respect of acts calculated to:

“(a) Make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

“(b) Cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

*“Article 2*

“1. Workers’ and employers’ organizations shall enjoy adequate protection against any acts of interference by each other or each other’s agents or members in their establishment, functioning or administration.

“2. In particular, acts which are designed to promote the establishment of workers’ organizations under the domination of employers or employers’ organizations, or to support workers’ organizations by financial or other means, with the object of placing such organizations under the control of employers or employers’ organizations, shall be deemed to constitute acts of interference within the meaning of this Article.

*“Article 3*

“Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organize as defined in the preceding articles.

“ . . .

*“Article 5*

“1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

“2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

## "Article 6

"This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way."

99. Prior to the adoption of these comprehensive texts, the International Labour Conference had, in 1921, approved the Right of Association (Agriculture) Convention, 1921, of which article 1 provided that "Each Member of the International Labour Organisation which ratifies this Convention undertakes to secure to all engaged in agriculture the same rights of association and combination as to industrial workers, and to repeal any statutory or other provisions restricting such rights in the case of those engaged in agriculture"; while in 1947 the Conference adopted the Right of Association (Non-Metropolitan Territories) Convention, of which the text is available in *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), pages 291-296.

100. It may be added that texts adopted by the International Labour Conference have aimed at protecting not only the right of association but also the right of collective bargaining. This is true of article 43 (3) of the Social Policy in Dependent Territories Recommendation, 1944, of article 3 of the Right of Association (Non-Metropolitan Territories) Convention, 1947, of article 4 of the Right to Organize and Collective Bargaining Convention, 1949, and of the Collective Agreements Recommendation, 1951. The annex to the amended Constitution of the ILO recognizes in its section III (e) "the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

". . .

"(e) The effective recognition of the right of collective bargaining. . ."

101. On 6 January 1950, the Governing Body of the ILO decided to establish, on behalf of the United Nations and on behalf of the ILO, a Fact-Finding and Conciliation Commission on Freedom of Association composed of nine persons chosen for their personal qualifications. The Commission was to be essentially a fact-finding body, but was to be authorized to discuss situations referred to it for investigation with the government concerned with a view to securing the adjustment of difficulties by agreement.<sup>40</sup>

## VI. ARTICLE 24

THE RIGHT TO REST AND LEISURE, INCLUDING REASONABLE LIMITATION  
OF WORKING HOURS AND PERIODIC HOLIDAYS WITH PAY

102. Article 24 of the Universal Declaration lays down that "Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay".

<sup>40</sup> For an account of the origin, structure, powers and functioning of the Commission, see *Fourth Report of the International Labour Organisation to the United Nations*, pages 61-65 and 322-328, and *Fifth Report*, pages 60-63 and 253-264.

103. The preamble to the Constitution of the ILO stresses the urgency of, *inter alia*, "the regulation of the hours of work, including the establishment of a maximum day and week", while article 41 of that Constitution, before it was eliminated therefrom and the Declaration of Philadelphia annexed thereto, laid down as principles "of special and urgent importance" the following:

"Fourth. — The adoption of an eight hours day or a forty-eight hours week as the standard to be aimed at where it has not already been attained.

"Fifth. — The adoption of a weekly rest of at least twenty-four hours, which should include Sunday wherever practicable."

104. The relevant work of the ILO may be classified according to whether it deals with hours of work, weekly rest or holidays with pay.

(a) *Hours of work*

105. In 1919 and 1930 respectively, the International Labour Conference approved an Hours of Work (Industry) Convention and an Hours of Work (Commerce and Offices) Convention, which provided that, subject to exceptions, the hours of work of persons to whom these Conventions apply shall not exceed forty-eight hours in the week and eight hours in the day.

106. According to article 1 of the Forty-Hour Week Convention, 1935, each ratifying State Member "declares its approval of

"(i) The principle of a forty-hour week applied in such a manner that the standard of living is not reduced in consequence; and

"(ii) The taking or facilitating of such measures as may be judged appropriate to secure this end; . . ."

107. Each ratifying member state also undertakes, according to the same article, to apply this principle to classes of employment in accordance with the detailed provisions of such other Conventions as it may have also ratified. Three conventions providing for the application or near application of this principle were adopted by the International Labour Conference; these relate to public works, the textile industry and glass-bottle works. Thus, the Reduction of Hours of Work (Public Works) Convention, 1936, and the Reduction of Hours of Work (Textiles) Convention, 1937, each provide, subject to some exceptions, that the hours of work of persons to whom they apply "shall not exceed an average of forty per week", while the Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935, provides, subject to limited exceptions, that the hours of work of persons to whom it applies "shall not exceed an average of forty-two per week".

108. Other Conventions and Recommendations have been approved from time to time by the International Labour Conference relating to hours of work in various occupations: the Hours of Work (Coal Mines) Convention, 1931; the Sheet-Glass Works Convention, 1934; the Hours of Work (Coal Mines) Convention (Revised), 1935; the Hours of Work and Manning (Sea) Convention, 1936; the Hours of Work and Rest Periods (Road Transport) Convention, 1939; the Wages, Hours of Work and Manning (Sea) Convention, 1946; the Hours of Work (Fishing)

Recommendation, 1920; the Hours of Work (Inland Navigation) Recommendation, 1920; the Hours of Work and Manning (Sea) Recommendation, 1936; the Methods of Regulating Hours (Road Transport) Recommendation, 1939; the Rest Periods (Private Chauffeurs) Recommendation, 1939; the Wages, Hours of Work and Manning (Sea) Convention (Revised) 1949; and three Recommendations adopted in 1930 concerning the regulation of hours of work in hotels, restaurants and similar establishments, in theatres and other places of public amusements, and in establishments for the treatment or the care of the sick, infirm, destitute or mentally unfit.

109. Hours of work in agriculture have not been the subject of any Convention or Recommendation of the International Labour Conference.

(b) *Weekly rest*

110. Article 2 of the Weekly Rest (Industry) Convention, 1921, provides, *inter alia*, as follows: "The whole of the staff employed in any industrial undertaking, public or private, or in any branch thereof shall, except as otherwise provided for by the following Articles, enjoy in every period of seven days a period of rest comprising at least twenty-four consecutive hours."

111. Paragraph I of the Weekly Rest (Commerce) Recommendation, 1921, recommends: "That each Member of the International Labour Organisation take measures to provide that the whole of the staff employed in any commercial establishment, public or private, or in any branch thereof, except as otherwise provided for by the following paragraphs should enjoy in every period of seven days a period of rest comprising at least twenty-four consecutive hours."

112. Paragraph III of the Recommendation states that member States should communicate to the International Labour Office such exceptions to the application of the Recommendation, and every two years any modifications to those exceptions as they may find necessary. Article 6 of the Convention places an obligation to take similar action upon member States ratifying the Convention. These two texts do not affect workers in agriculture, or seamen.

(c) *Holidays with pay*

113. The general principles of the Holidays With Pay Convention, 1936, are set out in articles 2 and 3 thereof, which provide, *inter alia*:

"Every person to whom this Convention applies shall be entitled after one year of continuous service to an annual holiday with pay of at least six working days.

" . . .

"Every person taking a holiday in virtue of Article 2 of this Convention shall receive in respect of the full period of the holiday either:

"(a) His usual remuneration, calculated in a manner which shall be prescribed by national laws or regulations, including the cash equivalent of his remuneration in kind, if any; or

"(b) The remuneration determined by collective agreement."



114. The Convention applies to workers employed in a number of types of undertakings or establishments which are listed in article 1 thereof. It does not apply to agricultural workers or seamen or to undertakings or establishments in which only members of the employer's family are employed. Special provisions relating to persons employed on the sea are made by the Holidays With Pay (Sea) Convention, 1936, by the Paid Vacations (Seafarers) Convention, 1946, and by the Paid Vacations (Seafarers) Convention (Revised) 1949.

115. The Holidays With Pay Recommendation, 1936, which supplements the Holidays With Pay Convention, 1936, provides, *inter alia*, that:

"The holiday should be earned after one year's work, regardless whether this period has been spent in the employment of the same or of several employers", and that:

"Although it may be desirable that provision should be made in special cases for holidays to be divided, care should be exercised to ensure that such special arrangements do not run counter to the purpose of the holiday, which is to enable the employed person to make good the loss of physical and mental forces during the course of the year."

## VII. ARTICLE 25 (1)

### 1. THE RIGHT TO ADEQUATE FOOD

116. The right of all to adequate food appears to be laid down in article 25 (1) of the Universal Declaration of Human Rights, which provides that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care. . ."

117. There seems to be no aspect of the work of the Food and Agriculture Organization which is not relevant to the protection of the right to an adequate standard of living as defined in article 25 (1) of the Universal Declaration, which thus makes specific reference to food as an essential basis of such a standard of living.<sup>41</sup> The preamble to the Constitution of the Organization indicates that the FAO was established for the purpose, among others, of "raising levels of nutrition and standards of living of the peoples under their respective jurisdictions".

118. A General Recommendation agreed upon by the Conference of the FAO at its third session recorded that the Conference believed it "essential that governments acting severally and together take all possible steps", in order, *inter alia*, "to ensure that the minimum food requirements of all nations are met during the continuance of the existing acute scarcity".<sup>42</sup> A further purpose of such steps was stated to be "to ensure the continued increase in food and agricultural production necessary both to meet the needs of the expanding world population and progressively to raise nutritional standards in all countries to levels adequate for health".<sup>42</sup>

119. At its seventh session the Trusteeship Council adopted resolution 300 (VII) on improvement of nutrition in Trust Territories, in which it

<sup>41</sup> The activities of the FAO may be followed in documents E/597 with Addenda 1, E/797, E/1321, E/1676 with Addenda 1, 2 and 3, and E/2008 with Addenda 1-3.

<sup>42</sup> Food and Agriculture Organization of the United Nations, *Report of the Third Session of the Conference*, page 6.

invited the Administering Authorities to continue to explore, in co-operation with the specialized agencies of the United Nations, and also with competent scientific bodies, the possibility of utilizing and expanding the latest scientific methods in the improvement of nutritional standards among the inhabitants of Trust Territories.

120. The preamble to the Constitution of the ILO in its section III (i) "recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve: . . . (i) the provision of adequate nutrition, . . ." Reference may be made in this connexion to articles 4 and 9 of the Social Policy (Non-Metropolitan Territories) Convention, 1947, which may be examined in *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), pages 262 and 263-264. A resolution was adopted by the ILO's Committee on Work on Plantations at its first session (Bandoeng, December 1950) concerning the supply of food, clothing and other necessities and the nutritional standards of plantation workers.

121. It may be added that on questions relating to relevant aspects of the co-operative movement close contact has been maintained between the ILO and the FAO,<sup>43</sup> and that the Joint Expert Committee of FAO and the World Health Organization on Nutrition held its first meeting in Geneva on 24-28 October 1949. The first report of this Committee, published in the WHO Technical Report Series, No. 16, outlines the division of work between the two organizations.

## 2. THE RIGHT TO ADEQUATE CLOTHING

122. From the wording of article 25 (1) of the Universal Declaration of Human Rights<sup>44</sup> it is clear that the adequate standard of living to which everyone has a right includes as one element a right to clothing sufficient for health and well-being.

123. It will be noted that "clothing" appears among the "essential family needs of the workers" mentioned as examples in article 9 of the Social Policy (Non-Metropolitan Territories) Convention, 1947,<sup>45</sup> and organizations such as the International Children's Emergency Fund, the United Nations Relief for Palestine and the International Refugee Organization have inevitably been called upon to distribute clothing, among other necessities, to the needy. Apart from those mentioned above, however, useful formulations of the right involved by the bodies here under examination have been lacking.

## 3. THE RIGHT TO ADEQUATE HOUSING

124. Housing is also specified in article 25 (I) of the Universal Declaration<sup>46</sup> as one of the elements making up a person's standard of

<sup>43</sup> See for example *Fourth Report of the International Labour Organisation to the United Nations* (attached to document E/1719), page 153.

<sup>44</sup> See paragraph 116.

<sup>45</sup> See paragraph 120.

<sup>46</sup> See paragraph 116.

living and the right to an adequate standard of living includes a right to satisfactory housing.

125. The General Assembly, in resolution 53 (I), expressed its appreciation of "the magnitude and gravity of housing problems in various parts of the world", and the Economic and Social Council, in its resolutions 2/10, paragraph 3 (c), 50 (IV), 122 D (VI), 155 F (VII), 243 D (IX), 279 (X) and 309 G (XI), and the Social Commission (see the relevant parts of the reports of its seven sessions held to date: E/260, paragraph 20, E/578, paragraphs 49-52, E/779, paragraphs 13-15, E/1359, paragraphs 64-69, E/1568, paragraphs 11-24, E/1678, paragraphs 115, 117, 120 and 123 and annex IV, paragraphs 90-95, and E/1982, paragraphs 85-103) have each taken measures to meet these problems. They have also been touched upon by the Economic and Employment Commission (see report of its third session, E/790, part V, and report of its fifth session, E/1600, paragraphs 63-66) and by the Economic Commission for Europe (see documents E/451, section XIII, E/791, part II, 1 (iv) and part III, 4 and 6, E/1674, paragraphs 71-73 and 155, and E/2002, paragraphs 56-65; compare document E/CN.5/189/Add.1). The interest of the Trusteeship Council and of the Special Committee on Information Transmitted under Article 73 e of the Charter is reflected for instance in items included in the Provisional Questionnaire adopted by the former (document T/44) and the Standard Form approved by the General Assembly in resolution 142 (II) as a guidance to Members in the preparation of information to be transmitted under Article 73 e. Certain of the activities of the World Health Organization and the Food and Agriculture Organization also relate to the housing problem (see documents E/802 and E/1107).

126. The annex to the Constitution of the ILO "recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

" . . .  
"(i) The provision of adequate . . . housing . . . "

127. The wording of paragraph III of the Utilization of Spare Time Recommendation, 1924, is interesting in this connexion:

"Whereas it is of advantage to the workers and to the whole community to encourage everything tending to the harmonious development of the workers' family life; and

"Whereas the most effective means of protecting the workers from the aforesaid dangers is to place within their reach a proper home;

"The Conference recommends the increase in number, if necessary in co-operation with the national or local authorities concerned, of healthy dwellings at low rentals in garden cities or urban communities, under proper conditions of health and comfort."

128. The living-in conditions of agricultural workers have received attention in the Living-in Conditions (Agriculture) Recommendation, 1921, while the importance of improvements in the field of housing in non-metropolitan territories is recognized in articles 4 and 9 of the Social Policy (Non-Metropolitan Territories) Convention, 1947, previously

referred to.<sup>47</sup> Paragraph 37, sub-paragraph 3, of the Social Policy in Dependent Territories Recommendation, 1944 also makes a relevant provision.<sup>48</sup>

129. The ILO's Asian Regional Conference (Ceylon, January 1950) adopted a resolution on the promotion of facilities for workers' welfare in Asian countries which laid down the principle that it should be a recognized object of public policy to ensure that, *inter alia*, adequate housing and other accommodation should be made available for all workers having need of them. The first session of the ILO's Committee on Work on Plantations adopted a resolution concerning workers' housing on plantations which provides, *inter alia*, that on plantations where circumstances require workers to reside therein, the responsibility for providing housing for such workers rests on the employer and that minimum standards should be established in order to provide workers with decent, hygienic, comfortable houses. The question of housing petroleum workers was particularly considered by the Petroleum Committee at its third session.

#### 4. THE RIGHT TO ADEQUATE MEDICAL CARE

130. As has been seen,<sup>49</sup> article 25 (1) of the Universal Declaration included "medical care" among the elements of the standard of living there laid down as being the right of every person.

131. By resolution 61 (I) the General Assembly recommended all Members of the United Nations to accept the Constitution of the World Health Organization. The preamble to this Constitution lays down the principle that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social conditions". Health is declared to be not merely the absence of disease or infirmity but "a state of complete physical, mental and social well-being".

132. In pursuance of these and other provisions of its Constitution, the World Health Organization has been engaged in drawing up Health Regulations to replace the International Sanitary Conventions; it is providing world-wide epidemiological intelligence services, setting standards for therapeutic substances, publishing the International Pharmacopoeia, and conducting research related to the above subjects. It is also assisting its member States to raise standards of health within their countries by means of field demonstrations, advisory visits by officials of the Organization and other advisory services, the provision of literature on medical subjects and of teaching equipment, the granting of fellowships, study by expert committees and by individual research workers either in the field or at headquarters, and emergency material aid in epidemics.

133. The technical assistance to governments relates to the following main fields; control of communicable diseases—among which malaria,

<sup>47</sup> See paragraph 120.

<sup>48</sup> See *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), page 113.

<sup>49</sup> See paragraph 116.

venereal diseases and tuberculosis were given priority at the First Health Assembly; environmental sanitation, which includes the reduction of diseases resulting from poor sewage disposal, unsafe water supply, inadequate protection of food, etc.; nutrition, and maternal and child health. Other activities have related to mental health and the training of medical, nursing and other health personnel, among other matters.

134. These activities may be studied in the reports of the WHO to the Economic and Social Council<sup>50</sup>; the recognition of the right to medical care is implicit in these activities when viewed as a whole.

135. A provision contained in the annex to the Constitution of the ILO is relevant here, equally as to the discussion of measures of safety in industry.<sup>51</sup> It is stated that the International Labour Conference "recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

" . . .

"(f) The extension of social security measures to provide . . . comprehensive medical care;

"(g) Adequate protection for the life and health of workers in all occupations".

136. In this connexion the most relevant text adopted by the International Labour Conference is the Medical Care Recommendation, 1944, which is concerned with the organization of complete medical care services within the countries of member States. According to paragraph 8 thereof, "The medical care service should cover all members of the community, whether or not they are gainfully occupied." The Recommendation, which includes many suggestions for alternative methods of organization, to be selected according to the degree of development of the service and the varying nature of the problems to be solved, may be examined in *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), pages 85-101.

137. Article 37, paragraph 1, of the annex to the Social Policy in Dependent Territories Recommendation, 1944, and article 6 of the resolution concerning the Protection of Children and Young Persons adopted by the International Labour Conference in 1945, include relevant passages which may be examined in the same Report, pages 113 and 325-326 respectively.

138. The Sickness Insurance Conventions, 1927, whose scope is elsewhere treated,<sup>52</sup> contain in their article 4 the provision that: "The insured person shall be entitled free of charge, as from the commencement of his illness and at least until the period prescribed for the grant of sickness benefit expires, to medical treatment by a fully qualified medical man and to the supply of proper and sufficient medicines and appliances." It is added, however, that "the insured person may be required to pay such part of the cost of medical benefit as may be prescribed by national laws

<sup>50</sup> See documents E/786 and Corr. 1, E/1350 and the *Annual Reports of the Director-General to the World Health Assembly and to the United Nations 1949* (attached to document E/1677), and 1950 (attached to document E/2020).

<sup>51</sup> See paragraphs 65-66.

<sup>52</sup> See paragraphs 155 and 159.

or regulations". Similarly, the Sickness Insurance Recommendation, 1927, makes provisions for the granting of medical care as well as for the payment of cash benefits in the event of illness of the insured person.

139. The Utilization of Spare Time Recommendation, 1924, had recommended that members of the ILO should:

(a) Encourage "individual hygiene by the provision of public baths, swimming pools, etc.";

(b) Take legislative or encourage private action "against the misuse of alcohol, against tuberculosis, venereal disease and gambling".

140. Other relevant texts adopted by the International Labour Conference have been the Workmen's Compensation (Accidents) Convention, 1925 (in articles 9 and 10), the Medical Examination (Seafarers) Convention, 1946, the Labour Inspection (Health Services) Recommendation, 1919, the Seafarers (Medical Care for Dependants) Recommendation, 1946 and the Conventions and Recommendation concerning medical examination for fitness for employment of children and young persons.<sup>53</sup>

## 5. THE RIGHT TO SECURITY

141. Article 23 (3) of the Universal Declaration lays down that everyone has the right to a just and favourable remuneration which would be "supplemented if necessary, by other means of social protection". Article 25 (1) makes further relevant provisions to be quoted later.

142. Section III, sub-section (f) of the annex to the Constitution of the ILO "recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve . . . the extension of social security measures to provide a basic income to all in need of such protection . . .," while, in section II of the same annex, the International Labour Conference affirms, *inter alia*, that "all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of *economic security* and equal opportunity".<sup>54</sup>

143. The ILO's Income Security Recommendation, 1944, the text of which is set out in *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), pages 61-82 (of which pages 62-66 contain the passages about to be cited), advocates that each country should build up an income security organization comprising a unified social insurance system (or several schemes co-ordinated under a single authority) working closely with medical and employment services, and supplemented by a social assistance system. Income security should be afforded normally through the social insurance system, and the social assistance system, except for its children's services, should have only a transitional or subsidiary part to play.

144. The first four paragraphs of the Recommendation set out *general* guiding principles, referring to, *inter alia*, the conditions under which rights under income security schemes should arise, while paragraphs 5-8 set out the contingencies against which *social insurance* schemes should

<sup>53</sup> See paragraphs 225-226.

<sup>54</sup> Italics inserted.

provide. Paragraphs 9-16 define the contingencies classified in article 7; the definitions set out are used at the appropriate points subsequently in the present paper.

145. Paragraphs 17, 20 and 21 define the persons whom it is intended that social insurance should benefit, while an important principle which it is thought should govern the size of benefits is set out in paragraph 22.

146. According to paragraph 25, social insurance schemes are to be established largely on a contributory basis.

147. *Social assistance* measures are to provide a degree of social security to persons not protected by the social insurance; paragraphs 28-30, which fall under the heading *Social assistance*, are to be read in this connexion.

148. In 1921, the International Labour Conference had approved the Social Insurance (Agriculture) Recommendation, which recommended: "That each Member of the International Labour Organisation extend its laws and regulations establishing systems of insurance against old-age, invalidity and other similar social risks to agricultural wage earners on conditions equivalent to those prevailing in the case of workers in industrial and commercial occupations." Other Recommendations or Conventions of the International Labour Conference concerning social security in general which, however, relate only to limited categories of persons or to special situations are the Social Security (Armed Forces) Recommendation, 1944, concerning income security and medical care for persons discharged from the armed forces and assimilated services and from war employment, the 1946 Social Security (Seafarers) Convention and the 1946 Seafarers' Social Security (Agreements) Recommendation concerning agreements relating to the social security of seafarers entered into by member States of the ILO. The general effect of the Social Security (Seafarers) Convention is to provide that seafarers and their dependants should be entitled to medical benefits or cash benefits in the event of incapacity for work, unemployment and old age. Where insurance schemes already exist for industrial workers, the benefits provided for seafarers must be not less favourable than those granted in industry.

149. Article 4 of the Social Policy (Non-Metropolitan Territories) Convention 1947, provides that: "All possible steps shall be taken . . . to promote improvement in such fields as . . . social security . . ." in such territories. Finally, it should be added that, in 1935, the Conference dealt with the question of migrants' pension rights and adopted a Convention providing for the establishment by members of the International Labour Organisation of a scheme for the maintenance of rights in course of acquisition, and of rights acquired, with compulsory invalidity, old-age and widows' and orphans' insurance institutions.

150. Assistance in developing programmes of social assistance have also been provided through the United Nations Advisory Social Welfare Services, while the provision of technical assistance in social security appears among the activities of the International Labour Office.

151. Headings (a) - (h) in the following paragraphs 152-197 set out certain relevant decisions on the part of the International Labour Con-

ference, classified as are the contingencies set out in paragraph 7 of the 1944 Recommendation concerning Income Security, referred to above.<sup>55</sup>

(a) *Sickness*

152. Article 25 (1) of the Universal Declaration specifically mentions "the right to security in the event of . . . sickness".

153. The preamble to the Constitution of the ILO recognizes the necessity for improving conditions of labour by, *inter alia*, "the protection of the worker against sickness, disease . . . arising out of his employment".

154. Paragraph 9 of the ILO's Income Security Recommendation, 1944, provides that "the contingency for which sickness benefit should be paid is loss of earnings due to abstention from work necessitated on medical grounds by an acute condition, due to disease or injury, requiring medical treatment or supervision".<sup>56</sup>

155. The International Labour Conference approved, in 1927, a Sickness Insurance Recommendation, a Sickness Insurance (Industry, etc.) Convention and a Sickness Insurance (Agriculture) Convention. In 1926, it adopted the Repatriation of Seamen Convention, dealing with the repatriation of seafarers who were put ashore in a foreign port on account of sickness or for any other reason for which they were not responsible. That Convention provides that the seafarer must be brought back to his own country or to the port at which he was engaged or at which the voyage commenced, either as a paid member of a ship's crew or with his full expenses paid. The Shipowners' Liability (Sick and Injured Seamen) Convention, 1936, relates to the liability of shipowners to grant medical care and maintenance to sick or injured seamen until they were cured or until their incapacity has been declared permanent.

156. The general principle of the 1927 Recommendation is set out in paragraph 1 thereof, which provides that: "Sickness insurance should include within its scope, without discrimination as to age or sex, every person who performs work by way of his occupation and under a contract of service or apprenticeship."

157. Paragraph 3 provides: "In order to secure that an insured person who is rendered incapable of work by sickness may recover his health as early as possible, the cash benefit representing compensation for lost wages should be adequate."

158. The Recommendation also contains provisions relating to medical treatment and prevention of diseases.<sup>57</sup>

159. The 1927 Sickness Insurance Conventions provide that each member State to ratify them shall set up a system of compulsory sickness insurance which shall be based on provisions at least equivalent to those contained in these conventions. The Sickness Insurance (Industry, etc.) Convention applies to manual and non-manual workers, including apprentices, employed by industrial undertakings and commercial undertakings, outworkers and domestic servants, while the Sickness Insurance (Agriculture) Convention applies to manual and non-manual workers,

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<sup>55</sup> See paragraph 144.

<sup>56</sup> See paragraphs 143-144.

<sup>57</sup> See paragraph 138.



including apprentices, employed by agricultural undertakings. Ratifying States may, however, make exceptions from the requirements of either Convention as regards persons to be benefited, among them, persons in temporary employment, workers not paid a money wage and members of the employer's family. Seamen and sea-fishermen are excluded from the provisions of the Sickness Insurance (Industry, etc.) Convention. Their position as regards sickness insurance is governed by the Sickness Insurance (Sea) Convention of 1936. Article 1, paragraph 1 of the Convention states the general principle that every person to whom the Convention applies "shall be insured under a compulsory sickness insurance scheme". Member States ratifying the Convention may, however, make exceptions in respect of a number of categories of workers, including "persons employed on board vessels of public authorities when such vessels are not engaged in trade".<sup>58</sup>

#### (b) *Maternity*

160. Motherhood is declared to be "entitled to special care and assistance" by article 25 (2) of the Universal Declaration of Human Rights. Paragraph 10 of the ILO's Income Security Recommendation, 1944, states that "the contingency for which maternity benefit should be paid is loss of earnings due to abstention from work during prescribed periods before and after childbirth".<sup>59</sup>

161. Article 3 (c) of the Maternity Protection Convention of 1919 provides that every woman employed in an industrial or commercial undertaking who is absent from work, before or after her confinement, in pursuance of sub-paragraphs (a) and (b) of the article,<sup>59</sup> shall, while she is absent, "be paid benefits sufficient for the full and healthy maintenance of herself and her child, provided either out of public funds *or by means of a system of insurance*, the exact amount of which shall be determined by the competent authority in each country, and as an additional benefit shall be entitled to free attendance by a doctor or certified midwife".<sup>60</sup> The Maternity Protection (Agriculture) Recommendation of 1921 recommends: "that each Member of the International Labour Organisation take measures to ensure to women wage-earners employed in agricultural undertakings protection before and after childbirth similar to that provided in the [Maternity Protection Convention 1919] for women employed in industry or commerce, and such measures should include the right to a period of absence from work before and after childbirth and to a grant of benefit during the said period, provided either out of public funds *or by means of a system of insurance*".<sup>60</sup> It will be seen that in the 1919 Convention insurance was *approved* as a means of providing maternity benefits; in the 1944 Recommendation, however, provision for maternity benefit was *recommended* as one of the aims of a compulsory insurance system.

#### (c) *Invalidity*

162. Article 25 (1) of the Universal Declaration of Human Rights recognizes the right of everyone to "security in the event of . . . disability".

<sup>58</sup> See paragraphs 143-144.

<sup>59</sup> See paragraph 203.

<sup>60</sup> Italics inserted.

163. The preamble to the Constitution of the ILO recognizes the necessity for improving conditions of labour by, *inter alia*, "the protection of the worker against . . . injury arising out of his employment" and "provision for . . . injury . . .".

164. Paragraph 11 of the ILO's Income Security Recommendation, 1944, defines "the contingency for which invalidity benefit should be paid" as "inability to engage in any substantially gainful work by reason of a chronic condition, due to disease or injury, or by reason of the loss of a member or function".<sup>61</sup>

165. In 1933 the International Labour Conference approved an Invalidity, Old Age and Survivors' Insurance Recommendation, of which its paragraph 1 sets out the general principle:

"(a) Compulsory invalidity, old-age and widows' and orphans' insurance for employed person should include, irrespective of age, sex or nationality, every person who is ordinarily engaged in employment for remuneration.

"(b) Where economic, social and administrative conditions permit, national laws or regulations should provide that invalidity, old-age and widows' and orphans' insurance should also include persons of small means working on their own account in industry, commerce and agriculture".

166. In 1933, however, the International Labour Conference approved also two relevant *Conventions*: the Invalidity Insurance (Industry, etc.) Convention and the Invalidity Insurance (Agriculture) Convention. These oblige ratifying States to set up or maintain a scheme of compulsory insurance at least equivalent to those contained therein. In the case of members for which the Invalidity Insurance (Industry, etc.) Convention is in force, the scheme is to provide compulsory invalidity insurance for manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and for outworkers and domestic servants (Invalidity Insurance (Industry, etc.) Convention 1933, articles 1 and 2 (1)). Members ratifying the Invalidity Insurance (Agriculture) Convention are to provide compulsory invalidity insurance for manual and non-manual workers, including apprentices, employed in agricultural undertakings and for domestic servants employed in the households of agricultural employers (Old-Age Insurance (Agriculture) Convention, 1933, articles 1 and 2 (1)). Any member may in its national laws or regulations make such exceptions from liability to insurance in accordance with these provisions (as to persons to be benefited) as it deems necessary in respect of a number of categories including "non-manual workers engaged in occupations which are ordinarily considered as liberal professions". Seamen and sea-fishermen are not protected by the Conventions.

167. Article 4 of each of the two Invalidity Insurance Conventions provides that:

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<sup>61</sup> See paragraphs 143-144.

"1. An insured person who becomes generally incapacitated for work and thereby unable to earn an appreciable remuneration shall be entitled to an invalidity pension.

"2. Provided that national laws or regulations which secure to insured persons medical treatment and attendance throughout invalidity and, if invalidity terminates in death, secure pensions at the full rate to widows without any conditions as to age or invalidity and to orphans, may make the award of an invalidity pension conditional upon the insured person's being unable to perform remunerative work.

"3. In the case of special schemes for non-manual workers, an insured person who suffers from incapacity which renders him unable to earn an appreciable remuneration in the occupation in which he was ordinarily engaged or in a similar occupation shall be entitled to an invalidity pension."

168. Article 16 of each of the two Conventions provides that if the ratifying State had, at the time of coming into force of the Convention, no laws or regulations providing for compulsory insurance in respect of invalidity, an existing non-contributory pension scheme which guarantees an individual right to a pension under conditions deferred in the Convention shall be deemed to satisfy the requirements of the Convention.

#### (d) *Old age*

169. Article 25 (1) of the Universal Declaration lays down the right of everyone to "security in the event of . . . old age . . .".

170. The preamble to the Constitution of the ILO recognizes the necessity for improving conditions of labour by, *inter alia*, "provision for old age . . .".

171. Paragraph 12 of the ILO's Income Security Recommendation, 1944, defines the contingency for which old-age benefit should be paid as "the attainment of a prescribed age, which should be that at which persons commonly become incapable of efficient work, the incidence of sickness and invalidity becomes heavy, and unemployment, if present, is likely to be permanent".<sup>62</sup>

172. In 1933, the International Labour Conference approved an Old-Age Insurance (Industry, etc.) Convention and an Old-Age (Agriculture) Convention which place upon the member States ratifying them the obligation to set up or maintain a scheme of compulsory old-age insurance based on provisions at least equivalent to those contained in the Conventions. In the case of members for which the Old-Age Insurance (Industry, etc.) Convention is in force, the scheme is to provide compulsory old-age insurance for manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and for outworkers and domestic servants (Old-Age Insurance (Industry, etc.) Convention, 1933, articles 1 and 2). In the case of members for which the Old-Age Insurance (Agriculture) Convention is in force, the scheme shall provide compulsory old-age insurance for manual and non-manual workers, including apprentices, employed in agricultural undertakings, and for domestic servants employed in the

<sup>62</sup> See paragraphs 143-144.

households of agricultural employers (Old-Age Insurance (Agriculture) Convention, 1933, articles 1 and 2 (1)). Any member may in its national laws or regulations make such exceptions from liability to insurance in accordance with the provisions as to persons to be benefited as it deems necessary in respect of a number of specified categories. The Conventions do not apply to seamen or sea-fishermen.

173. Article 4 of each of the two Old-Age Insurance Conventions provides that: "An insured person shall be entitled to an old-age pension at an age which shall be determined by national laws or regulations but which, in the case of insurance schemes for employed persons, shall not exceed sixty-five."

174. Article 15 of each of the two Conventions makes the same provision relating to non-contributory pensions schemes as does article 16 of the Invalidity Insurance Conventions of 1933.<sup>63</sup>

175. Reference has already been made to the Invalidity Old-Age and Survivors' Insurance Recommendation of 1933.<sup>64</sup> With reference to Old-Age Insurance, the Recommendation states, *inter alia*, that: "Insured persons who have for many years been engaged in a particularly arduous or unhealthy occupation should be enabled to claim a pension at a less advanced age than workers in other occupations" (article 12).

176. In 1946 the International Labour Conference adopted the Seafarers' Pensions Convention requiring the countries for which the Convention is in force to establish, or have established, a system for the payment of pensions to seafarers when they retire. The pension is to be payable on completion of a prescribed period of service at the age of 55 or 60 years. The seafarers collectively must not be required to contribute more than half of the cost of the pensions payable. The scheme may embody such exceptions as the ratifying member State may deem necessary in respect of certain categories, including persons employed on board or in the service of vessels of public authorities where such vessels are not engaged in trade.

#### (e) *Death of breadwinner*

177. Article 25 (1) of the Universal Declaration states that: "Everyone has . . . the right to security in the event of . . . widowhood . . .", while article 25 (2) proclaims in general terms that childhood is "entitled to special care and assistance".<sup>65</sup>

178. Paragraph 13 of the ILO's Income Security Recommendation, 1944, provides that: "The contingency for which survivors' benefits should be paid is the loss of support presumably suffered by the dependants as the result of the death of the head of the family".<sup>66</sup>

179. The International Labour Conference adopted in 1933 the Survivors' Insurance (Industry, etc.) Convention and the Survivors' Insurance (Agriculture) Convention which place member States ratifying these Conventions under an obligation to set up or maintain a scheme of com-

<sup>63</sup> See paragraph 168.

<sup>64</sup> See paragraph 165.

<sup>65</sup> As to the latter provision see also paragraphs 209-235.

<sup>66</sup> See paragraphs 143-144.

pulsory survivors' insurance based upon provisions at least equivalent to those contained in the Convention. In the case of members for which the Survivors' Insurance (Industry, etc.) Convention is in force, the scheme shall provide compulsory widows' and orphans' insurance for manual and non-manual workers, including apprentices, employed in industrial or commercial undertakings or in the liberal professions, and for out-workers and domestic servants (Survivors' Insurance (Industry, etc.) Convention, 1933, articles 1 and 2 (1)). In the case of members for which the Survivors' Insurance (Agriculture) Convention is in force, the scheme shall provide compulsory widows' and orphans' insurance for manual and non-manual workers, including apprentices, employed in agricultural undertakings, and for domestic servants employed in the households of agricultural employers (Survivors' Insurance (Agriculture) Convention, 1933, articles 1 and 2 (1)). Like the Old-Age Insurance and the Invalidity Insurance Conventions of the same year, the Survivors' Insurance Conventions permit members to make such exceptions from liability to insurance in respect of a number of specified categories of persons as it deems necessary. The Conventions do not apply to seamen or seafishermen.

180. The general principle of the Survivors' Insurance Conventions is set out in article 6 of each as follows: "The widows' and orphans' insurance scheme shall as a minimum confer pension rights on widows who have not remarried and the children of a deceased insured or pensioned person."

181. Article 18 of each of these two Conventions make the same provision relating to non-contributory pensions schemes as does article 16 of the Invalidity Insurance Conventions of 1933.<sup>67</sup>

182. The Invalidity Old-Age and Survivors' Insurance Recommendation, 1933, which is also relevant here, has already been cited.<sup>68</sup>

#### (f) *Unemployment*

183. Article 25 (1) of the Universal Declaration lays down the right of everyone "to security in the event of unemployment. . ."

184. Paragraph 14 of the ILO's Income Security Recommendation, 1944, provides that: "The contingency for which unemployment benefit should be paid is loss of earnings due to the unemployment of an insured person who is ordinarily employed, capable of regular employment in some occupation, and seeking suitable employment, or due to part-time unemployment".<sup>69</sup>

185. Since this comprehensive Recommendation is of much more recent date than the Unemployment Recommendation of 1919, the Unemployment Insurance (Seamen) Recommendation of 1920 and the Unemployment Provision Recommendation of 1934, it is in this present connexion not necessary to make more than a mention of these three texts. There exists, however, also the Unemployment Provision Convention of 1934, of which the general principle is set out in article 1, paragraphs 1 and 2, thereof:

<sup>67</sup> See paragraph 168.

<sup>68</sup> See paragraphs 165 and 175.

<sup>69</sup> See paragraphs 143-144.

"1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to maintain a scheme ensuring to [all persons habitually employed for wages or salary, other than persons in respect of whom exceptions are made in virtue of Article 2, paragraph 2 of the Convention, who are involuntarily unemployed]:

"(a) Benefit, by which is meant a payment related to contributions paid in respect of the beneficiary's employment whether under a compulsory or a voluntary scheme; or

"(b) An allowance, by which is meant provision being neither benefit nor a grant under the ordinary arrangements for the relief of destitution, but which may be remuneration for employment on relief works organised in accordance with the conditions laid down in Article 9; or

"(c) A combination of benefit and an allowance.

"2. Subject to this scheme ensuring to all persons to whom this Convention applies the benefit or allowance required by paragraph 1, the scheme may be:

"(a) A compulsory insurance scheme;

"(b) A voluntary insurance scheme;

"(c) A combination of compulsory and voluntary insurance schemes;  
or

"(d) Any of the above alternatives combined with a complementary assistance scheme."

186. It is provided, however, that the Convention shall not apply to seamen, sea-fishermen or agricultural workers, and that any member may make such exceptions as it deems necessary concerning a number of categories, including persons employed in domestic service. The right to receive benefit or an allowance may be made subject to any of a number of possible conditions, which are set out in the Convention; for instance the applicant must be capable of and available for work and the right to receive benefit or an allowance may be made conditional upon attending a course of vocational or other instruction.

187. Seamen who lose their employment owing to shipwreck may be protected by the Unemployment Indemnity (Shipwreck) Convention, 1920 of which article 2 provides:

"1. In every case of loss or foundering of any vessel, the owner or person with whom the seaman has contracted for service on board the vessel shall pay to each seaman employed thereon an indemnity against unemployment resulting from such loss or foundering.

"2. This indemnity shall be paid for the days during which the seaman remains in fact unemployed at the same rate as the wages payable under the contract, but the total indemnity payable under this Section to any one seaman may be limited to two months' wages."

#### (g) *Emergency expenses*

188. Article 25 (1) of the Universal Declaration lays down the right of everyone to "security in the event of . . . other lack of livelihood in circumstances beyond his control", in addition to security in the event of unemployment, sickness, disability, widowhood and old age.

189. Paragraph 15 of the ILO's Income Security Recommendation, 1944, makes a provision which was certainly intended to make explicit the reference to "emergency expenses" contained in article 7 (g) thereof:<sup>70</sup> "Benefits should be provided in respect of extraordinary expenses, not otherwise covered, incurred in cases of sickness, maternity, invalidity and death."

190. It would seem, however, that the passage quoted above from the Universal Declaration envisages the provision of some form of income security, whether through social insurance or through social assistance, in the event of all contingencies other than unemployment, sickness, disability, widowhood and old age, provided that these contingencies are beyond the control of the person affected and that they cause a lack of livelihood to such person. Paragraph 15 of the Recommendation, however, appears to be intended simply to provide that all possible loss of livelihood through sickness, maternity, invalidity or death should be provided against in social insurance schemes.

#### (h) *Employment injuries*

191. The right to income security in the event of a person being injured as a result of his employment seems to be covered by the words of article 25 (1) of the Universal Declaration, "the right to security in the event of . . . disability", and certainly falls within the scope of the words "or other lack of livelihood in circumstances beyond his control". The contingency for which, according to the ILO's Income Security Recommendation, 1944, "compensation for an employment injury should be paid" is defined in paragraph 16 thereof as being: "traumatic injury or disease resulting from employment and not brought about deliberately or by the serious and wilful misconduct of the victim, which results in temporary or permanent incapacity or death".<sup>71</sup>

192. It will be observed that this text uses the words "injury or disease" and in fact the International Labour Conference has adopted Conventions dealing with compensation in the event both of accidents resulting from employment and of industrial diseases.

193. Article 1 of the Workmen's Compensation (Accident) Convention, 1925, provides that: "Each Member of its International Labour Organisation which ratifies this Convention undertakes to ensure that workmen who suffer personal injury due to an industrial accident, or their dependants, shall be compensated on terms at least equal to those provided by this Convention."

194. Article 2 of the Convention provides in its paragraph 1 that: "The laws and regulations as to workmen's compensation shall apply to workmen, employees and apprentices employed by any enterprise, undertaking or establishment of whatsoever nature whether public or private."

195. Paragraph 2 of article 2, however, permits member States which ratify the Convention to make exception in respect of several categories of workers. Articles 4 and 3 (1) exclude from the application of the

<sup>70</sup> See paragraphs 143-144.

<sup>71</sup> *Ibid.*

Convention respectively agriculture, and seamen and fishermen.<sup>72</sup> In 1921, the Conference had already adopted the Workmen's Compensation (Agriculture) Convention, of which article 1 provides: "Each Member of the International Labour Organisation which ratifies this Convention undertakes to extend to all agricultural wage-earners its laws and regulations which provide for the compensation of workers for personal injury by accident arising out of or in the course of their employment."

196. The Workmen's Compensation (Minimum Scale) Recommendation, 1925, makes certain recommendations concerning the amounts which should be paid when incapacity for work results from injury, and concerning those categories who, at the least, should be regarded as dependants for the purposes of compensation where death results from the injury.

197. The Workmen's Compensation (Occupational Diseases) Convention, 1925, and the Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934, lay down that ratifying member States shall provide that compensation shall be payable to workmen incapacitated by occupational diseases, or, in case of death from such diseases, to their dependants, in accordance with the general principles of the national legislation relating to compensation for industrial accidents. The rates of such compensation shall be not less than those prescribed by the national legislation for injury resulting from industrial accidents. States bound by either or both of the Conventions are to regard as occupational diseases those diseases and poisonings set out in schedules to the Conventions, when such diseases or such poisonings affect workers engaged in the trades or industries placed opposite them in the schedules, and result from occupation in an undertaking covered by the above-mentioned national legislation. The contents of the 1934 Schedule are an expansion of those of the earlier Schedule.

## VIII. ARTICLE 25 (2)

### 1. THE RIGHT OF MOTHERHOOD TO SPECIAL CARE AND ASSISTANCE

198. Article 25 (2) lays down that "Motherhood and childhood are entitled to special care and assistance. . ."

199. The annex to the Constitution of the ILO "recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

" . . .

"(h) Provision for . . . maternity protection;"

200. All measures taken to afford special protection to the health and safety of women of a child-bearing age have the effect of affording some increased protection to the maternal faculty. From this point of view much of the work of the ILO is relevant to a study of the provision of special care and assistance to motherhood; surveys of those activities are to be found among the contents of chapters V, VII, X, XIII and XIV respectively of the first, second, third, fourth and fifth Reports of the International Labour Organisation to the United Nations.

<sup>72</sup> Regarding seamen and sea-fishermen, see the reference to the Shipowners Liability (Sick and Injured Seamen) Convention, 1936, in paragraph 155.



201. The right of motherhood to special care and assistance may also, however, be given a stricter interpretation according to which it would signify a right to care and assistance which would vest in expectant mothers and mothers of newly-born children.

202. The right of motherhood to special care and assistance in this sense is in part one aspect of social security, and as such has been treated in paragraphs 160-161 of this paper. In this connexion, the Maternity Protection Convention, 1919, and the Maternity Protection (Agriculture) Recommendation, 1921, were cited.

203. In addition, it should be added here that the former also provides, in its article 3 that:

“In any public or private industrial or commercial undertaking or in any branch thereof, other than an undertaking in which only members of the same family are employed, a woman:

“(a) Shall not be permitted to work during the six weeks following her confinement;

“(b) Shall have the right to leave her work if she produces a medical certificate stating that her confinement will probably take place within six weeks;

“ . . .

“(d) Shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for this purpose.”

204. Article 4 of the Convention provides that, where a woman is absent from her work in accordance with paragraph (a) or (b) of article 3, or remains absent from her work for a longer period as a result of illness medically certified to arise out of pregnancy or confinement and rendering her unfit for work, it shall not be lawful, until her absence shall have exceeded a maximum period to be fixed by the competent authority in each country, for her employer to give her notice of dismissal during such absence, to give her notice of dismissal at such time that the notice would expire during such absence.

205. The Maternity Protection (Agriculture) Recommendation, 1921, recommends:

“That each Member of the International Labour Organisation take measures to ensure to women wage-earners employed in agricultural undertakings protection before and after childbirth similar to that provided in the [Maternity Protection Convention, 1919] for women employed in industry or commerce, and such measures should include the right to a period of absence from work before and after childbirth and to a grant of benefit during the said period, provided either out of public funds or by means of a system of insurance.”

206. Paragraph 31 of the Social Policy in Dependent Territories Recommendation, 1944, makes relevant provisions which are available in *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), page 111.

207. The Medical Care Recommendation, 1944,<sup>73</sup> also includes within its scope provisions of maternity protection.

<sup>73</sup> See paragraph 136.

208. It should be noted also that the activities of the International Children's Emergency Fund and the United Nations Appeal for Children have benefited, as they were intended to benefit, expectant and nursing mothers as well as children (see paragraphs 210-212). Relevant activities of the World Health Organization are touched upon in paragraphs 232-233 below.

## 2. THE RIGHT OF CHILDREN TO SPECIAL CARE AND ASSISTANCE

209. Article 25 (2) provides that "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."

210. By resolution 57 (I) the General Assembly established an International Children's Emergency Fund, the purposes of which are set out in the resolution.

211. In its resolution 215 (III) the General Assembly referred to the United Nations Appeal for Children, which bears a certain relationship with the United Nations International Children's Emergency Fund, as "a world-wide appeal for voluntary non-governmental contributions to be used for the benefit of children, adolescents, and expectant and nursing mothers, without discrimination on account of race, religion, nationality or political belief".

212. It is clear that the activities of these two organizations, which may be followed in the various reports rendered to the Economic and Social Council, relating to their work,<sup>74</sup> have a bearing upon the right of children to special care and assistance, although it is difficult to derive from a study of these activities any precise general statement of the extent to which that right has thereby been recognized.

213. The General Assembly at its fifth regular session adopted resolution 417 (V) on Continuing Needs of Children: United Nations International Children's Emergency Fund, in paragraph 6 (e) of which it expressed its decision "again [to] consider the future of the Fund at the expiration of three years, with the object of continuing the Fund on a permanent basis".<sup>75</sup>

214. At its sixth session the social Commission adopted the Draft United Nations Declaration of the Rights of the Child.<sup>76</sup> The Economic and Social Council in resolution 309 C (XI) requested the Commission on Human Rights to consider the Draft Declaration and to communicate to the Council its observations on the principle and contents of that document.

215. The preamble to the Constitution of the ILO includes "the protection of children . . ." among the means whereby the necessary improvement

<sup>74</sup> See particularly, in connexion with the United Nations International Children's Emergency Fund, E/459 and Corr.1, E/901, E/1144 with Add.1 and Add.2, E/1406, E/ICEF/136, E/1637, E/1737 with Corr.1, E/1908 and E/1940; and, in connexion with the United Nations Appeal for Children, E/629, E/643, E/825, E/861, E/1189, E/1214 with Add.2, E/1346 and E/1589 with Corr.1 and Add.1.

<sup>75</sup> Compare also General Assembly resolutions 57 (I), 138 (II), 214 (III) and 215 (III); and Economic and Social Council resolutions 10 (III), 44 (IV), 45 (IV), 80 (V), 126 (VI), 127 (VI), 161 (VII), 162 (VII), 206 (VIII), 207 (VIII), 257 (IX) and 258 (IX).

<sup>76</sup> See document E/1678, paragraphs 55-59.

of conditions of labour may be carried out, while the annex to that Constitution "recognises the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

" . . .

"(h) Provision for child welfare. . ."

216. Article 41 of the Constitution, which was replaced by the annex from which quotation has just been made, regarded as a principle "of special and urgent importance" the following: "Sixth. — The abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development."

217. It will be observed that measures undertaken with a view to fulfilling the first part of this principle, "the abolition of child labour", would operate for the benefit of all children, while measures aiming at the desired "limitations on the labour of young persons" operate in favour of such young persons as are in employment.

218. Two aspects of the protection of dependent children have been touched upon earlier in the present paper, in connexion with social assistance and income security in the event of the death of the breadwinner.<sup>77</sup> A third aspect is treated in the course of the discussion relating to the right to adequate medical care.<sup>78</sup>

219. The resolution concerning the Protection of Children and Young Workers, adopted at the twenty-seventh session of the International Labour Conference, 1945, included, *inter alia*, paragraphs 1, 2 and 4 which are intended to apply to all children. These paragraphs are available in *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), page 324.

220. The work of the International Labour Organisation relating to the protection of children and young persons has been summarized in chapter VI of volume I of the *First Report of the International Labour Organisation to the United Nations*; the material contained therein has been supplemented in chapters IV, IX, XII and XIII respectively of the second, third, fourth and fifth reports. In the present paper an attempt will be made to derive from the work of the Organisation in this sphere material relating more particularly to children, especially the activities which were intended to be universal in their application.

221. Eight Conventions and two Recommendations have dealt with the fixing of the minimum age for admission to employment in the various occupations. The Conventions are: No. 5, Minimum Age (Industry) 1919; No. 7, Minimum Age (Sea) 1920; No. 10, Minimum Age (Agriculture) 1921; No. 15, Minimum Age (Trimmers and Stokers) 1921; No. 33, Minimum Age (Non-Industrial Employment) 1932; No. 58, Minimum Age (Sea) (Revised) 1936; No. 59, Minimum Age (Industry) (Revised) 1937 and No. 60, Minimum Age (Non-Industrial Employment) (Revised) 1937.

<sup>77</sup> See paragraphs 147 and 177-182.

<sup>78</sup> See paragraphs 133, 136-137 and 140.

222. Four of these Conventions fix a general minimum age of 14 years for employment in industrial undertakings, at sea, in agriculture (during school hours) and in non-industrial employment. Three are revisions of the earlier Conventions which lift the age of admission to employment to 15 years at sea, in industrial and non-industrial employment. Where appropriate, these Conventions make provision for higher ages for admission to employment under national laws and regulations for youth entering occupations which involve especial physical or moral hazards for youth. One Convention limits employment in a peculiarly hazardous occupation, that as trimmer or stoker at sea, to young persons of 18 years or over.

223. The Minimum Age (Non-Industrial Employment) Recommendation, 1932, and the Minimum Age (Family Undertakings) Recommendation, 1937, contain provisions supplementary to those set out in the Conventions just mentioned.

224. Further principles which should guide action as regards the fixing of the minimum age of admission to employment are set forth in the resolution concerning the protection of children and young workers adopted by the International Labour Conference in 1945. The age of general admission to employment should be set at 14, 15 or 16 years in accordance with national conditions, the object being gradually to raise the minimum to 16 years. Article 20 (a) thereof is also of particular relevance here.<sup>79</sup>

225. Three Conventions and one Recommendation have been adopted by the International Labour Conference to establish standards and procedures for instituting medical certification of young persons by qualified authorities as a prerequisite for employment in any given occupation and job. The Conventions are: No. 16, Medical Examination of Young Persons (Sea) 1921; No. 77, Medical Examination of Young Persons (Industry) 1946 and No. 78, Medical Examination of Young Persons (Non-Industrial Occupations) 1946. The Recommendation is No. 79, 1946, concerning medical examination of young persons, in both industrial and non-industrial occupations.

226. The principal provisions of the Conventions require that children and youth up to 18 years of age shall be admitted to employment in the occupations defined in the Conventions (which do not include agriculture) only after physical fitness for such employment has been attested by medical examination made by a qualified physician. The examination must be related to a specified occupation and must be renewed at least annually until the young person is 18 years of age. Jobs offering especial health hazards may require examination up to 21 years of age. Where the results of examination are unfavourable to a given employment, appropriate means for treatment and vocational guidance must be made available, effective liaison being called for from the competent authorities in the fields of health, education, social service and labour.

227. Three Conventions and two Recommendations have been adopted by the International Labour Conference which deal specifically with the

<sup>79</sup> See *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1), page 332.

regulation of night work for young workers under 18 years of age in industrial, non-industrial and agricultural employment. These are: No. 6, Night Work, (Young Persons) Convention, 1919; No. 79, Night Work of Young Persons (Non-Industrial Occupations) 1946; No. 90, Night Work of Young Persons (Industry) Convention (Revised) 1948; No. 14, Night Work of Children and Young Persons (Agriculture); Recommendation 1921 and No. 80, Night Work of Young Persons (Non-Industrial Occupations) Recommendation, 1946. Two additional Conventions contain provisions limiting night work for young workers under 16 years of age at sea. These are No. 37, Hours of Work and Manning (Sea) Convention, 1936, and No. 76, Wages, Hours of Work and Manning (Sea) Convention, 1946.

228. The principle of the three first-mentioned Conventions is similar in intention although details of regulation and administrative procedure are necessarily different. They provide that children and young persons under 18 years of age shall not be employed nor work at night for a specified number of hours and during specified periods, with exemptions for certain occupations and particular circumstances. Family undertakings where the work is not dangerous and domestic service in private households are among the occupations exempted, and various temporary exemptions to meet emergency needs are allowed for both industrial and non-industrial employment.

229. Of the two Recommendations the one concerning night work of young persons in agriculture (1921) suggests restrictions for youth under 18 years of age which are less rigid than those established for youth in industry and non-industry, but which might ensure such young persons "a period of rest compatible with their physical necessities". The Recommendation of 1946 is supplementary to the Convention adopted that year, primarily providing more detailed standards for administrative procedure.

230. Article 8 of the Employment Service Convention, 1948, provides that: "Special arrangements for juveniles shall be initiated and developed within the framework of the employment and vocational guidance services."

231. The placing of young persons had previously received treatment in the Unemployment (Young Persons) Recommendation, 1935, articles 36-40, while the provision of vocational guidance had been dealt with in several texts previously adopted, including the Employment (Transition from War to Peace) Recommendation, 1944.

232. The Constitution of the World Health Organization sets forth as a basic principle that "healthy development of the child is of basic importance; the ability to live harmoniously in a changing total environment is essential to such development". Consequently the World Health Organization has as one of its functions (article 2 (1) of the Constitution) "to promote maternal and child health and welfare and to foster the ability to live harmoniously in a changing total environment". The first Health Assembly placed maternal and child health among six priority subjects. The World Health Organization discharges its constitutional responsibility mainly by the establishment of international standards and by assistance to governments in strengthening the relevant branches of their health administrations. In view of this responsibility, and of the constitutional mandate of WHO to act as the directing and co-ordinating authority on international health work, there was established in June 1948 a Joint

Committee on Health Policy of UNICEF and WHO, whose terms of reference governed the co-operation of the two institutions. Under the policies laid down by the Joint Committee, WHO gives technical assistance to governments in health programmes for which UNICEF provides the supplies.

233. Reference should also be made to the assistance given by the World Health Organization to national services concerned with the health of children, both those which work directly with children — e.g., maternal and child health clinics, school health services, etc. — and those whose action is indirect — e.g., institutions for the training of pediatricians, public health nurses, health educators, etc. In much of this work WHO has given technical advice in connexion with projects for which UNICEF has provided supplies.

234. At other points in the present paper material is to be found relating to the right of children to vocational training and education in general.<sup>80</sup>

235. In view of the second sentence of article 25 (2), quoted above, of the Universal Declaration, it is of interest to note that the Maternity Protection Convention, 1919, article 2, provides that for the purpose of that Convention the term "child" signifies any child whether legitimate or illegitimate. On the other hand article 8 of the Survivors Insurance Conventions, 1933,<sup>81</sup> provide that national laws or regulations shall determine the cases in which a child other than a legitimate child shall be entitled to a pension. The Second Labour Conference of American States, Havana, 1939, adopted resolutions relating to certain aspects of social insurance in which it recommended, *inter alia*, that, where death results from injury, those entitled to be regarded as dependants for the purposes of workmen's compensation should include: "any unmarried women with whom the deceased has cohabited as man and wife, and any illegitimate children, the conditions of recognition and of economic dependency being determined by national legislation".

## IX. ARTICLES 26 (1) AND (2) AND 27 (1)

THE RIGHTS TO EDUCATION, TO ACCESS TO THE CULTURAL LIFE OF THE COMMUNITY AND TO A SHARE IN SCIENTIFIC ADVANCEMENT AND ITS BENEFITS<sup>82</sup>

### (a) *Work relating to these rights in general*

236. Article 26 (1) of the Universal Declaration of Human Rights provides that:

"Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made

<sup>80</sup> See paragraphs 236 *et seq.*

<sup>81</sup> See paragraphs 179-180.

<sup>82</sup> In so far as freedom of information has often been interpreted to include the right to receive as well as to disseminate information, some of the material appearing under the present heading is relevant also to the question of freedom of information, which is the subject of article 19 of the Universal Declaration.

generally available and higher education shall be equally accessible to all on the basis of merit."

237. Article 27 (1) of the Universal Declaration holds that:

"Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits."

238. "Education", according to article 26 (2), "shall be directed to the full development of the human personality. . .".

239. The specialized agency whose activities are of primary interest in connexion with the general right to education and to access to the cultural life of the community and to a share in scientific advancements and its benefits is the United Nations Educational, Scientific and Cultural Organization. The ILO has not been without interest in questions of general education, and its activities in relation to vocational education will receive treatment under the next following heading.

240. The preamble to the Constitution of UNESCO, and paragraph 2 (b) of article 1 (*Purposes and Functions*) of that Constitution, which are of particular relevance to the human rights here under discussion are available in *Yearbook of the United Nations, 1946-7*, pages 712-713. The recognition of these rights is also implicit in the Basic Programme of UNESCO, and in the preamble thereto,<sup>88</sup> adopted by the General Conference of UNESCO at its fifth session, 1950.

241. The main stress placed in the work of UNESCO has been upon the provision of advice, the promotion of studies and field projects and the international exchange of ideas rather than the promulgation by the General Conference of texts setting out general principles for the consideration of member States, and the General Conference has been mainly concerned with laying down instructions to the Director-General for the programme of work of the Secretariat.

242. UNESCO has collected considerable information on the needs of war-devastated areas in educational matters, and this information has been analysed and distributed to interested member States as well as to national commissions and organizations active in the field of educational reconstruction. The resources of mass media, particularly the press and radio, have been used for stimulating interest in the problem of educational reconstruction.

243. Appropriations have been included in the Organization's budget for financing direct reconstruction work by UNESCO and particularly for the purchase of educational, scientific and cultural materials for its member States. UNESCO has been associated in some countries with the distribution of funds and other resources collected under the auspices of the United Nations Appeal for Children. UNESCO's work in the field of relief and reconstruction measures has also included participation in assistance to refugees in the Middle East.

244. On more long-term educational problems, UNESCO, working with its national commissions, is aiming, in the words of its report to the

<sup>88</sup> See pages 15-31 of *Records of the General Conference of the United Nations Educational, Scientific and Cultural Organization, Fifth Session, Florence, 1950. Resolutions.*

United Nations for the years 1948-49, at "becoming a clearing house of exchange and information with the special functions of (a) finding out what are the most significant contributions that each country has to make in the various fields of education, (b) finding out what are the most pressing educational needs of Member States, and (c) devising ways of bringing experts and despatching literature and materials from advanced areas in any field to areas which are so often obliged to ask for help. . . The arranging of educational missions, the conducting of international seminars and conferences, the publication of bulletins, the sponsoring of 'pilot' projects, all involve techniques of exchange which UNESCO desires to perfect".

245. UNESCO's Clearing House of Information now comprises three sections: general documentation, surveys and investigations and circulation of information. One problem whose study comes within the scope of the section on surveys and investigations is that of making free and compulsory education more general and of extending its duration. Another such question is the problem of educational opportunities for women. The activities of the UNESCO Clearing House have been directed also to work in the fields of fundamental education and adult education, and especially in preparation for the seminar on adult education that took place at Mondsee (Austria) from 18 June to 29 July 1950,<sup>84</sup> the seminar on primary education in the Americas, held in Montevideo, 21 September - 31 October 1950, and missions to Bolivia and Burma.

246. Of international study conferences ("seminars"), three others were held, in 1948, dealing respectively with the Education and Training of Teachers, Childhood Education, and Teaching about the United Nations and the Specialized Agencies. Two seminars were held in 1949, on literacy in Latin America and on rural adult education in India. Those attending such seminars are educationists selected by their governments, who, working in informal study groups, pool their knowledge and experience of specific educational problems.

247. UNESCO educational missions are at the disposal of any UNESCO member State. They have the duty of giving advice on the reorganization of educational systems and on the development of educational plans within the fields requested by the government concerned. UNESCO has also taken part in the technical assistance programme being operated jointly by the United Nations and the specialized agencies.

248. In the field of higher education, UNESCO has taken steps towards the establishment of an international organization of universities. An International Universities Conference met at Nice, France, from 4-10 December 1950, and founded the International Association of Universities. This body has taken over the International Universities Bureau in Paris, and has begun a close co-operation with UNESCO from the outset. The same Conference discussed the role of universities in face of the material and moral changes brought about in contemporary societies by scientific and technological progress, UNESCO's project of International University Courses, along with the project of technical assistance to under-developed countries, and the question of equivalence of academic degrees.

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<sup>84</sup> See paragraph 249.



249. An International Conference on Adult Education, at which twenty-nine countries were represented, was held by UNESCO at Elsinore, Denmark, in June 1949. As a sequel to this Conference a seminar on methods and techniques on adult education was held at Mondsee, Austria, from 18 June-29 July 1950, organized jointly by UNESCO and the World Federation of United Nations Associations. It may be added that at Malmö, Sweden, in July 1950, a seminar was organized by UNESCO on the role of libraries in adult education and was attended by forty-six librarians from twenty member States.

250. UNESCO has encouraged the establishment of international associations in those fields of the social sciences where co-operation was least in evidence, with a view to enabling specialists to co-ordinate their work more effectively. For instance, the Constituent Congress of the International Sociological Association met in Oslo in September 1949 under the auspices of UNESCO; twenty-two countries were represented. A Provisional Executive Committee was then elected, and the Association's first congress was held in September 1950 in Zurich. Again, the Constitution of the International Political Science Association has been deposited, and the provisional seat of the organization has been established in Paris. This Association also held its first meeting in Zurich in September 1950. Furthermore, the Bureau of the Executive Committee for the establishment of an International Comparative Law Association met in Cambridge (United Kingdom) at the end of December 1949. Draft statutes were drawn up, and it was decided that the Association should be officially established as soon as five national committees were affiliated.

251. The activities described in the following paragraphs, 252-266, are thought to be of interest more particularly in relation to the right of everyone, laid down in article 27 (1) of the Universal Declaration, freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

252. UNESCO has encouraged and financially supported an International Theatre Institute, including national centres in the member States and a permanent central organ. The International Theatre Institute held its third congress in Paris, 22-28 June 1950, being attended by ninety-eight delegates and observers, representing thirty-three countries. It adopted recommendations designed to ensure the continuation of publications, the development of international theatre weeks and festivals, and an expansion of the programme for exchanges of persons and material between the national centres. The Institute organized two international theatre festivals during 1950, at Florence, Italy, and Zurich, Switzerland.

253. The Preparatory Commission of the International Music Council convened the first General Assembly of the Council which met 30 January-3 February 1950 and gave final approval to the statutes of the Council and its rules of procedure, and to a programme of future work.

254. In order to promote public access to masterpieces of art and the teaching of the fine arts to children and adults, UNESCO has worked out a detailed programme for the making of reproductions in visual arts and in music, and has published two catalogues of colour reproductions of paintings, executed prior to 1860 and from 1860 to the present day respectively.

255. UNESCO has also undertaken, in collaboration with international and national associations of specialists, catalogues of musical works available in recorded form.

256. UNESCO was invited by a resolution of the Economic and Social Council to submit to it a report on the translation of the World's Classics.<sup>85</sup> This report has been submitted to the Council which noted with satisfaction the progress achieved by UNESCO in this field.<sup>86</sup> The work thus begun is nearing completion.

257. A service has been established by UNESCO for assisting the work of centralization, allocation, distribution and exchange of publications. Requests from the librarians of countries devastated by the war have been examined by the central service and communicated to donor countries, whose available publications were catalogued, in their turn, according to the same methods.

258. Considering that public libraries are an essential instrument for the diffusion of education, science and culture, certain measures have been taken for promoting in member States the development and extension of these institutions. For this purpose, UNESCO organized during the summer of 1948 in England (Manchester and London), in collaboration with the International Federation of Associations of Libraries, a Summer School for librarians of public libraries. Fifty librarians belonging to twenty different nations took part. The basic theme of the lectures and study groups held was the role played by public libraries in popular education, and in the promotion of international understanding.

259. In view of the rapid development of museums in the different parts of the world as a means of culture, popular education and international understanding, UNESCO set up within its secretariat a service of information concerning museums, their techniques and most modern methods of presentation, and the exchange of exhibits, collections and personnel.

260. The work of the Organization in the field of mass communications has comprised three distinct and complementary activities: the technical needs survey; action aimed at reducing and removing the obstacles to the free flow of information; and action aimed at stimulating increased production of publications, films and radio broadcasts designed to promote peace and human welfare.

261. The objects of the technical needs survey are threefold: to obtain and publish information on press, film and radio facilities throughout the world in order to assist countries to obtain materials, equipment and personnel which they need to restore or develop their means of mass communication; to enable the Organization to take effective measures for the removal of obstacles to the free flow of information and for the stimulation of production of publications, films and broadcasts; and to provide objective documentation for analytical studies of the media of mass communication.

262. Reports on newsprint, professional training for journalists, and the distribution and cost of radio receivers were among working papers prepared by the Organization for the Economic and Social Council, for

<sup>85</sup> Resolution 53 (IV) of the Council.

<sup>86</sup> Resolution 204 (VIII) of the Council.

the United Nations Sub-Commission on Freedom of Information and of the Press, and for the United Nations Conference on the same subject which met in Geneva from 21 March to 22 April 1948.

263. Two instruments have been adopted by the General Conference of UNESCO with the object of removing obstacles to the international flow of information. The Agreement to Facilitate the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character was adopted by the third session of the General Conference and opened for signature at Lake Success on 15 July 1949. By 16 September 1951 nineteen States had signed this Agreement (one with a reservation) and five States had ratified or acceded to it. The fifth session of the General Conference (Florence, 1950) adopted, and recommended to member States of UNESCO for signature, an agreement on the Importation of Educational, Scientific and Cultural Materials. In resolution 331 C (XI) the Economic and Social Council drew the attention of the Member States of the United Nations "to the practical importance of this Agreement". By 16 September 1951 twenty-two States had signed the Agreement and two had ratified or acceded to it.

264. As an example of the interest of UNESCO in the development of international co-operation in the field of science, it may be mentioned that, at its second session, the General Conference recognized that the Organization should maintain the closest contact with specialists in various countries, and instructed the Director-General to give priority to the operation of field science co-operation offices.

265. Four offices, established in the Middle East, East Asia, Latin America, and in South Asia have as their mission to put scientific information and materials at the disposal of the areas in which they operate, to organize exchanges between these regions and other countries, and to allow them to benefit from scientific progress in other parts of the world. Requests for scientific information are met either by UNESCO itself or by competent institutions or organizations to which they are forwarded. The four science co-operation offices also maintain direct contact with each other.

266. Among many other activities relevant to the furtherance of the general sharing of scientific advancement and its benefits may be mentioned the co-operation which UNESCO maintains with the FAO and the WHO respectively in the fields of agricultural and medical sciences. The Council for the Co-ordination of Congresses of Medical Sciences is assisted both by the World Health Organization and UNESCO. Several aspects of WHO's programme of medical and technical education are designed to make the best use of the facilities offered by the various medical congresses. In addition WHO, with other agencies, has participated in the arrangements made by UNESCO to establish the International Arid Zones Research Council and to conduct surveys, in accordance with resolution 318 (XI) of the Economic and Social Council on the need for and methods of establishing or assisting international research laboratories in specific fields of the natural and social sciences.

267. Each of the Trusteeship Agreements, approved by the General Assembly in its resolutions 63 (I) and 140 (II) or by the Security Council at its 124th meeting on 2 April 1947, contains provision for the promotion

of the educational and cultural advancement of the inhabitants of the territory involved; these texts may be consulted in *Yearbook on Human Rights for 1947*, pages 398-414. The preamble to resolution 225 (III) of the General Assembly on educational advancement in Trust Territories includes passages relevant to the development and democratization of education in such territories and the creation of universal education for the inhabitants of such territories without exception or discrimination.

268. Having considered this resolution of the General Assembly, the Trusteeship Council adopted resolution 83 (IV) in which, *inter alia*, it proposed to the Administering Authorities, "in order to ensure that this increase of educational facilities should be carried out in a democratic manner, that primary education should be free and access to higher education should not be dependent on means". During its fourth regular session, the General Assembly adopted resolution 324 (IV), entitled "Educational Advance in Trust Territories".<sup>87</sup>

269. The General Assembly at its fifth regular session adopted resolution 437 (V) on Educational Advancement in Trust Territories in which, "Considering that the promotion of educational advancement of the inhabitants of Trust Territories is essential for their progressive development as early as possible towards self-government or independence . . ." the General Assembly "Recommends that the Trusteeship Council continue to devote particular attention, in consultation with the Administering Authorities and the specialized agencies to long-range programmes of educational development in the Trust Territories, with a view to enabling the inhabitants of those Territories to take over the responsibilities of complete self-government at the earliest possible date . . .".

270. Part two (document A/1303/Add.1) of the Report of the Special Committee on Information Transmitted under Article 73 e of the Charter addressed to the General Assembly at its fifth session is a Report on Education in Non-Self-Governing Territories. The General Assembly approved this Report in its resolution 445 (V), paragraphs 3 and 4. A resolution adopted by the General Conference of UNESCO in 1950 on Teaching in Non-Self-Governing Territories instructed the Director-General, *inter alia*, "to prepare, for the use of Member States, full information on measures for suppressing illiteracy which could be applied with satisfactory results in non-self-governing territories".

271. The annex to the Constitution of the ILO, in its section III, "recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve:

" . . .

"(i) The provision of adequate . . . facilities for recreation and culture;

"(j) The assurance of equality of educational and vocational opportunity".

272. That the ILO's interest has not been restricted entirely to questions of vocational training is shown by, *inter alia*, paragraph 31 of the Employment (Transition from War to Peace) Recommendation, 1944,

<sup>87</sup> See paragraph 287.

which may be examined on page 127 of *First Report of the International Labour Organisation to the United Nations*, vol. II (attached to document E/586/Add.1).

273. Paragraph 3 of the Vocational Training Recommendation, 1939, appears incidentally to recognize a duty resting upon States to provide compulsory general education for all children.<sup>88</sup>

274. Article 19 of the Social Policy (Non-Metropolitan Territories) Convention, 1947, makes a relevant provision in its paragraph 1, which may be read on page 267 of the report last cited.

275. A text approved by the International Labour Conference which is relevant to the right to education in a broad sense, and to "the full development of the human personality" is the Utilisation of Spare Time Recommendation, 1924. Paragraph IV of this text, in dealing with the establishment and development of "institutions for the utilisation of spare time" for the benefit of workers, recommends, *inter alia*, that "Among the institutions which may both assist the full and harmonious development of the individual and of the family and contribute to the general progress of the community, may be recommended schemes which have for their object:

" . . .

"(b) The development of the physical health and strength of the workers by means of games and sports which enable young workers who are working under the highly specialized conditions prevalent in modern industry to give free play to their energies in a manner which encourages initiative and the spirit of emulation;

"(c) The extension of technical, domestic and general education (libraries, reading-rooms, lectures, technical and general courses, etc.) which meets one of the workers' most keenly felt needs and affords the best means of progress to industrial communities."

276. In paragraph IV, sub-paragraph 3, the Conference further recommends "that Members should encourage these forms of activity by the grant of subventions to organizations concerned with the moral, intellectual and physical development of the workers".

277. In paragraph V of the Recommendation, it is recognized that "the most practical and successful institutions for the encouragement of the wise use of the spare time of workers are those which have been started and developed by the beneficiaries themselves".

278. The resolution concerning the Protection of Children and Young Workers adopted at the twenty-seventh session of the International Labour Conference states in its article 8 that: "All children and young persons should be provided free of charge with general education which should be of a standard and duration permitting adequate physical, intellectual and moral development." At its thirty-third session (1950) the International Labour Conference adopted a resolution concerning the Extension of Compulsory Education and the Provision of Facilities for Adult Education. In this resolution the Conference, *inter alia*, expressed the hope that

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<sup>88</sup> See paragraph 301.

the International Labour Organisation would take all appropriate measures to promote opportunities for workers to be educated in order to enable them to participate more effectively in various workers' movements and to fulfil more adequately their trade union and related functions; reaffirmed the close and continuing interest of the International Labour Organisation in compulsory free education for children of both sexes in accordance with the principles enunciated in the Universal Declaration of Human Rights with a view to fitting them for a vocation and for family and civic responsibilities; and emphasized also its interest in the development where necessary of elementary instruction for adults in civic, social, and economic subjects both national and international.

(b) *Education for international understanding*

279. It is stated in article 26 (2) of the Universal Declaration on Human Rights that: "Education shall be directed . . . to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace."

280. In its resolution 137 (II) the General Assembly, "considering that knowledge and understanding of the aims and activities of the United Nations are essential in promoting and assuring general interest and popular support of its work", recommended all Member States "that they take measures at the earliest possible date to encourage the teaching of the United Nations Charter and the purposes and principles, the structure, background and activities of the United Nations in the schools and institutes of higher learning of their countries, with particular emphasis on such instruction in elementary and secondary schools". It requested Member States "to furnish the Secretary-General with information as to the measures which have been taken to implement this recommendation, such information to be presented in the form of a report to the Economic and Social Council by the Secretary-General in consultation with, and with the assistance of, UNESCO". By the same resolution, UNESCO was invited "to assist Members of the United Nations, at their request, in the implementation of this programme with the co-operation as required of the Secretary-General of the United Nations, and to report thereon to the Economic and Social Council".

281. In response to this invitation an inquiry was made by UNESCO with UNESCO member States and reports were in due course made to the Economic and Social Council.<sup>89</sup> The information obtained in this and other ways assisted the UNESCO secretariat in the preparation of suggestions on teaching about the United Nations and the specialized agencies, which were considered in draft form at the Eleventh International Conference on Public Education, convened jointly by UNESCO and the International Bureau of Education, and at the UNESCO Seminar on Teaching about the United Nations and its Specialized Agencies held at Adelphi College, New York.

282. Having seen the reports from UNESCO referred to above, the Economic and Social Council adopted its resolution 203 (VIII) in which,

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<sup>89</sup> Documents E/837, E/837/Add.1 and Add.2, and E/1100.

*inter alia*, it recommended that Member States report annually to the Secretary-General on the progress achieved in carrying out resolution 137 (II) of the General Assembly, and called upon UNESCO and the Secretary-General of the United Nations to continue in close collaboration their efforts in promoting teaching about the United Nations. In a previous resolution, 170 (VII), the Council had expressed its realization "that, for the successful functioning of the United Nations and its specialized agencies, it is essential that their purposes, principles and activities be widely known in order to develop among all the peoples of the world a realization of the benefits which can be derived from international organization, and of the proper ways of utilizing the existing instruments of international collaboration".

283. Resolution 314 (XI) of the Economic and Social Council concerns teaching of the purposes and principles, the structure and activities of the United Nations and the specialized agencies in schools and other educational institutions of Member States. The resolution expresses the consideration "that teaching about the United Nations, including the specialized agencies, in order to promote understanding among all the peoples of the world concerning the purpose, and principles and activities of the United Nations, should be undertaken in schools as well as in adult education programmes in all countries and territories". The resolution contains requests or invitations to the Secretary-General, the Trusteeship Council, UNESCO, the other specialized agencies, and interested non-governmental organizations to take various types of action; UNESCO is invited, *inter alia*, "(c) To encourage and facilitate teaching about the Universal Declaration of Human Rights in schools and adult education programmes and through the Press, radio and film services". Member States are requested "actively to encourage the dissemination of information about the purposes and principles and the structure and activities of the United Nations through all appropriate media, and to report to the Secretary-General every two years on the progress made toward achieving the ends set forth in this resolution".

284. Under the heading Education for International Understanding, the preamble to the Basic Programme of UNESCO states the following:

"The consciousness of the unity of mankind is still rudimentary and undeveloped. Teachers are only beginning to discover suitable methods; textbooks need to be improved. Schoolchildren know little about the international organizations of today and the services they can render to world peace and prosperity. Moreover, there are limits to what children can be expected to understand. UNESCO must therefore help competent organizations and institutions in promoting education in world citizenship."

285. Measures taken by UNESCO in elaboration of this statement of objective include the resolution adopted by the General Conference of 1950 on UNESCO's role in the programme of peace of the United Nations,<sup>90</sup> items of the Basic Programme and of the Programme for 1951 appearing under the heading Education for International Understanding,<sup>91</sup>

<sup>90</sup> See *Records of the General Conference of the United Nations Educational, Scientific and Cultural Organization*, fifth session, Florence, 1950. Resolutions, page 11.

a special programme of education about collective security authorized by the Executive Board at its twenty-third session, and the activities described on pages 67-68 of the *Report of UNESCO to the United Nations 1949-1950* (attached to document E/1688) and on pages 84-91 of the *Report of UNESCO to the United Nations 1950-1951* (attached to document E/2048). In this field UNESCO has attempted: (i) in agreement with member States, to help school authorities and teachers in general to prepare and apply syllabuses and methods of education designed to develop international understanding and, for the same purpose, to improve textbooks and other teaching aids; (ii) to encourage teaching about the United Nations and the specialized agencies and, in particular, to draw the attention of member States and teachers to the need to tell schoolchildren about the Universal Declaration of Human Rights and to explain it to them; and (iii) to encourage youth organizations to develop those of their activities which are conducive to international understanding.

286. The work of UNESCO in the field of tensions affecting international understanding is also relevant in the present connexion.

287. The Trusteeship Council having in its resolution 36 (III) requested the Secretary-General and the Administering Authorities "to co-operate in ensuring an adequate flow of suitable information concerning the aims and activities of the United Nations to the inhabitants of the Trust Territories . . .", and the Visiting Mission to the Trust Territories of Tanganyika and Ruanda-Urundi having in their reports to the Trusteeship Council stressed the need for the greater dissemination in those territories of information on the United Nations Trusteeship System and on the United Nations as a whole (T/217, introduction, chapter IV, 9 and chapter V, A. 5 and D. 9, and T/218, chapter I, D. 10 and chapter VI, B. 8), the General Assembly at its fourth session adopted a resolution, 324 (IV), on educational advancement in Trust Territories in which it resolved, *inter alia*, to recommend to the Trusteeship Council to continue its programme for developing and promoting in the Trust Territories the diffusion of information on the United Nations and on the International Trusteeship System and to make the necessary recommendations to the Administering Authorities; and to draw the attention of the Trusteeship Council to the necessity of requesting the Administering Authorities to study the possibility of including in the curricula of schools in the Trust Territories instruction on the United Nations, the International Trusteeship System and the special status of Trust Territories, and to this end to make use, if they so desire, of the co-operation that may be furnished by the United Nations Educational, Scientific and Cultural Organization.

288. By its resolution 217 D (III), the General Assembly recommended Member States, requested the Secretary-General, and invited the specialized agencies and non-governmental organizations, to take measures designed to give publicity to the Universal Declaration; it was for instance recommended that governments should "cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories".

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<sup>91</sup> *Ibid.*, pages 25 and 35-36.



289. On 11 December 1948, the General Conference of UNESCO received with acclamation the news that the General Assembly of the United Nations had, on the previous day, approved the Universal Declaration of Human Rights.

290. The Conference thereupon adopted the following resolution:

*"Whereas* the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations has clear implications in every field of UNESCO's activity, and

*"Whereas* this Declaration has particular relevance to projects for teaching about the United Nations and about international understanding in schools, and for the production of press, radio and film materials, and

*"In accordance with* the resolution adopted by the General Assembly, inviting Specialized Agencies to do their utmost to bring this Declaration to the attention of their members,

*"The General Conference instructs* the Director-General to stimulate the dissemination of information about this Declaration, particularly through the Projects Division of the Mass Communication Department; to encourage the incorporation of the Declaration as subject matter in the teaching about the United Nations which is given in schools; and to direct his Programme Sections to employ the Declaration wherever possible in their programme activities.

*"The Conference further instructs* the Director-General to report to the fifth session of the General Conference on his compliance with the above instruction."

291. The text of this resolution was communicated to member States of UNESCO at the end of December 1948 with the request that the recommendations of the Conference regarding the dissemination of this Declaration should be carried out. The Director-General of UNESCO suggested on this occasion that each year, in all the schools of member States, the tenth day of December, the date of the proclamation, should be devoted to a commemoration of the principles of freedom and of the dignity of man. National commissions were also requested to take suitable steps to ensure the dissemination of the Declaration.

292. UNESCO has been engaged in drawing up teachers' guides to the Declaration of Human Rights with the purpose of giving an historical survey of how the rights have been attained by the efforts of different peoples in all parts of the world, and making suggestions for ways in which teachers can interest their pupils in the Declaration.

293. Also of significance in this connexion are resolution 423 (V) adopted by the General Assembly at its fifth session, inviting all States and interested organizations to adopt 10 December of each year as Human Rights Day, and the resolution adopted by the General Conference of UNESCO on the subject of teaching about, and dissemination of, the Universal Declaration of Human Rights.<sup>92</sup>

<sup>92</sup> See *Records of the General Conference of the United Nations Educational, Scientific and Cultural Organization*, fifth session, Florence, 1950. Resolutions, page 62. Compare also page 50 (Director-General of UNESCO authorized, "whenever possible to present the activities of the Organization so as to focus them upon the Universal Declaration of Human Rights . . .").

(c) *The right to technical and professional education*

294. Article 26 (1) of the Universal Declaration on Human Rights includes the words "... Technical and professional education shall be made generally available ...".

295. The preamble to the Constitution of the ILO includes "the organization of vocational and technical education" among the measures urgently needed for furthering the improvement of conditions of labour, while the annex to that Constitution "recognizes the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve", *inter alia*, "the provision ... of facilities for training ... of labour ...".

296. In 1921 the International Labour Conference adopted a Recommendation concerning the development of technical education for agriculture, and in 1935, in the Unemployment (Young Persons) Recommendation, the Conference made recommendations on the question of vocational as well as of general education. In 1937 the Conference addressed itself to a series of problems concerning the building industry and, among other texts, adopted the Vocational Education (Building) Recommendation, 1937. The Employment (Transition from War to Peace) Recommendation, 1944, contains provisions for the training or retraining of workers.

297. In 1939 the International Labour Conference approved two Recommendations laying down what were the principles and methods of application which each member should follow in preparing for their careers young persons entering employment for the first time; these were the Vocational Training Recommendation, 1939, and the Apprenticeship Recommendation, 1939.

298. Paragraph 1 of the Vocational Training Recommendation sets out certain definitions; for the purpose of the Recommendation:

"(a) The expression 'vocational training' means any form of training by means of which technical or trade knowledge can be acquired or developed, whether the training is given at school or at the place of work;

"(b) The expression 'technical and vocational education' means theoretical and practical instruction, of whatever grade, given at school for purposes of vocational training;"

299. The general intention of the Recommendation is set out in sub-paragraph 1 of paragraph 2 thereof: "The work of the various official and private institutions in each country which deal with vocational training should, while ensuring free play to initiative and adaptability to the requirements of the different industries, regions and localities, be co-ordinated and developed on the basis of a general programme."

300. Sub-paragraph 2 of paragraph 2 states that this programme should be based on the occupational interests and cultural and moral requirements of the worker, the labour requirements of employers, and the economic and social interests of the community. In drawing up this programme due account should also be taken of the following factors

according to sub-paragraph 3 of paragraph 2: the stage of development reached in general education and in vocational guidance and selection; changes in technique and methods of organization of work; the structure of, and trend of development in, the labour market; and national economic policy.

301. Paragraph 3, which appears to recognize incidentally the duty of States to provide compulsory general education, deals with the need to provide *preparation* for vocational training as part of general education; this paragraph provides, *inter alia*, that "Compulsory education, which should be entirely general in character, should provide for all children a preparation developing an idea of, taste for, and esteem for, manual work, these being an indispensable part of a general education and likely to facilitate future vocational guidance.

302. Paragraph 6 of the Recommendation provides that: "Admission to technical and vocational schools should be free", and that "Attendance at such schools should be facilitated, as circumstances require, by the grant of economic assistance in such forms as free meals, provision of working clothes and implements, free transport or reduction in the cost of transport, or maintenance allowance".

303. Paragraph 1 of the 1939 Apprenticeship Recommendation sets out the following definition:

"For the purpose of the present Recommendation the expression 'apprenticeship' means any system by which an employer undertakes by contract to employ a young person and to train him or have him trained systematically for a trade for a period the duration of which has been fixed in advance and in the course of which the apprentice is bound to work in the employer's service."

304. The principle of the Recommendation is set out in paragraph 2 thereof:

"2 (1) Measures should be taken to make apprenticeship as effective as possible in trades in which this system of training seems necessary. These trades should be designated in each country, having regard to the degree of skill and the length of the period of practical training required.

"(2) Subject to there being sufficient co-ordination to guarantee uniformity in the degree of skill required and in the methods and conditions of apprenticeship within each trade throughout the country, the measures referred to in the preceding paragraph may be taken by laws or regulations, or by decisions of public bodies entrusted with the control of apprenticeship, or in virtue of collective agreements, or by a combination of the above methods."

305. Sub-paragraph 1 of paragraph 3 states that the measures referred to in the preceding paragraph should make provision in respect of the technical and other qualifications required of employers in order that they may take and train apprentices, the conditions governing the entry of young persons into apprenticeship, and the mutual rights and obligations of master and apprentice.

306. The Recommendation also concerns itself with, *inter alia*, methods of remuneration and holidays with pay (paragraph 4 thereof).

307. According to its paragraph 6, the Recommendation does not apply to the apprenticeship of seamen. In 1946, however, the International

Labour Conference approved the Vocational Training (Seafarers) Recommendation, 1946, urging in its paragraph 1 that "The work of the various official and private institutions in each country which deal with vocational training for service at sea should, while ensuring free play to initiative and adaptability to the varying requirements of the shipping industry and to local conditions in the country, be co-ordinated and developed on the basis of a general programme which will provide adequate incentives to attract men to the maritime industry and to make seafaring their occupation in life". This programme, it is provided in paragraph 2, should take account of the occupational interests and cultural and moral requirements of the seafarer, the labour requirements of the shipping industry and the economic and social interests of the community.

308. The International Labour Conference at its thirty-third session (1950) adopted the Vocational Training (Adults) Recommendation, 1950, of which paragraphs 5 (1) and (2), 8 and 26 provide:

"5. (1) Appropriate training facilities should, as far as possible, be made available for adults, either by adapting training facilities for young persons or by setting up special facilities or by both methods.

"(2) Such facilities should be organised, in accordance with the principles and methods set forth in the present Recommendation, in a manner which takes due account of national circumstances, the needs of the different branches of economic activity, and the interests of the workers.

" . . .  
"8. Women as well as men should have access to training facilities for adults.

" . . .  
"26. The principles, measures and methods of training set forth in this Recommendation should apply to all disabled persons in so far as medical and educational conditions permit."

309. Article 26 (1) of the Universal Declaration lays down that technical and *professional* education shall be made generally available. The activities of the International Labour Organisation described above relate to vocational education in general including technical education rather than to particular aspects of professional education. There are, however, some facets of the work of UNESCO which are relevant to the right to professional education. For instance, information by UNESCO on professional training for journalists and radio personnel was presented at the third meeting of the Sub-Commission on Information and the Press.<sup>98</sup>

310. Furthermore, one of the educational seminars (international study conferences) held by UNESCO during 1948 concerned the education and training of teachers. Again, UNESCO has been engaged, in co-operation with the International Bureau of Education, in the collection of basic information on the training and status of teachers, and on the legal, social and economic position of teachers, their real incomes, comparative salaries, and the conditions of appointment, tenure, promotion and retirement.

<sup>98</sup> See document E/CN.4/Sub.1/77, chapter 1, sections 3 (i) and (iii) and 4.

311. The Constitution of the World Health Organization recognizes in its preamble the principle that "the extension to all peoples of the benefits of medical, psychological and related knowledge is essential to the fullest attainment of health". It is a function of WHO (article 2 (o) of the Constitution) "to promote improved standards of teaching and training in the health, medical and related professions". This responsibility is entrusted to the Division of Professional and Technical Education which is one of seven principal medical services of WHO.

312. The activities of the World Health Organization relating to the promotion of medical education, which touch also directly upon the protection of the right to medical care, are described on pages 13-22 of the *Annual Report of the Director-General to the World Health Assembly and to the United Nations, 1949*,<sup>94</sup> under the heading Professional and Technical Education, and 1950,<sup>95</sup> chapter I, in the section on Improved Standards of Teaching and Training, and in *Programme and Budget Estimates for 1950*, (Official Records, WHO, No. 18). The report of the first session of the Expert Committee of WHO on Professional and Technical Education of Medical and Auxiliary Personnel has been published as No. 22 of the Technical Report Series of WHO.

#### X. ARTICLE 26 (3)

##### THE PRIOR RIGHT OF PARENTS TO CHOOSE THE KIND OF EDUCATION TO BE GIVEN TO THEIR CHILDREN

313. Article 26 (3) of the Universal Declaration of Human Rights states that: "Parents have a prior right to choose the kind of education that shall be given to their children."

314. Certain of the organs and agencies whose work is here under discussion have engaged in activities relating to the rights of children in various fields; these activities have been treated under headings VIII 2 and IX of the present part B. Children cannot, however, be taken to be in a position to claim rights on behalf of themselves; others must interpret and lay claim to rights for them. The organs and agencies referred to have paid attention to the rights of the children themselves rather than to the identity of the persons who should be recognized as entitled to claim those children's rights on their behalf;<sup>96</sup> this fact alone cannot, however, be taken as indicating, in the educational field, that the prior right of choice is not recognized as lying with the parents of children entitled to rights in that field.

315. A report was submitted by the Director-General of UNESCO to the General Conference of UNESCO at its fifth session, 1950, on Regulations concerning Economic and Social Rights in the International Covenant on Human Rights,<sup>97</sup> and was communicated to the Economic and Social Council in accordance with the instructions of the General Conference. This report includes a paragraph 23, dealing with the prior right of parents which is here under discussion, which states, *inter alia*, that:

<sup>94</sup> Attached to document E/1677.

<sup>95</sup> Attached to document E/2020.

<sup>96</sup> Compare resolution 157 (VII) of the Economic and Social Council, seventh paragraph, sub-paragraph (a).

<sup>97</sup> Document E/1752 with Corr.1.

"The prior right of parents to choose the kind of education that shall be given to their children comes up against the monopolistic educational system adopted in various countries. Education is caught up in the general movement towards State control, and as the result of economic necessity even when there has been no decisive political action, is being subjected to increasing pressure on the part of central, regional or local governmental authorities. Even in countries with the greatest respect for independence in educational matters, so-called free or private education is passing through a crisis, and restrictive measures are being applied on a larger scale as the natural corollary of the increased financial assistance granted them by public authorities."

## XI. ARTICLE 27 (2)

### THE RIGHT TO THE PROTECTION OF INTERESTS ARISING OUT OF SCIENTIFIC, LITERARY OR ARTISTIC WORK

316. According to article 27 (2) of the Universal Declaration, "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

317. This right has been the subject of international regulation for a considerable period of time (Berne Convention, 1886, the 1908 revision thereto, the Havana Convention, 1920, and the Rome Convention, 1928). According to UNESCO's Basic Programme, adopted by the General Conference of UNESCO at its fifth session (1950), UNESCO will "Encourage the harmonization of national legislation and international agreements now in force relating to copyright and, in particular, the conclusion of a universal convention". UNESCO's *Programme for 1951*, adopted by the General Conference of UNESCO at the same session, authorized the Director-General of UNESCO, on the matter of copyright:

"With the assistance of the appropriate international organizations, to continue the collection of information on international copyright problems and its circulation by the publication of the *International Copyright Bulletin*;

"To study, in co-operation with the appropriate inter-governmental organizations and with the advice of a committee of experts to be convened in 1950, the answers sent by governments to UNESCO's request for suggestions concerning a universal convention on copyright, and to submit to the Sixth Session of the General Conference, after consultation with the United Nations, proposals regarding the procedure to be followed in the event of an inter-governmental conference being convened with a view to the drawing up of the text of such a convention;

"If it be decided to convene such an inter-governmental conference, to prepare the working papers to be submitted to it."

318. The secretariat of UNESCO, with the help and advice of an international Committee of Experts, had already carried out a comparative and critical inquiry on the problems of copyright and of the conditions in which they are solved in and between the various countries. From 4 to 9 July 1949, a further Committee of Experts on Copyright had met

at UNESCO House in Paris to examine the comparative and critical study of the subject. The Committee had adopted a plan for a new Universal Convention on Copyright, such a plan being preferred to a system of bilateral treaties. Recommendations covering the principles to be embodied in the Convention were agreed upon by the Committee, and referred to the secretariat of UNESCO for further action. The 1949 session of the General Conference of UNESCO had instructed the Director-General to invite all States, whether members of UNESCO or not, to make known their views on the timeliness of convening an inter-governmental conference to prepare such a convention, and on its essential provisions.

319. A Committee of Experts appointed by the Director-General of UNESCO for the study of questions concerning international copyright met in Washington, D.C., U.S.A., 23 October-4 November 1950. Having studied, *inter alia*, the replies of governments referred to in the resolution quoted above, the Committee adopted a number of recommendations on both substantive and procedural aspects of the question. The Committee of Experts expressed the opinion, among others, "that a diplomatic Conference specially called for this purpose and to which all States, whether or not members of UNESCO, shall be invited, should be convened to work out, adopt and sign the final text of the Universal Convention".

320. The question of performers' rights, which had been studied before the Second World War by the ILO's Advisory Committee on Professional Workers and Committee of Experts on the Rights of Performers in Broadcasting, Television and the Mechanical Reproduction of Sounds,<sup>98</sup> was placed on the agenda of the Advisory Committee on Salaried and Professional Workers, which, at its first meeting (October 1949), invited the Governing Body, on the one hand, to instruct the International Labour Office to enter into consultation with the secretariat of the International Union for the Protection of Literary and Artistic Works at Berne with a view to reaffirming the interest and concern of the ILO in the question of performers' rights and to securing full information on progress made pursuant to the resolution on performers' rights adopted at the 1948 Brussels Conference of the Berne Union on the subject of rights of performers, and, on the other hand, to envisage the convening of a committee of experts and the placing of the question on the agenda of the second session of the Advisory Committee. The Governing Body had the recommendations of the Committee before it at its 110th session of January 1950. It asked the International Labour Office to enter into contact with the secretariat of the Berne Union with a view to reaffirming the interest of the ILO in the question of performers' rights and securing full information on the matters mentioned. At its 113th session the Governing Body decided to convene in 1952 the second session of the Advisory Committee on Salaried Employees and Professional Workers and to place on its agenda, *inter alia*, the question of performers' rights in order to allow the Office to continue the consideration of this question.

321. Two of the committees set up by the Governing Body of the International Labour Organisation, the Advisory Committee on Professional Workers and the Advisory Committee on Salaried Employees,

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<sup>98</sup> Conclusions adopted by the Committee of Experts are reproduced in the ILO's *International Labour Code* (1941), pages 694-695.

were concerned with, *inter alia*, the protection of the rights of employees or salaried workers in their inventions. Divergent resolutions upon this subject were adopted by the Advisory Committee on Professional Workers at its second session (December 1929) and by the Advisory Committee on Salaried Employees at its first session (April 1931), and subsequent attempts to secure agreement between the two Committees upon a common resolution failed. The Governing Body accordingly decided on 28 April 1933 to communicate both resolutions to governments for information. The texts of the resolutions may be consulted in the ILO's *International Labour Code*, pages 695-697.

322. The Advisory Committee on Salaried and Professional Workers at its first meeting (October 1949) called upon the International Labour Office to continue its studies of the rights of the inventor who is an employed person, with a view to consideration being given to the question of international regulation.



## Appendix

ARTICLES ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND PROVISIONS WHICH WOULD ESTABLISH A SYSTEM OF PERIODIC REPORTS, DRAFTED BY THE COMMISSION ON HUMAN RIGHTS AT ITS SEVENTH SESSION FOR INCLUSION IN THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND SUBMITTED TO THE ECONOMIC AND SOCIAL COUNCIL AT ITS THIRTEENTH SESSION

### PART III

#### *Article 19*

The States Parties to the present Covenant,

1. Bearing in mind the link between the rights and liberties recognized and defined above, and the economic, social and cultural rights proclaimed in the Universal Declaration of Human Rights;

2. Resolved to combat the scourges, such as famine, disease, poverty, the feeling of insecurity and ignorance, which take toll of or degrade men, and prevent the free development of their personality;

3. Resolved to strive to ensure that every human being shall obtain the food, clothing, shelter essential for his livelihood and well-being, and shall achieve an adequate standard of living and a continuous improvement of his material and spiritual living conditions;

4. Undertake to take steps, individually and through international co-operation, to the maximum of their available resources with a view to achieving progressively the full realization of the rights recognized in this Part of the present Covenant.

#### *Article 20*

Work being at the basis of all human endeavour, the States Parties to the Covenant recognize the right to work, that is to say, the fundamental right of everyone to the opportunity, if he so desires, to gain his living by work which he freely accepts.

#### *Article 21*

The States Parties to the Covenant recognize the right of everyone to just and favourable conditions of work, including:

- (a) Safe and healthy working conditions;
- (b) Minimum remuneration which provides all workers:
  - (i) With fair wages and equal pay for equal work, and
  - (ii) A decent living for themselves and their families; and
- (c) Reasonable limitation of working hours and periodic holidays with pay.

*Article 22*

The States Parties to the Covenant recognize the right of everyone to social security.

*Article 23*

The States Parties to the Covenant recognize the right of everyone to adequate housing.

*Article 24*

The States Parties to the Covenant recognize the right of everyone to an adequate standard of living and the continuous improvement of living conditions.

*Article 25*

The States Parties to the Covenant recognize the right of everyone to the enjoyment of the highest standard of health obtainable. With a view to implementing and safeguarding this right each State Party hereto undertakes to provide legislative measures to promote and protect health and, in particular:

- (a) To reduce infant mortality and provide for healthy development of the child;
- (b) To improve nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;
- (c) To control epidemic, endemic and other diseases;
- (d) To provide conditions which would assure the right of all to medical service and medical attention in the event of sickness.

*Article 26*

The States Parties to the Covenant recognize that:

- 1. Special protection should be accorded to maternity and motherhood; and
- 2. Special measures of protection should be taken on behalf of children and young persons, and that in particular they should not be required to do work likely to hamper their normal development.

*Article 27*

The States Parties to the Covenant recognize the right of everyone, in conformity with Article 16, to form and join local, national and international trade unions of his choice for the protection of his economic and social interests.

*Article 28*

The States Parties to the Covenant recognize:

- 1. The right of everyone to education;

2. That educational facilities shall be accessible to all in accordance with the principle of non-discrimination enunciated in paragraph 1 of Article 1 of this Covenant;

3. That primary education shall be compulsory and available free to all;

4. That secondary education, in its different forms, including technical and professional education, shall be generally available and shall be made progressively free;

5. That higher education shall be equally accessible to all on the basis of merit and shall be made progressively free;

6. That fundamental education for those persons who have not received or completed the whole period of their primary education shall be encouraged as far as possible;

7. That education shall encourage the full development of the human personality, the strengthening of respect for human rights and fundamental freedoms and the suppression of all incitement to racial and other hatred. It shall promote understanding, tolerance and friendship among all nations, racial, ethnic or religious groups, and shall further the activities of the United Nations for the maintenance of peace and enable all persons to participate effectively in a free society;

8. The obligations of States to establish a system of free and compulsory primary education shall not be deemed incompatible with the liberty of parents to choose for their children schools other than those established by the State which conform to minimum standards laid down by the State;

9. In the exercise of any functions which the State assumes in the field of education it shall have respect for the liberty of parents to ensure the religious education of their children in conformity with their own convictions.

#### *Article 29*

Each State Party to the Covenant which, at the time of becoming a party to this Covenant, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory primary education free of charge for all.

#### *Article 30*

1. The States Parties to the Covenant undertake to encourage by all appropriate means the conservation, the development and the diffusion of science and culture.

2. They recognize that it is one of their principal aims to ensure conditions which will permit everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications.

### *Article 31*

The States Parties to the Covenant recognize the equal right of men and women to the enjoyment of all economic, social and cultural rights, and particularly of those set forth in this Covenant.

### *Article 32*

The States Parties to the Covenant recognize that in the enjoyment of those rights provided by the State in conformity with this Part of the Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

## **PART V<sup>99</sup>**

### *Article 60*

The States Parties to this Covenant undertake to submit reports concerning the progress made in achieving the observance of these rights<sup>100</sup> in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility, may make to all the Members of the United Nations.

### *Article 61*

1. The States Parties shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council after consultation with the States Parties to this Covenant and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this part of the Covenant.<sup>101</sup>

3. Where relevant information has already previously been furnished to the United Nations or to any specialized agency, the action required by this Article may take the form of a precise reference to the information so furnished.

<sup>99</sup> The representative of Denmark on the Commission on Human Rights raised the question whether the articles on implementation which form part V of the Draft Covenant should refer to Part III of the Covenant, containing the substantive rights relating to economic, social and cultural rights, or simply to "this Covenant". It was decided by 13 votes to 2, with 3 abstentions, to postpone the consideration of this matter, with the understanding that a footnote to the articles concerned would state that the alternatives presented by the representative of Denmark should be considered later on.

<sup>100</sup> Wording suggested by the representative of Denmark:

*Alternative 1:* "observance of the rights recognized in Part III of this Covenant".

*Alternative 2:* "observance of the rights recognized in this Covenant".

<sup>101</sup> Wording suggested by the representative of Denmark:

*Alternative 1:* "obligations under Part III of this Covenant".

*Alternative 2:* "obligations under this Covenant".

#### *Article 62*

Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council shall make special arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of this part of the Covenant<sup>102</sup> falling within their competence. These reports shall include particulars of decisions and recommendations on such implementation adopted by their competent organs.

#### *Article 63*

The Economic and Social Council shall transmit to the Commission on Human Rights for study and recommendation the reports concerning human rights submitted by States, and those concerning human rights submitted by the competent specialized agencies.

#### *Article 64*

The States Parties directly concerned and the specialized agencies may submit comments to the Economic and Social Council on the report of the Commission on Human Rights.

#### *Article 65*

The Economic and Social Council may submit from time to time to the General Assembly, with its own reports, reports summarizing the information made available by the States Parties to the Covenant directly to the Secretary-General and by the specialized agencies under Article . . . indicating the progress made in achieving general observance of these rights.

#### *Article 66*

The Economic and Social Council may submit to the Technical Assistance Board or to any other appropriate international organ the findings contained in the report of the Commission on Human Rights which may assist such organs in deciding, each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this Covenant.<sup>103</sup>

#### *Article 67*

The States Parties to the Covenant agree that international action for the achievement of these rights<sup>104</sup> includes such methods as conventions,

<sup>102</sup> Wording suggested by the representative of Denmark:

*Alternative 1:* "observance of the provisions of Part III of this Covenant".

*Alternative 2:* "observance of the provisions of this Covenant".

<sup>103</sup> Wording suggested by the representative of Denmark:

*Alternative 1:* "progressive implementation of Part III of this Covenant".

*Alternative 2:* As in the text adopted.

<sup>104</sup> Wording suggested by the representative of Denmark:

*Alternative 1:* "achievement of the rights recognized in Part III of this Covenant".

*Alternative 2:* "achievement of the rights recognized in this Covenant".

recommendations, technical assistance, regional and technical meetings and studies with governments.

*Article 68*

Unless otherwise decided by the Commission on Human Rights or by the Economic and Social Council or requested by the State directly concerned, the Secretary-General of the United Nations shall arrange for the publication of the report of the Commission on Human Rights, or reports presented to the Council by specialized agencies as well as of all decisions and recommendations reached by the Economic and Social Council.

*Article 69<sup>105</sup>*

Nothing in this Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the Constitutions of the specialized agencies, which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in this Covenant.

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<sup>105</sup> This article was adopted with the understanding that the decision did not prejudice the position of the article in the Covenant.