



UNITED NATIONS  
ECONOMIC  
AND  
SOCIAL COUNCIL



Distr.  
GENERAL

E/CN.4/807  
E/CN.6/373  
9 January 1961  
ORIGINAL: ENGLISH

COMMISSION ON HUMAN RIGHTS  
Seventeenth session  
Item 3 of the provisional agenda

COMMISSION ON THE STATUS OF WOMEN  
Fifteenth session  
Item 4 of the provisional agenda

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

Report by the Secretary-General

1. The Economic and Social Council considered the programme of advisory services in human rights at its thirtieth session. It had before it a report (E/3372) in which the Secretary-General informed the Council concerning the regional seminars which he was organizing during 1960, outlined the programme of seminars for 1961 and commented on other developments under the programme. The Council also had before it the relevant chapters of the reports of the sixteenth session of the Commission on Human Rights (E/CN.4/804 - E/3335) and of the fourteenth session of the Commission on the Status of Women (E/CN.6/364 - E/3360).
2. The Council adopted resolution 743 (XXX) on the subject of advisory services in human rights. In Part A of this resolution the Council, among other things, referred to the desirability of holding seminars on the subject of the rights proclaimed in the Declaration of the Rights of the Child and invited the Secretary-General to render such assistance as might be necessary in organizing such seminars. In Part B the Council noted that no Member States had yet requested the Secretary-General to organize seminars on the subject of the prevention of discrimination or the protection of minorities and drew attention to the opportunities for the organization of such seminars.
3. It will be recalled that the Commission on the Status of Women included in chapter III of the report of its fourteenth session a resolution asking the

Secretary-General to develop plans and, as appropriate, to provide experts to assist Governments at their request in the organization of national, or local seminars on the status of women; and inviting him to consider ways in which non-governmental organizations might be used in planning national seminars as a follow-up of regional seminars. Members of the Council expressed the view that the organization of national seminars should be the responsibility of the Governments concerned, and United Nations assistance should be within the framework of the existing advisory services programme.

4. At the fifteenth session of the General Assembly a number of members of the Third Committee noted with satisfaction the developments under the programme of advisory services when discussing the relevant sections of the report of the Economic and Social Council for the period 1 August 1959 to 5 August 1960. The General Assembly approved a budget of \$100,000 for the programme in 1961.

Programme of seminars for 1961

5. The programme of seminars for 1961 is as follows:

(a) On the protection of human rights in the administration of criminal justice, from 6 to 20 February 1961 in Wellington, New Zealand. Countries and territories within the geographic scope of the Economic Commission for Asia and the Far East, with the addition of Australia and New Zealand, have been invited to send participants. Among the participants and alternates nominated at the time of writing this report are ministers and deputy ministers, attorneys-general, solicitors-general, high court judges, professors of criminal law, etc. Specialized agencies interested in the subject of the seminar and non-governmental organizations in consultative status with the Economic and Social Council, whose purposes and programmes are closely connected with the subject-matter of the seminar, have been invited to send observers. The programme of the seminar was drawn up by a working party which met briefly prior to the Tokyo seminar on the role of substantive criminal law in the protection of human rights, and the purposes and legitimate limits of penal sanctions (10-24 May 1960). It is as follows:

1. The independence and impartiality of the judiciary, especially in regard to the selection, promotion, security of tenure of office and remuneration of judges and magistrates.
2. The status, training and independence of members of the Bar, admission to practice and disciplinary control.
3. Arrest and detention: legal grounds on which, and procedure in accordance with which, a person may be arrested and detained; safeguards and remedies including habeas corpus and similar processes against arbitrary or illegal arrest and detention.
4. Preliminary investigation of crimes by the police, public prosecutor or juge d'instruction (magistrate); the protection of the suspect or accused from treatment tending to impair or affect his freedom of decision, his memory or his judgement, from treatment inducing fatigue, and from physical or mental torture; the administration of drugs, hypnosis etc.; the use of such techniques as lie-detectors, breathalysers, blood and urine tests, and hidden microphones.
5. The nature and extent of the rights and guarantees of persons accused, arrested or detained, especially as regards:
  - (a) confidential communication with family, friends or counsel;
  - (b) legal aid and assistance;
  - (c) language difficulties, including the right to have the services of qualified interpreters in their own language;
  - (d) conditional release prior to and during trial (e.g. release on bail, mise en liberté sous caution);
  - (e) information concerning the progress of the investigation and of the trial;
  - (f) prompt and speedy trial;
  - (g) public trial.
6. The Case in Court
  - (a) Burden of proof in criminal procedure; the presumption of innocence; the principle that the accused has the benefit of the doubt; the requirement of proof of guilt "beyond reasonable doubt";
  - (b) The duty of the court to satisfy itself that the truth has been established, even when the accused has confessed;

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- (c) The evidence for the prosecution, including the admissibility of confession, admissions and statements by the suspect, and evidence obtained by means of the techniques referred to in para. 4;
  - (d) The status of witnesses; under what circumstances and to what extent they may be compelled to testify;
  - (e) The right of the accused to testify on his own behalf, or to refuse to testify or submit to an examination; the rule that an accused cannot be a witness.
7. The extent to which provision should be made for the case where the accused is not or may not be fully responsible by reason of:
- (a) immaturity because of age;
  - (b) insanity;
  - (c) aberration of mind short of insanity;
  - (d) the effects of alcohol or drugs;
- including the questions of:
- (i) special courts or tribunals;
  - (ii) burden of proof;
  - (iii) treatment.
8. The nature and extent of the right of review and/or appeal.
9. Measures for the compensation or indemnification of persons wrongfully arrested, detained, prosecuted, convicted or imprisoned.
10. Governmental or non-governmental agencies (including civil liberties bureaux) for the protection of human rights; executive powers to protect human rights.

(b) On the status of women in family law, from 19 June to 3 July 1961 in Bucharest, Romania. All European countries which are Members of the United Nations or of a specialized agency have been invited to send participants. This is the fourth seminar to be organized on a subject related to the status of women and the first of what it is hoped will be a series of seminars on the specific subject of the status of women in family law. Interested

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specialized agencies and non-governmental organizations in consultative status with the Economic and Social Council have been invited to send observers. Governments have been invited to nominate as participants "key persons who have had practical legal experience in their respective countries or in the relevant social sciences, or who have been active in organizations interested in programmes related to the status of women". The agenda of the seminar, which was prepared in consultation with the host Government, is as follows:

I. Marriage

- (1) Age of marriage, consent, etc.
- (2) Effects of marriage on the legal status of women
  - (a) Personal status, including civil capacity
  - (b) Property rights, including matrimonial regimes
- (3) Dissolution of marriage, annulment, separation, including grounds and their effects on the status of the husband and the wife.

II. Parental authority (respective rights and duties of the father and the mother)

III. Legal status of unmarried women

IV. Inheritance rights of women

V. Social factors affecting the status of the woman in the family.

(c) On amparo, habeas corpus, and similar remedies of judicial protection against the violation of human rights, from 15 to 28 August 1961 in Mexico City, Mexico. Countries and territories in the Western Hemisphere have been invited to send participants, and interested specialized agencies and non-governmental organizations in consultative status with the Council have been invited to send observers. In a memorandum concerning the seminar which will be sent to governments it is stated that "the experience gained in similar United Nations seminars suggests that the participants who would contribute most to a seminar on this topic would be key persons occupying

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important posts in their respective countries at the level of ministers or deputy ministers of justice, attorneys-general, solicitors-general, senior judges, professors of law, etc.". The main topics which may be discussed at the seminar are:<sup>1/</sup>

1. Kinds of remedies available and their nature, characteristics and scope.
2. Operation of the remedies in normal times; factors affecting their effectiveness.
3. Relationship between special remedies.
4. Status of the remedies in emergency situations.

#### Seminars planned for 1962

6. Firm commitments have already been entered into with three governments which have agreed to be host to human rights seminars in 1962. Seminars will be organized during that year as follows (the precise dates have not yet been decided upon):

- (a) On some aspects of freedom of information; to be organized in co-operation with the Government of India;
- (b) On the status of women in family law; in co-operation with the Government of Singapore;
- (c) On judicial and other remedies against the abuse of administrative authority with special emphasis on the question of control of public administration by parliamentary institutions; in co-operation with the Government of Sweden.

#### Other matters

7. Since the Secretary-General reported to the Commission on Human Rights and the Commission on the Status of Women in documents E/CN.4/798, E/CN.6/357 and Add.1 and 2, the report of the seminar on judicial and other remedies against the illegal exercise or abuse of administrative authority, held in Buenos Aires from 31 August

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<sup>1/</sup> The agenda of the seminar is being prepared in consultation with the host Government.

to 11 September 1959, and that of the seminar on the role of substantive criminal law in the protection of human rights and the purposes and legitimate limits of penal sanctions, held in Tokyo, Japan, from 10 to 24 May 1960, have been issued in documents ST/TAO/HR.6 and ST/TAO/HR.7, respectively. The reports on the seminar on the protection of human rights in criminal procedure, held in Vienna, Austria (20 June-4 July 1960) and the seminar on the participation of women in public life, held in Addis Ababa, Ethiopia (12-23 December 1960) will be issued in the near future in documents ST/TAO/HR.8 and ST/TAO/HR.9.

8. In the above-mentioned reports to the Commission on Human Rights and the Commission on the Status of Women, reference was made to a request by the Government of Costa Rica for the services of an expert for the purpose of reviewing electoral laws and procedures in that country. The expert, who was appointed under the programme of advisory services to carry out this mission, visited Costa Rica early in 1960, and a report was duly submitted to the Government.

9. The Secretary-General has not failed to keep in mind the possibility of organizing an international seminar, as requested by the Council in its resolution 684 (XXVI). When several seminars have been held in various regions of the world on the same topic, consideration might be given to organizing an international seminar on this topic. The Secretary-General would reiterate his view that it would be a problem to find a formula for selecting participants at an international seminar, if it were restricted to approximately the number of participants who have so far attended regional seminars.

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