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INTERNATIONAL
LABOUR OFFICE

REPORT OF THE *AD HOC* COMMITTEE

ON

FORCED LABOUR

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PREFACE

This report has been prepared by the *Ad Hoc* Committee on Forced Labour for submission to the Economie and Social Council of the United Nations and the Governing Body of the International Labour Office.

The Chairman, when transmitting the report to the Secretary-General of the United Nations and to the Director-General of the International Labour Office on 27 May 1953, declared on behalf of the Committee that its members had acted in a purely individual capacity, that they did not represent any Government or party and that the opinions they had expressed in their report did not and could not commit their respective countries.

The Chairman emphasised that the Committee, in drawing its conclusions, had viewed with great concern not the repression of offences against the State, such as treason or sedition punishable in all countries, but those legislative systems which attempt to correct political opinions to suit the ideology of a particular Government.

The Committee was also well aware that in modern times the duties of States were increasing and that as a corollary certain modern Constitutions recognised the duty of citizens to work. The Committee had attempted in its conclusions to draw a dividing line between this general obligation to work and compulsion transforming it into a system of forced labour.

It was with this background in mind that the Committee had studied the material before it and had drawn the conclusions embodied in its report.

Members of the *Ad Hoc* Committee on Forced Labour

Chairman :

Sir Ramaswami MUDALIAR, K.C.S.I., D.C.L. (Oxon.).

Members :

Mr. Paal BERG, Former President of the Supreme Court of Norway.

Mr. Enrique Garcia SAYAN[1], Former Minister for Foreign Affairs of Peru.

[1] In succession to Mr. Felix Fulgencio Palavicini, deceased, who was a member of the Committee during its First Session.

REPORT OF THE COMMITTEE

I

Organisation

1. On 19 March 1951 the Economic and Social Council adopted Resolution 350 (XII) inviting the co-operation of the International Labour Organisation "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 ".[1]

2. Previously, at its 113th Session, the Governing Body of the International Labour Office had expressed its willingness to co-operate with the Economic and Social Council in the manner suggested in a draft resolution before that body, and had authorised the Director-General to co-operate with the Secretary-General in implementing the arrangements envisaged by that proposal in the event of its approval by the Economic and Social Council. These arrangements were in fact approved by the Economic and Social Council by Resolution 350 (XII).

3. On 27 June 1951, the Secretary-General of the United Nations and the Director-General of the International Labour Office, acting jointly in accordance with this Resolution, announced the appointment of the following three members of the *Ad Hoc* Committee on Forced Labour : Mr. Paal Berg, Sir Ramaswami Mudaliar, Mr. Felix Fulgencio Palavicini. Mr. Enrique Garcia Sayan was appointed between the First and Second Sessions to succeed Mr. Palavicini, whose death occurred on 9 February 1952.

4. The *Ad Hoc* Committee on Forced Labour held four sessions : the First Session at the European Office of the United Nations, Geneva, from 8 to 27 October 1951 ; the Second Session at the United Nations Headquarters, New York, from 2 June to 1 July 1952 ; the Third Session at the European Office of the United Nations, Geneva, from 14 October to 22 November 1952 ; and the Fourth Session at the International Labour Office, Geneva, from 17 April to 27 May 1953.

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[1] For an account of the events leading up to the establishment of the Committee and the full text of Resolution 350 (XII), see below, pp. 150-155.

5. At its first meeting the Committee elected Sir Ramaswami Mudaliar as Chairman and it was decided that he should also act as Rapporteur.

6. In accordance with the final paragraph of Resolution 350 (XII), the Secretary-General and the Director-General provided the necessary professional and clerical assistance for the work of the Committee. The Secretary of the Committee was appointed by the Secretary-General and its Technical Adviser by the Director-General. The Secretary of the Committee was Mr. A. Salkin for its First Session, and Mr. Manfred Simon for the other three sessions. The Technical Adviser to the Committee was Mr. Henri Zwahlen.

7. The Committee adopted the procedure of holding all meetings in closed session unless it decided otherwise. In the course of the four sessions, the members of the Committee also engaged in numerous informal discussions preliminary to arriving at formal decisions. All such decisions were taken in regularly constituted meetings of the Committee acting as a body. The Committee held 59 meetings, 10 of them in public session and 49 in closed session.[1]

8. A description of the work of the Committee during its first three sessions was published in its first, second and third Progress Reports.[2] These three Progress Reports were submitted to the Economic and Social Council and to the Governing Body of the International Labour Office. A complete account of the Committee's work, both procedural and substantive, is given in the succeeding chapters of this report to the Economic and Social Council and to the Governing Body of the International Labour Office.

II

Terms of Reference

9. The Resolution of the Economic and Social Council requires the *Ad Hoc* Committee on Forced Labour—

> 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.

10. At a very early stage of its deliberations, the Committee made a most careful examination and study of these terms of reference. They refer to

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[1] The summary records of the public meetings, which have been given general distribution, may be found in United Nations documents E/AC.36/SR, 1, 5, 7, 8, 10, 26, 28, 44, 45 and 59.

[2] See United Nations documents E/2153, E/2276 and E/2341.

systems of forced or " corrective " labour employed as a means of political coercion or punishment *and* which are on such a scale as to constitute an important element in the economy of a given country. Two basic issues faced the Committee in the consideration of this wording.

11. First, should the forced or " corrective " labour employed as a means of political coercion be necessarily on such a scale that the result of such labour would constitute an important element in the economy of a given country ? In other words, if a system of forced or corrective labour employed as a means of political coercion is found to exist in a given country, should the number of persons subjected to such a system and the work done by such persons be such as to be of tangible benefit to the economy of that country ?

12. The second issue which faced the Committee is of equal importance. If a system of forced labour was found to exist in any country and people were subjected to forced labour not as a means of political coercion and punishment but for economic or other reasons, was such a system to be excluded from the consideration of the Committee ? If it were to form a subject of consideration, then in what circumstances would it be relevant for the Committee to examine this aspect of what may be termed non-political forced labour ?

13. The Committee entertained grave doubts whether the study required by the Economic and Social Council related only to a system of forced or corrective labour as a means of political coercion and then, only if it resulted in real economic advantage to a country. It therefore made an exhaustive study of the proceedings of the Economic and Social Council, from the Sixth Session, when the subject was first placed on the agenda, to the Twelfth Session, when the Resolution was finally adopted. It also studied the relevant proceedings of the Governing Body of the International Labour Office. As a result of this examination, the Committee came to the conclusion that stress should not be laid on the word " and " in its cumulative sense, but that it was the intention of the Council and of the Governing Body that both the political and the non-political aspects of forced labour should be studied, whether they were found to exist together or separately.

14. The Committee accordingly interpreted its terms of reference " as including a survey and, thereafter, a study of systems of forced labour. Such systems of forced labour were alleged to take two forms. The first form was forced labour for corrective purposes, in other words, in order to correct the political opinions of those who differed from the ideology of the Government of the State for the time being, those persons being sent to prison camps for varying periods in order to enable the authorities to correct their political opinions and, during detention, being obliged to perform certain services. The second form of forced labour was exemplified where persons were obliged involuntarily to work for the fulfilment of the economic plans of a State, their work being of such a nature as to lend a large degree of economic assist-

ance to the State in the carrying out of such economic plans. Both these forms of labour were prescribed as essential either by process of law or by administrative measures on the part of governments." [1]

15. The Committee was required to study the nature and extent of the problem raised by the existence in the world of *systems* of forced or corrective labour. The Committee believed that it was obviously not the intention of the Resolution that it should study isolated cases of forced labour which may be exacted by a private individual or organisation in violation of domestic law, or even occasional measures imposed by a government either in an emergency or for a strictly temporary period, but that it should concentrate its attention on organised systems of forced labour, deliberately chosen or adopted by a government as a more or less permanent means of achieving certain results either of a political or of an economic nature, or both. This interpretation of the word " systems " is clearly supported by the further directive " to study the nature and extent of the problem... *by examining the texts of laws and regulations and their application* ". The Committee has therefore directed its attention to the study of such systems of forced or " corrective " labour as may be revealed either in the texts of laws and regulations, or in their application, or both.

16. The Committee was further required to examine such laws and regulations and their application " in the light of the principles referred to above ", that is, in the light of the principles in the international labour Convention (No. 29) concerning forced or compulsory labour, the principles of the United Nations Charter relating to respect for human rights and fundamental freedoms, and the principles of the Universal Declaration of Human Rights. The Committee has, in fact, made a thorough examination of international action for the suppression of forced labour from 1920 to 1951 [2] in which the relevant principles contained in these three instruments are mentioned. It noted, however, that, while it might take the definition of forced labour embodied in Convention No. 29 as a working basis, the historical conditions and perspective on the basis of which that Convention was drawn up may have changed in certain respects, and that it might therefore be necessary to review the principles of the 1930 definition of forced labour in the light of any new developments which might appear from its detailed study of the contemporary problem. The Committee felt that, in any case, it would not be in a position to arrive at any general conclusions concerning the observance of the principles of the Convention, the Charter, or the Universal Declaration of Human Rights until it had studied the nature and extent of the problem in law and in practice.

17. The Committee also considered the meaning of the final words in its terms of reference authorising it to study the problem, if it thinks fit, " by

[1] This interpretation was formally adopted by the Committee and reproduced in its First Progress Report (see United Nations document E/2153, paragraph 11).

[2] See Appendix I.

taking additional evidence into consideration ". It noted that these words were inserted in the terms of reference as a result of a French amendment [1] to the joint draft Resolution in which the word " *témoignages* " is used and, having regard also to the interpretation placed upon this amendment prior to its adoption, the Committee decided that it was authorised to receive written and oral communications and testimony *(témoignage)* from private individuals and organisations, in connection with its work.

18. The Committee recognised from the outset that, notwithstanding the generality of the foregoing interpretation of its terms of reference, it should, for purely practical reasons, avoid any duplication of work with other bodies of the United Nations or of the International Labour Organisation dealing with questions directly or indirectly related (or alleged to relate) to forced labour, such as the question of slavery and institutions analogous thereto [2]; the question of conditions of life and work of indigenous populations in independent countries [3]; the question of the treatment and conditions of prisoners in penal and penitentiary institutions [4]; and, lastly, any questions relating to labour problems and conditions in general.[5]

19. Finally, the Committee resolved to discharge its task, within the limits of its terms of reference, as interpreted, without prejudice of any kind and with complete impartiality and objectivity, on a universal basis, with the sole aim of safeguarding human rights and improving the situation of workers.

III

Methods of Work

20. The Committee interpreted its terms of reference as including a survey and, thereafter, a study of systems of forced labour. The survey describes the first stage of the Committee's work, during which it endeavoured to obtain information relating to its terms of reference on a universal basis. For this purpose it sought to obtain the assistance of all governments as well as of non-governmental organisations and private individuals. The second stage of its work involved a study of the alleged existence of forced

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[1] See United Nations document E/L.167/Rev.1.

[2] Formerly studied by the *Ad Hoc* Committee on Slavery and now by the Economic and Social Council of the United Nations.

[3] Studied by the Committee of Experts on Indigenous Labour of the International Labour Office.

[4] Formerly dealt with by the International Penal and Penitentiary Commission whose functions have now been absorbed into the work of the Economic and Social Council.

[5] Dealt with by various organs of the International Labour Organisation.

labour and, if it were found to exist, of its nature and extent. This section briefly describes the methods and procedures employed by the Committee with regard, first, to its survey of the problem of forced labour and, second, to its study of that problem where it was alleged to exist.

Survey of the Problem of Forced Labour

21. For the purpose of this survey, the Committee endeavoured to obtain relevant information, on a global basis, by three principal means—it transmitted to all governments a questionnaire on forced labour ; it endeavoured to assemble all the documents and evidence which had been brought to the knowledge of the Economic and Social Council during its extensive debates on the subject ; and it invited non-governmental organisations and private individuals to submit relevant information and documentation. A description of these three methods and of their results is given below.

Questionnaire on Forced Labour and Replies from Governments

22. The Committee was of the view that one of the most appropriate methods of assembling the texts of relevant laws and regulations and information concerning their application (either judicial or administrative) was to request governments to communicate them, together with any comments and necessary explanations. It therefore prepared an appropriate questionnaire for transmission to all governments, whether Members or not of the United Nations or of the International Labour Organisation. On the basis of the Committee's interpretation of its terms of reference, this questionnaire was divided into two parts, the first dealing with " punitive, educational or corrective labour " and the second with " other cases of compulsion to work ".[2]

23. In accordance with Resolution III adopted by the Committee at its First Session in December 1951, the Secretary-General of the United Nations and the Director-General of the International Labour Office transmitted the questionnaire annexed to this resolution to all governments, whether Members or not of the United Nations or of the International Labour Organisation, and requested them to send their replies as soon as possible, and in any case not later than 1 April 1952. A further letter was sent at the beginning of May 1952 by the Secretary-General or the Director-General to all governments which had not replied at that time, requesting them to send their replies before the opening of the Committee's Second Session.

[1] A complete description of these methods and procedures may be found in the Committee's first three Progress Reports, *i.e.*, in United Nations documents E/2153, E/2276 and E/2341.

[2] For the text of the questionnaire, which was adopted by the Committee at its First Session, see below, pp. 158-160.

24. Replies to the questionnaire were received from the following 48 Governments [1]:

Afghanistan
Australia
Austria
Belgium
Brazil
Burma
Cambodia
Canada
Ceylon
Chile
China
Cuba
Czechoslovakia
Denmark
El Salvador
Finland
France
Germany (Federal Republic of)
Greece
Guatemala
Hashemite Kingdom of Jordan
Iceland
India
Indonesia
Iraq
Ireland
Israel
Italy
Japan
Laos
Liechtenstein
Luxembourg
Nepal
Netherlands
New Zealand
Norway
Peru
Philippines
Sweden
Switzerland
Syria
Turkey
Union of South Africa
United Kingdom
United States of America
Uruguay
Viet-Nam
Yugoslavia

25. The following Governments have not replied to the questionnaire:

Albania
Argentina
Bolivia
Bulgaria
Byelorussian S.S.R.
Colombia
Costa Rica
Dominican Republic
Ecuador
Egypt
Ethiopia
Haiti
Honduras
Hungary
Iran
Korea
Lebanon
Liberia
Mexico
Monaco
Nicaragua
Pakistan
Panama
Paraguay
Poland
Portugal
Romania
Saudi Arabia
Thailand
Ukrainian S.S.R.
Union of Soviet Socialist Republics
Venezuela
Yemen

Allegations and Documentation before the Economic and Social Council

26. The Committee observed that the question of forced labour was first placed on the agenda of the Economic and Social Council during its Sixth Session and that the substance of the question had been extensively discussed during the Eighth, Ninth, Tenth, Eleventh and Twelfth Sessions. [2] The

[1] For a summary of the replies received from these Governments, see below, pp. 162-174. For the full text of the replies, see United Nations documents E/AC.36/11 and Add.1-23.
[2] That is, from 1949 to 1951.

Committee therefore made a thorough examination of the substance of these debates as recorded in the *Official Records* of the Council. It found in these records numerous statements alleging the existence of forced labour in various countries and territories in most parts of the world. It also found that a large number of laws, regulations and publications had been cited as evidence in support of these allegations. In this connection, the Committee noted that, in the sixth paragraph of the preamble to Resolution 350 (XII), the Council referred to " documents and evidence brought to its knowledge and revealing in law and in fact the existence in the world of systems of forced labour... ". The Committee concluded from this that it was obliged, at least, to make a thorough investigation of the allegations, replies to allegations and " documents and evidence " mentioned in the *Official Records* of the debates on forced labour in the Economic and Social Council.

Allegations and Replies to Allegations.

27. During its First Session the Committee made a systematic summary and classification of all statements contained in the *Official Records* of the Council which alleged the existence of forced labour in various countries and territories. Allegations to this effect related to the following 23 countries and/or territories under their administration :

Australia	Germany (British Occupation Zone of)
Argentina	Germany (Democratic Republic of)
Belgium	Japan
Bolivia	Paraguay
Brazil	Peru
Bulgaria	Portugal
Chile	Romania
China (People's Republic of)	Union of South Africa
Colombia	Union of Soviet Socialist Republics
Czechoslovakia	United Kingdom
Ecuador	United States of America
France	Venezuela

Documents and Evidence relating to the Allegations.

28. Mention has already been made of the sixth paragraph of the preamble to Resolution 350 (XII), in which the Council referred to " documents and evidence " which had been brought to its knowledge during the debates on the question of forced labour. In the course of these debates, representatives of Member Governments and of non-governmental organisations quoted from or referred to certain documents or publications in support of the allegations which they made. It was thought necessary to request these representatives of Member Governments and non-governmental organisations

to transmit to the Secretariat such documents and publications as were brought to the knowledge of the Council.

29. Accordingly, in letters dated 18 and 21 May 1951, the Secretary-General requested those governments and non-governmental organisations to send to the Secretariat the documents that had been cited by their representatives. Letters were sent to the following Governments: Byelorussian S.S.R., Chile, Czechoslovakia, France, Mexico, Poland, Union of Soviet Socialist Republics, United Kingdom and United States of America. Letters were also sent to the following non-governmental organisations: the International Confederation of Free Trade Unions and the World Federation of Trade Unions.

30. Replies to this request were received from the following Governments: Chile, France, Poland, United Kingdom and United States of America; and from one of the non-governmental organisations: the International Confederation of Free Trade Unions.[1] Documentation was transmitted by the Governments of France, the United Kingdom and the United States of America, and by the representative of the International Confederation of Free Trade Unions.

31. Since the documentation transmitted by governments and by one non-governmental organisation in response to the Secretary-General's request by no means exhausted the large number of documents and evidence cited in the Council, the Committee instructed the Secretariat to endeavour to assemble the remainder of this documentation.

32. At its Second Session the Committee had before it most of this documentation in the form of working papers. It began its examination of this material, and continued it at its Third Session, when it summarised and classified the documentation for inclusion in the relevant summary of material available to the Committee which, together with the allegations, was subsequently transmitted to the governments concerned for comment.

Allegations and Documentary Material submitted by Organisations and Individuals

33. The Committee also sought to enlist the co-operation of non-governmental organisations, since it felt that they might be in possession of relevant documentary material and information. It noted that there were over 200 non-governmental organisations having consultative status with the Economic and Social Council [2] and felt that some of these, at least, might be in a position to submit such documentary material or information. One of these organisations, the American Federation of Labor [3], had in fact been responsible for placing the item on the agenda of the Council [4], and, subsequently, both the

[1] For text of these replies, see United Nations documents E/AC.36/4 and Add.1 and 2.

[2] Several of the non-governmental organisations also enjoy a similar status with the I.L.O.

[3] Now represented by the International Confederation of Free Trade Unions (consultative status A).

[4] See below, p. 150.

International Confederation of Free Trade Unions and the World Federation of Trade Unions actively participated in the Council's debates on forced labour.

34. The third method of obtaining documentary material and information relating to its work was, therefore, to invite the co-operation of non-governmental organisations. For this purpose the Committee decided [1] to establish special arrangements whereby such organisations could submit documentary material and information and appear before the Committee for hearing and questioning. These arrangements were regulated by a strict procedure laid down in Resolution II adopted by the Committee at its First Session.

35. The Committee also decided [2] that in addition to these non-governmental organisations in consultative status, other organisations and individuals should be permitted to submit documentary material and information and to be heard and questioned by the Committee under the special arrangements established by Committee Resolution II.

36. In accordance with Committee Resolution II, in December 1951 a letter was transmitted to all non-governmental organisations in consultative status A or B or on the register of the Economic and Social Council, inviting them to notify the Committee if they wished to be heard and questioned or to submit any documentary material and information relating to the terms of reference of the Committee as it had interpreted them. Non-governmental organisations in consultative status replying to this invitation in the affirmative, as well as other organisations and individuals who, on their own initiative, expressed the desire to be heard or to submit documentary material and information, were first required to fulfil the conditions and to abide by the procedure laid down in Resolution II.[3]

37. The main aspects of this procedure were as follows :

(a) organisations and individuals were required to submit a memorandum not exceeding 1,000 words, specifying the points on which they wished to be heard and questioned, and indicating the precise nature of the documentary material and information which they intended to submit;

(b) the Committee decided, primarily on the basis of the contents of memoranda thus submitted, which of these organisations and individuals would be invited to be heard and questioned or to transmit documentary material and information in their possession ;

(c) the Committee reserved the right both to limit the time allowed for the hearing and questioning and to select or reject as it deemed necessary from any documentary material or information transmitted.

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[1] On the basis of paragraph 32 of Economic and Social Council Resolution 288 (X) governing consultative arrangements with non-governmental organisations.

[2] For the text of the Committee's decision, see United Nations document E/2153, paragraph 21. This decision was based upon the authorisation referred to in paragraph 17 above.

[3] For the full text of this procedure, see United Nations document E/2153, paragraphs 20 and 21.

38. Replies to the letter transmitted in accordance with Resolution II were received from 16 non-governmental organisations having consultative status [1], of which only six requested to be heard and questioned or to submit documentary material and information. These non-governmental organisations were as follows : the Anti-Slavery Society, the *Commission internationale contre le régime concentrationnaire*, the International Confederation of Free Trade Unions, the International Federation of Free Journalists, the International League for the Rights of Man and the International Organisation of Employers.[2]

39. In addition to these non-governmental organisations, memoranda were received from many organisations other than those having consultative status and from private individuals who expressed the wish to be heard and questioned by the Committee or to transmit documentary material in conformity with the conditions laid down in Resolution II. [3]

40. Acting in accordance with the powers expressly delegated to him by Resolution II, paragraph 2, the Chairman examined the replies and memoranda received from non-governmental organisations having consultative status and the memoranda received from other organisations and individuals, and decided which of these organisations and individuals should be invited for hearing and questioning or to transmit to the Committee the documentary material and information in their possession. The Committee subsequently confirmed the Chairman's decisions concerning the organisations and individuals who were invited to testify. These decisions were in the affirmative concerning all requests from non-governmental organisations having consultative status.

41. Representatives of the following organisations were heard and questioned by the Committee during its Second and Third Sessions :

Anti-Slavery Society
Association of Former Political Prisoners of Soviet Labour Camps
Commission internationale contre le régime concentrationnaire
Committee of Free Jurists
Council of Free Czechoslovakia
Estonian Consultative Panel
Hungarian National Council
International Confederation of Free Trade Unions
International Federation of Free Journalists
International League for the Rights of Man
Latvian Consultative Panel
Lithuanian Consultative Panel
National Committee for a Free Albania

[1] For the names of these organisations, see United Nations document E/2276, paragraph 19.

[2] Five of these organisations requested both to be heard and to submit documentation ; the International Organisation of Employers requested only the latter.

[3] See above, paragraph 35.

Polish Association of Former Soviet Political Prisoners
Rumanian National Committee.

Each organisation was permitted to send two witnesses in addition to its representative, if it so wished.

42. The Committee also heard and questioned four individuals who had been invited in accordance with the aforementioned decisions.

43. These hearings were conducted during the Second and Third Sessions, in New York and Geneva respectively. The hearings in New York were arranged for organisations and individuals located or residing in the American continent and the hearings in Geneva for those organisations and individuals located or residing in Europe.

44. In conformity with the normal practice of the Committee, the hearings of non-governmental organisations and other witnesses were conducted in closed session. The Committee emphasised the point that its conclusions would be based mainly on documentary evidence, particularly the relevant laws and regulations before it, and that the hearings might serve to clarify certain points connected with this documentary material and illustrate the application of these laws and regulations. Consequently it felt that by having open hearings the public would be incompletely informed as to the merits of the case, and it decided that the records of these hearings should not be published, since the final report would indicate the precise documentary and other evidence upon which its conclusions had been based.

45. After hearing introductory statements by representatives of the organisations mentioned above and by individuals, the Committee proceeded to examine them and the witnesses associated with them with particular reference to the relevant laws, regulations, administrative practices and economic significance of forced labour in countries concerning which they had testified.

46. Documentary material and information was also submitted by the above-mentioned organisations and individuals in support of their oral statements before the Committee.

47. The substantive results of the oral statements made by, and the documentary material received from, organisations and individuals may be briefly indicated as follows : allegations which were submitted together with documentary material referred to the following 14 Governments :

Albania [1]
Bulgaria
China (People's Republic of)
Czechoslovakia
Germany (Democratie Republic of)
Hungary [1]
Poland [1]
Portugal
Romania
Spain [1]
Union of South Africa
Union of Soviet Socialist Republics
United Kingdom
United States of America

[1] These four Governments had not been previously referred to in the debates on forced labour in the Economic and Social Council.

Study of the Problem of Forced Labour

48. As a result of the survey described above, the Committee therefore had before it information from the following principal sources:

(a) the replies of 48 Governments to its questionnaire;

(b) allegations and replies to allegations made during the debates on forced labour in the Economic and Social Council, together with documentation relating to those allegations;

(c) further allegations, documentary material and information submitted by organisations and individuals;

(d) documentation (primarily laws and regulations) assembled by the Committee, relating to and supplementing the information referred to in *(b)* and *(c)* above.

49. In the course of its Second and Third Sessions the Committee made a preliminary study of this information. As a result of this examination it decided to confine its detailed study to those countries (or territories) concerning which allegations regarding the existence of forced labour had been made, either in the Economic and Social Council, or subsequently by organisations or individuals. In adopting this limitation of the scope of its enquiry the Committee was well aware that the results it would achieve would be incomplete. It felt, however, that it was preferable to make a thorough study of the problem where it was alleged to exist, rather than to attempt to arrive at conclusions for all countries, including those where the documentary material in its possession was still manifestly inadequate. While its detailed study and conclusions would therefore be confined to those countries and territories concerning which allegations had been made, it decided simply to publish, without comment or conclusions concerning the remaining countries, its summary of the replies of the 48 Governments to the questionnaire on forced labour.

Countries concerning which Allegations have been Made

50. The Committee therefore studied the allegations and documentary material relating to the following countries (and/or territories under their administration): Albania, Argentina, Australia, Belgium, Bolivia, Brazil, Bulgaria, Chile, China (People's Republic of), Colombia, Czechoslovakia, Ecuador, France, Germany (British Occupation Zone), Germany (Democratic Republic of), Hungary, Japan, Paraguay, Peru, Poland, Portugal, Romania, Spain, Union of South Africa, U.S.S.R., United Kingdom, United States of America and Venezuela.

51. It found, however, that it was not possible to complete its study of the allegations relating to Albania and China (People's Republic of) because

documentary material relating thereto (particularly the laws and regulations) had not been cited or submitted and could not be obtained by the Committee. It also decided not to pursue further its study of the allegations regarding Germany (British Occupation Zone) or Japan, since these allegations were either imprecise or referred to conditions of military occupation which no longer existed.

52. For the remaining countries (or territories) concerning which allegations had been made, the Committee prepared a summary of the allegations and of the documentary material in its possession. These summaries were prepared by the Committee during its Third Session in the form of informal documents for transmission to the governments concerned for their comments.[1]

Letters to Governments

53. The Committee was of the opinion that governments should be informed of allegations regarding the existence of forced labour in their respective countries or territories, and that letters transmitting these allegations should indicate the evidence and documentation purporting to support the allegations, particularly the laws and regulations involved ; and that these letters should be despatched to governments for comment.

54. Accordingly, the Committee decided at its Third Session that the informal documents containing a summary of the allegations and of the documentary material in its possession should be transmitted to the governments concerned for comment. For this purpose the Committee approved the text of a standard covering letter, under the Chairman's signature, requesting the governments' comments and observations on the enclosed informal document, and emphasising that, at that stage of its work, the Committee had come to no conclusions either on the relevancy of the allegations or on the evidential value of the information and documentary material summarised in these documents and that they were being communicated confidentially only to the governments concerned for comment.[2]

55. On 22 November 1952 this letter, together with the relevant informal documents, was transmitted to the following 24 Governments :

Argentina
Australia
Belgium
Bolivia
Brazil
Bulgaria
Chile
Colombia
Czechoslovakia
Ecuador
France
Germany (Democratic Republic of)

[1] These documents, in substantially the same form, are reproduced in Appendix III.
[2] For the full text of this letter, see below, pp. 175-176.

Hungary	Spain
Paraguay	Union of South Africa
Peru	Union of Soviet Socialist Republics
Poland	United Kingdom
Portugal	United States of America
Romania	Venezuela.

56. On 2 March 1953 a letter of reminder, under the Chairman's signature, was despatched to all governments who had not replied by that date to the letter of 22 November 1952.

57. On 23 April 1953 (the opening date of its Fourth Session) the Committee decided to despatch a cable to those governments which had not transmitted their comments and observations by that time. The Committee emphasised in this cable that the allegations summarised in the informal documents were not its own and that it was most anxious to have the governments' comments and observations to assist it in reaching the most accurate conclusions. The cable contained a final appeal for the co-operation of these governments, indicated the Committee's intention to conclude its work by 22 May 1953, and requested that comments and observations be sent by 10 May 1953.

58. The Committee decided to fix 20 May 1953 as the final deadline for receipt of comments and observations for publication in its report, and that any comments and observations received after that date would be issued separately.[1]

Comments and Observations Received

59. By 20 May 1953, the following Governments had transmitted their comments and observations on the informal documents summarising the allegations and documentary material concerning them[2]:

Australia	Portugal
Belgium	Spain
Bolivia	Union of South Africa
France	United Kingdom
Peru	United States of America.

60. The following Governments had therefore not transmitted their comments and observations by 20 May 1953:

Argentina	Chile
Brazil	Colombia
Bulgaria	Czechoslovakia

[1] In the form of United Nations mimeographed documents (as addenda to United Nations documen E/2431).

[2] For the text of these comments and observations, see Appendix III.

Ecuador	Poland
Germany (Democratic Republic of)	Romania
Hungary	Union of Soviet Socialist Republics
Paraguay	Venezuela.

61. The delegations of Poland and the U.S.S.R. to the United Nations have returned the informal documents concerning their Governments by notes dated 27 March 1953 and 30 December 1952, respectively.[1] The Foreign Ministers of Chile and Venezuela have indicated (by cables dated 25 April and 7 May 1953, respectively) that the informal documents transmitted to them on 22 November 1952 have not been received. A copy of this letter, together with the relevant informal documents, has therefore been transmitted to these two Governments. The Ministry of Foreign Affairs of Colombia has indicated (by letters dated 13 March and 10 April 1953) its intention to forward the comments and observations of that Government. In accordance with the Committee's decision, such comments and observations as may be received after 20 May 1953 will be issued separately.[2]

Final Study and Conclusions

62. The Fourth Session of the Committee was devoted to a final study of the allegations and documentary material relating to the 24 Governments listed in paragraph 55 above. The object of this study was to determine whether the allegations relating to these Governments were relevant to the Committee's terms of reference and if so, whether the documentation before the Committee revealed the existence of a system of forced labour of either the " political " or " economic " or of both types coming within the meaning of its terms of reference.

63. For this purpose the Committee made an examination of the allegations concerning these 24 Governments in the light of the documentary material in its possession. This material is now published in Appendix III of this report as *(a)* the summaries of allegations and of the material available to the Committee relating to the 24 Governments ; *(b)* the comments and observations of ten of these Governments ; and *(c)* certain additional material assembled by the Committee between its Third and Fourth Sessions.

64. The conclusions of the Committee with regard to the relevancy of the allegations as well as the evidential value of the documentary material may be found in Section IV of this report. In the case of those allegations which were found to be both relevant to its terms of reference and substantiated by the documentation in its possession, the Committee has also drawn conclusions as to whether a system of forced labour, either of the " political " or of

[1] For the text of these notes, see below, pp. 317 and 519.

[2] In the form of United Nations mimeographed documents (as addenda to United Nations document E/2431).

the "economic" or of both types referred to in its terms of reference, was found to exist in the country or territory concerned.

65. Section V contains certain general observations of the Committee concerning "the nature and extent of the problem raised by the existence in the world of systems of forced or 'corrective' labour".

Adoption of the Report

66. At its 58th meeting on 27 May 1953 the Committee adopted its report unanimously for submission to the Economic and Social Council and to the Governing Body of the International Labour Office.

IV

Conclusions concerning the Allegations

67. This Section sets forth the results of the Committee's study of the allegations in the light of the documentary material and information in its possession. In addition to the informal documents transmitted to the 24 Governments concerned by the Chairman's letter of 22 November 1952, the Committee had before it the comments and observations of ten of these Governments and replies to the questionnaire on forced labour from eight of them.

68. The Committee wishes to express its appreciation of the co-operation which has been extended by these Governments and which has generally enabled it to obtain a fuller understanding of the situation in their countries or in territories under their administration.

69. It should be emphasised that the volume and scope of the documentary material was not the same for each of the 24 Governments which were the subject of allegations. There was sufficient documentary evidence in the case of many of the allegations to enable it to reach conclusions regarding the *de jure* situation and in some cases there was official documentation which enabled it to come to a finding on the *de facto* situation. In other cases, the Committee has not been able to reach such definite conclusions regarding the allegations because of the inadequacy of the information; where this is so the fact has been indicated. The absence of such definite conclusions does not necessarily imply that forced labour does not exist in the countries concerned.

70. The Committee has indicated the substance of the evidence upon which its findings and conclusions have been based. For a full appreciation of the Committee's findings and conclusions, reference should be made, when neces-

sary, to the comprehensive summary of the allegations and documentary material contained in Appendix III of this report.

71. The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in the 24 countries (and/or territories under their administration).

Territories Administered by Australia

72. Allegations regarding the existence of forced labour in territories administered by Australia were made during the debates on forced labour in the Economic and Social Council by the representative of the U.S.S.R.

73. These allegations maintain in substance —

(a) that, in the Territory of Nauru, Chinese workers are subjected to a disguised form of forced labour and that in cases of violation of the terms of their contracts they are liable to prosecution ;

(b) that, in the Territory of New Guinea, the freedom of Natives to accept employment outside their areas of residence is restricted, and that the regulations relating to Native administration permit the use of forced labour for certain types of work regarded as useful for the populations concerned.

74. At its Fourth Session the Committee had before it the allegations[1], the documentary material concerning them [1], the comments and observations of the Government [2] and its reply to the Committee's questionnaire.[3] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in the territories administered by Australia.

Nauru

75. In connection with the allegation concerning Nauru, the Committee examined the Chinese and Native Labour Ordinance, 1922 (No. 18 of 1922-1924).[4]

76. This Ordinance prescribes minimum conditions and standards for the general benefit of employees and also provides for penal sanctions for breaches of contracts of employment.

77. Section 8 states that a labourer who neglects, without reasonable cause, to perform any work which under the contract it is his duty to perform is

[1] See below, pp. 177 and 179.
[2] See below, p. 181.
[3] United Nations document E/AC.36/11/Add.21.
[4] See below, p. 178.

guilty of an offence, and, in accordance with Section 49, he is liable on conviction by a competent court to a penalty not exceeding £20 and, in default of payment, to a term of imprisonment not exceeding three months.

78. The Committee also noted that, according to Section 19, if a labourer commits an offence for which he is sentenced to a term of imprisonment whereby the employer loses the benefit of his services, the term during which the labourer is imprisoned is to be added to the term of his contract.

79. Section 14 stipulates that a labourer who, through negligence or carelessness or other improper conduct, causes damage to, or loss of, any tools or other property of his employer, is also guilty of an offence. According to Section 21, the use of threatening language to the employer or any person placed in authority over the worker is an offence punishable by a penalty not exceeding £10 or by a term of imprisonment not exceeding 12 months.

80. Commenting on this allegation, the Australian Government states [1] that there is no recruitment of labour in the Territory and that the indigenous inhabitants are engaged by the Administration on a permanent or temporary basis and by the British Phosphate Commissioners as casual non-contract workers. Chinese, on the other hand, are recruited on contract from Hong Kong, and Gilbert and Ellice Islanders from that colony. The terms of the agreement into which the Chinese workers are supposed to enter are explained to them at the place of their recruitment and again upon arrival in Nauru under the direction of the Administrator, who ensures that the intending employee is fully aware of the conditions contained in the agreement and that he has completely understood them. The agreement is subject to the provisions of the Chinese and Native Labour Ordinance examined above.

81. The Government also states [2] that every contract for service or work in the Territory of Nauru by Chinese, Nauruans and other Pacific Islanders is made in accordance with the provisions of the Chinese and Native Labour Ordinance, 1922-1924, and that contracts for service are for one year.

82. According to statistics contained in the *Annual Report to the General Assembly of the United Nations on the Administration of the Territory of Nauru, 1951-1952*, attached to the comments and observations of the Australian Government [3], there were 747 Chinese workers in the Territory on 30 June 1952, 716 of whom worked for the British Phosphate Commissioners. The total number of workers employed by this enterprise was, at the same period, 1,360. On the same date, in addition to the Chinese workers just mentioned, the British Phosphate Commissioners employed 100 Europeans, 420 Gilbert and Ellice Islanders and 124 Nauruans. With the exception of the Europeans, the provisions of the Chinese and Native Labour Ordinance are applied to all these workers.

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[1] See below, p. 183.
[2] See below, p. 184.
[3] See below, p. 182.

83. It is therefore evident that breach of contract by Chinese or other non-European workers is a criminal offence under the legislation in force in the Territory of Nauru. The question arises whether this legislation forms the basis of a system of forced labour within the meaning of the Committee's terms of reference.

84. While these workers appear to enter into labour agreements voluntarily, penal sanctions are applied for breaches of contract and other offences laid down by the law. This situation is aggravated for the worker by the fact that any time spent in prison is added to the term of his contract.

85. There appears to be no doubt as to the economic importance for the Territory of Nauru of the British Phosphate Commissioners, who employ 1,360 workers out of a total labour force of 1,819 in the Territory.

86. The Committee feels that the risk of heavy penal sanctions for breach of contract constitutes a serious restriction on the personal liberty of the worker. Legislation of this kind, if abused or vigorously implemented, might lead to a system of forced labour for economic purposes.

87. The Committee noted the Australian Government's statement contained in its comments and observations[1] that approval has been given by the Minister of Territories for the abolition of penal sanctions, and that action is being taken to amend the Chinese and Native Labour Ordinance, 1922-1924, accordingly.

New Guinea

88. In connection with the allegation concerning restrictions on the freedom of employment and the use of compulsory labour for certain types of work in the Territory of New Guinea, the Committee examined the Native Labour Ordinance, 1950-1952.[2] This text abolishes the system of contracts and replaces it by a system of agreements. The agreements must be concluded in writing for a maximum duration of three years.

89. According to Section 20 of the Ordinance a Native is deemed to be engaged for employment when he consents or offers to be employed under an agreement or leaves any place where he may then be with a view to being so employed. According to Section 33 an agreement does not have any force or effect until it is sanctioned and attested by an authorised officer.

90. A Native worker is entitled to repatriation to his place of residence at the employer's expense and, according to Section 64, a Native may be employed at any place in the Territory.

91. The Australian Government has ratified international labour Convention No. 29 and forced labour is prohibited in the Territory, except in such exceptional circumstances as are recognised by the Convention. Forced labour

[1] See below, p. 182.
[2] See below, p. 181.

exacted in such exceptional circumstances does not constitute a system of forced labour within the meaning of the Committee's terms of reference.[1]

92. In view of the evidence examined above, the Committee finds that the allegation concerning the existence of forced labour in the Territory of New Guinea under Australian administration is not substantiated.

Conclusions

93. The Committee finds—

(a) that under existing legislation in the Territory of Nauru breaches of labour contracts by Chinese and other non-European workers are punished as a criminal offence and that such legislation, if abused or vigorously implemented, might lead to a system of forced labour for economic purposes;

(b) that the allegation regarding the existence of forced labour in New Guinea is not substantiated.

Territories Administered by Belgium

94. Allegations regarding the existence of forced labour in territories administered by Belgium were made during the debates on forced labour in the Economic and Social Council by the representatives of the Byelorussian S.S.R., Poland and the World Federation of Trade Unions.

95. The allegations refer in substance to the following points:

(a) compulsory cultivation in the Belgian Congo in the guise of agricultural work carried out for educational purposes;

(b) labour conditions in the mines in the Belgian Congo;

(c) unpaid services for local chiefs and compulsory unremunerated labour in the Territory of Ruanda-Urundi;

(d) compulsory labour for failure to pay taxes in the same Territory.

96. At its Fourth Session the Committee had before it the allegations[2], the replies to the allegations[3], the documentary material concerning them[4], the comments and observations of the Government[5], and its replies to the Committee's questionnaire.[6] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in territories administered by Belgium.

[1] *i.e.*, porterage in the neighbourhood of villages and work or services such as compulsory cultivation executed in cases of emergency. See below, pp. 180-181.

[2] See below, pp. 185 and 192.

[3] See below, p. 186.

[4] See below, pp. 187 and 198.

[5] See below, p. 197 and addendum, p. 621.

[6] United Nations documents E/AC.36/11 and Add.15.

Congo

Compulsory Cultivation.

97. With regard to the use of compulsory cultivation, the Committee noted the reply of the representative of Belgium at the Ninth Session of the Economic and Social Council [1], to the effect that forced labour in the Belgian Congo was governed by international labour Convention No. 29 concerning forced or compulsory labour and that the Convention had been approved by a Legislative Order of 20 May 1943 published in the *Moniteur belge* on 31 July of the same year. The Belgian representative also stated that forced labour on behalf of private interests was completely forbidden.

98. During the 12th Session of the Economic and Social Council the Belgian representative explained why his Government considered compulsory cultivation to be necessary.[1] He stated that Belgium was responsible for primitive populations with little inclination for agricultural work and that the use of compulsory cultivation was necessary as a means of agricultural instruction and of securing the execution of urgent work in the interests of the community. He assured the Council that compulsory labour was subject to a limit of 60 days and that no restrictions could be placed on the sale of the crops produced.

99. In its note dated 19 May 1953[2], transmitting the Government's comments to the Chairman of the Committee, the Permanent Delegation of Belgium to the European Office of the United Nations stresses that Belgium has ratified the Forced Labour Convention with the reservation that compulsory cultivation may be imposed only in exceptional cases determined by the Administration for public purposes such as food-growing or agricultural training courses.

100. The Committee had before it the Legislative Order of 20 May 1943 ratifying international labour Convention No. 29.[3] This Order contains the following provisions in Article 2 (II) :

> By way of exception to the provisions of the first paragraph, the competent authority may authorise recourse to compulsory cultivation as a means of agricultural instruction, if such a measure is justified by the idleness or improvidence of the population, subject nevertheless to the following conditions :
>
> *(a)* that the compulsion thus imposed is temporary and ceases as soon as the communities to which it is applied have acquired the habit of such cultivation;
>
> *(b)* that the compulsion is not applied except for the cultivation of land in which the communities or individuals concerned possess accrued rights ;
>
> *(c)* that the produce of the cultivation thus imposed and all profits accruing from the sale of the produce thereof remain the property of the individuals or communities concerned ;

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[1] See below, p. 186.
[2] See addendum, p. 621.
[3] See below, p. 187.

(d) that all necessary measures are taken to ensure the sale of the produce under the most advantageous conditions;

(e) that all necessary measures are taken to protect the communities and individuals concerned against fraud on the part of the purchasers of the produce, in particular by the fixing of a minimum purchase price and by regulations relating to the weighing and payment of the produce.

By way of exception to the said provisions, the competent authority may authorise recourse to the compulsory planting of certain species of trees for the purpose of reafforestation.

101. Furthermore, a Decree of 5 December 1933, amended by a Legislative Ordinance of 17 April 1942 [1], which still appears to be in force, also contains provisions governing compulsory cultivation in Article 45 *(h)*. It requires Native subdistricts " to plant and cultivate in the subdistrict food crops for the sustenance and in the exclusive interest of the population, or food crops or products for export introduced for educational purposes... ".

102. It is evident from these provisions that compulsory cultivation may be imposed in the Belgian Congo for the production not only of food crops but also of products for export. This is confirmed by several Belgian publications, some of them official [2], which reveal that this method of education has been used, apparently on a large scale, for the growing of crops such as cotton, rice, maize, coffee, palm oil and other similar products.

103. The Committee is not aware whether or to what extent the system of compulsory cultivation is still used in the Belgian Congo for the growing of such products. There would seem to be no doubt, however, that the legislation concerned is still in force. While fully recognising that such methods may, in the long run, result in a higher standard of living for the indigenous population, the Committee feels that if they were still applied on a large scale for the growing of export crops of importance for the economy of the territory, they might lead to a system of forced labour for economic purposes.

Labour Conditions in the Mines.

104. With regard to this allegation the Committee noted that Article 47 of a Decree of 16 March 1922 [3] imposes a fine or two months' penal labour, or both, if an employee maliciously contravenes the obligations imposed upon him by the Decree, the agreement or custom, and that Article 48 imposes a fine or a fortnight's penal labour, or both, if an employee is guilty of a serious offence or repeated offences against the rules of employment or of the establishment.

105. According to a report [3] submitted to the Belgian Parliament on the administration of the Congo during 1949, 34,066 indigenous workers were sentenced in that year for failing to respect their contracts of employment.

[1] See below, p. 188.
[2] See below, pp. 188-190.
[3] See below, p. 191.

106. The Committee notes that Belgium has not yet ratified international labour Convention No. 65 concerning penal sanctions for breaches of contracts of employment by indigenous workers.[1] It has also noted the Belgian Government's comment that workers employed in the mines are not compelled to do forced labour.[2]

107. The Committee finds that indigenous labour is of importance to the mining and other industries existing in the Belgian Congo, and that the penal measures employed to hold indigenous workers to their jobs and the number of sentences for breach of contract might lead to a system of forced labour for economic purposes.

Ruanda-Urundi

Unpaid Services for Local Chiefs and Compulsory Unremunerated Labour.

108. In connection with unpaid services for local chiefs, the Committee notes that, in its report to the Trusteeship Council on the administration of Ruanda-Urundi for the year 1948[3], the Belgian Government states that all labour contributions which survived from the old tribal system have finally been abolished and replaced by a small monetary contribution. This appears to be confirmed by the Visiting Mission sent by the Trusteeship Council in its report dated 31 October 1948.[3]

109. The allegation relating to unpaid services for local chiefs does not therefore seem to be substantiated and, even if it were, the Committee feels that such services as are described in Appendix III[4], would not constitute a system of forced labour within the meaning of its terms of reference, since considerable economic importance cannot be attributed to them.

110. In connection with the question of unpaid services in indigenous districts, the Committee examined a Legislative Ordinance of 4 October 1943, as amended on 17 April 1946[5], which imposes a wide variety of duties on the chiefdoms, which the chiefs and sub-chiefs have to share out equitably between the various subdivisions in their districts and between the inhabitants in each subdivision (Article 49). Only able-bodied adult males may be required to give their services for a maximum period of 60 days a year. Under Article 51, any indigenous inhabitant who fails to carry out or is negligent in carrying out the work required of him is liable to a term of penal servitude not exceeding seven days and a fine of 100 francs, or to one of these two penalties.

111. It appears from this Ordinance that only certain services, including local road-clearing, burials and work on reafforestation projects are unpaid.[6]

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[1] See below, p. 191.
[2] See below, addendum, p. 621.
[3] See below, p. 193.
[4] See below, pp. 193-194.
[5] See below, p. 194.
[6] Unremunerated labour for road-clearing has been replaced by a tax in lieu fixed at 10 francs. See below, p. 195.

Other types of work which may be imposed on the inhabitants of indigenous districts under this Ordinance include the construction and maintenance of schools, a court house and a prison for the indigenous population, rest houses for indigenous administrative assistants, regional motor roads and water channels.

112. The Committee finds that compulsory labour for such public works and services is provided for by law and does in fact exist in Ruanda-Urundi; that labour exacted under this Legislative Ordinance, as amended, is permissible under international labour Convention No. 29 only for a transitional period and that it should be progressively abolished. It has also found indications from the report of the Senate Study Mission published in 1947 [1] and the prefatory statement explaining this Ordinance [1], as well as from the types of work described in the Ordinance itself, that the compulsory labour required thereunder might be of some economic significance. Since, however, the Committee has no precise information concerning the number of persons who are obliged to do the work prescribed, it refrains from drawing any definite conclusions as to whether this in fact constitutes a system of forced labour for economic purposes.

Compulsory Labour for Failure to Pay Taxes.

113. As regards compulsory labour for failure to pay taxes, Article 21 of a Decree of 17 July 1931 on the Native tax [2] prescribes that defaulting taxpayers should do certain work. An Ordinance dated 2 November 1933 states that taxpayers detained for debt may be employed on works the general programme of which is to be drawn up by the Governor of the Ruanda-Urundi territories.[2]

114. In the report of the Belgian Government to the General Assembly of the United Nations on the administration of Ruanda-Urundi in 1950 [2], it is stated that, out of a total of 788,059 taxpayers, only 1,614 had defaulted and were subjected to imprisonment for failure to pay taxes. The Committee found that, in view of the small number of defaulters, the legal authority for compulsory labour for failure to pay taxes (which still exists) is not enforced in practice as a system of forced labour within the meaning of its terms of reference.

Conclusions

115. To sum up, the Committee finds—

(a) that, in territories administered by Belgium, indigenous mine-workers are not forcibly recruited but that they are liable to penal sanctions for breach of contract, which might lead to a system of forced labour for economic purposes;

[1] See below, p. 195.
[2] See below, p. 196.

(b) that certain forms of compulsory labour are still in existence and that some of these are tolerated by international labour Convention No. 29 during a transitional period, but that some of these practices, *i.e.*, compulsory cultivation and compulsory labour in indigenous districts for public purposes, might have some economic significance for the territory and might therefore lead to a system of forced labour for economic purposes.

BULGARIA

116. Allegations regarding the existence of forced labour in Bulgaria were made during the debates on forced labour in the Economic and Social Council by the representatives of the United Kingdom and the United States of America and were also submitted to the Committee by various non-governmental organisations.

117. The allegations maintain in substance that the country has a system of forced labour aiming both at political coercion and at implementing the Government's economic policy. The system has allegedly two aspects:

(a) forced labour in execution of the sentence of a court of law or in enforcement of a simple administrative order, such labour being imposed for the punishment and re-education of those opposed to the new régime;

(b) labour exacted from a considerable proportion of the population by various restrictions imposed on freedom of employment and other measures connected with the mobilisation of labour and the compulsory assignment of workers.

118. At its Fourth Session the Committee had before it the allegations[1] and the documentary material concerning them.[2] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in Bulgaria.

Forced Labour for Punitive and Corrective Purposes.

Forced Labour Imposed by a Court under Penal Law.

119. Bulgarian penal legislation provides that persons sentenced to a penalty entailing deprivation of liberty have to perform suitable work; for certain offences it also prescribes a corrective labour penalty not involving deprivation of liberty, for a maximum period of one year, the sentence being served at the usual workplace of the condemned person or elsewhere (Articles 22, 23, 24 and 27 of the Penal Act of 1951).[3]

120. Compulsory labour imposed as a result of a judicial sentence on a person found guilty of a crime does not, in itself, come within the purview of the Committee. It is therefore necessary to examine the general purpose of

[1] See below, p. 198.
[2] See below, p. 202.
[3] See below, pp. 203-205.

penal law and the definitions of crimes under existing legislation to determine whether such compulsory labour is imposed as a means of political coercion.

121. The Penal Act of 1951 states in Articles 1 and 21[1] that the purpose of this legislation " is to protect the People's Republic of Bulgaria and the social structure and legal order established there ", and " to render the enemies of the people harmless ". Viewed in conjunction with the definition of an offence (a socially dangerous act—action or inaction—culpably committed and declared to be punishable by law)[2], the scope of which is further enlarged by the adoption of the principle of analogy in penal law[2], the general principles laid down in this Act may be interpreted in such a way as to permit the courts to convict and subject to forced labour persons who are opposed to the political ideology of the Government. Moreover, some of the persons who have appeared before the Committee, either as representatives of organisations or as spokesmen on behalf of witnesses, have stated that the penal law is so interpreted. Political offences such as treason, espionage, sabotage, diversionary activities and other harmful acts are defined by law in extremely broad terms and are punishable in the same manner as ordinary criminal offences ; persons convicted of such offences are accordingly sentenced to forced labour.

122. Article 21 of the Penal Act states that the purpose of the penalties inflicted is, *inter alia*, " to correct and re-educate " the offender " so as to make him obey the rules of the socialist community ", and " to influence the other members of society by educational methods ".[1] This Article suggests that persons convicted of political offences may be subjected to re-educative action to correct their political opinions.

Forced Labour Imposed under Administrative Law.

123. The People's Militia Act of 1948[3] provides that " the People's Militia may arrest and send to labour and education communities ... persons guilty of fascist activities and activities directed against the people, persons who constitute a threat to public order and the security of the State or, finally, persons who spread pernicious and false rumours " (Article 52) as well as persons living a dissolute life, *e.g.*, blackmailers, procurers, gamblers, beggars, speculators and black marketeers (Article 53). It is clear from the very name of the places to which these persons are sent (" labour and education communities ") and from the provisions which govern their administration and financial resources[4], that the inmates of these communities are obliged to do various types of work either on farms and in workshops or in State and municipal institutions, to which they are hired out. The Act also provides that the People's Militia may assign a new place of residence, either permanently or temporarily,

[1] See below, p. 203.
[2] See below, p. 204.
[3] See below, p. 207.
[4] See below, pp. 207-208.

to persons guilty under the Act (Article 54), and that " whenever persons so assigned have no means of subsistence and are unable to find employment themselves, the local militia commissariat shall take steps to find work for them " (Article 55).[1]

124. These measures are taken by the administrative authorities, the Minister of the Interior or such persons as he may designate for the purpose (Article 54).[1] The decision to arrest persons guilty of fascist activities and other persons mentioned in Article 52 is taken by the Minister of the Interior with the agreement of the Prosecutor-General of the People's Republic.[1]

125. In the opinion of the Committee these measures, taken by such bodies and for the reasons generally stated in these laws, constitute a system of forced or corrective labour applied as a means of political coercion. This conclusion is also confirmed by oral and documentary evidence presented to the Committee to show that the administrative authorities have in fact sent large numbers of political dissidents to forced labour camps in application of the above-mentioned legislation.

Forced Labour Camps.

126. The Committee has considered the evidence supplied by witnesses and representatives of non-governmental organisations relating to the number of forced labour communities and camps in which political offenders are allegedly detained in execution of the sentence of a court of law or an administrative order, the number of persons detained in them, the living and working conditions prevalent there and the economic importance of the system so constituted. This evidence included several detailed maps said to have been prepared on the basis of the testimony of former inmates and purporting to show the existence of many communities or camps in close proximity to industrial areas or regions where large-scale works are in progress. While the method adopted to substantiate this evidence is impressive, the Committee is not in a position to draw any definite conclusions, in the absence of any possibility of checking this material.

The Mobilisation of Labour and Restrictions on the Freedom of Employment.

127. An Act of 1948 respecting the mobilisation of labour and industry[2] empowers the Council of Ministers to direct persons or groups of persons between certain specified ages to do industrial or other work. It also authorises the mobilisation of specialists in various technical and professional branches, under the threat of penal sanctions. According to the Act persons so mobilised are to be remunerated.

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[1] See below. p. 211.
[2] See below, p. 209.

128. In addition, an Ordinance dated 3 March 1952 to set up a Central Labour Reserve Department [1] provides for various types of vocational schools for young persons ; under Article 5, persons who have finished their training in these schools are required to work for four years in the branch of industry to which they have been sent. Article 4 of the Ordinance provides that candidates for labour reserve schools are to be found from voluntary applicants or by planned recruitment. Thus placed in opposition to the idea of voluntary application, the expression " planned recruitment " seems to imply that recruitment may, if necessary, be carried out by compulsion, in which case neither the period of training nor the compulsory four-year period of work which follows it would constitute voluntary work.

129. The 1951 Labour Code [2] imposes certain restrictions on the freedom of employment, some of which appear to be conditions forming normal clauses in any labour contract. Other restrictions, however, such as the compulsory transfer of workers from one undertaking or region to another, are so far-reaching that they convert the status of a worker into something which at least resembles that of a forced labourer. Even more severe restrictions are imposed by the Act of 17 February 1953 to stabilise manpower in undertakings [3], the purpose of which is to strengthen labour discipline and thereby to contribute to the reinforcement of the country's economic and defensive strength. Article 2 of this Act prohibits certain workers and employees from leaving their employment on their own initiative by their unilateral termination of a contract of employment concluded for an indefinite period, the penalty for an infringement being deprivation of liberty for from two to four months or corrective labour for a maximum period of one year.

130. The Committee has also considered the Act of 1949 concerning the State Five-Year Economic Plan [4], which provides for a considerable increase in the number of workers and employees occupied in the national economy and empowers the Council of Ministers to take generally binding decisions to implement the plan. This would seem to authorise the Government, in case of need, to resort to compulsion in recruiting the necessary manpower for the implementation of the plan.

131. Having considered all these measures, which are intended to enable the Government to implement its economic policy, and which involve, when necessary, the use of compulsion on workers under the threat of penal sanctions, the Committee finds that this constitutes the basis of a system of forced labour of appreciable importance to the economy of Bulgaria.

132. On the other hand, the Committee does not feel that it can draw a similar conclusion as regards compulsory service for local public purposes [4],

[1] See below, p. 212.
[2] See below, p. 211.
[3] See below, p. 213.
[4] See below, p. 210.

the period of which—a maximum of four days a year—is so short that it cannot be considered as the basis of a system of forced labour which would play an appreciable role in the national economy.

Conclusions

133. To sum up, the Committee finds —

(a) (i) that Bulgarian penal legislation could constitute the basis of a system of forced labour aiming at the political correction and re-education of those opposed to the political ideology of the Government ;

(ii) that, furthermore, Bulgarian administrative law makes provision for a system of detention with compulsory labour imposed by the administrative authorities ; that the law is expressly aimed at the opponents of the established political order and that the application of this law results in a system of forced or corrective labour employed as a means of political coercion;

(iii) that, from the available information, it is not possible for it to form an accurate conclusion as to the number or location of the communities and possible camps in which such forced labour is exacted ;

(b) that, in the interests of the national economy and to ensure the fulfilment of the country's economic plans, provision is made under Bulgarian legislation for recourse to be had, when necessary, to various methods of constraint in order to obtain and allocate a labour force (mobilisation of labour and industry, compulsory transfer of workers, creation of labour reserves, restrictions on freedom of employment) and that this constitutes the basis of a system of forced labour of appreciable economic importance.

CZECHOSLOVAKIA

134. Allegations regarding the existence of forced labour in Czechoslovakia were made during the debates on forced labour in the Economic and Social Council by the representatives of the United Kingdom and the United States of America and were also submitted to the Committee by various non-governmental organisations.

135. These allegations maintain in substance that the country has a system of forced labour aiming both at political coercion and at implementing the Government's economic policy. The system has allegedly two aspects :

(a) forced labour done in forced labour camps in execution of the sentence of a court of law or in application of a simple administrative order, the labour being imposed for the re-education and correction of those opposed to the Government, without their always having had full opportunity to defend themselves ;

(b) labour exacted from a considerable proportion of the population by various measures connected with the mobilisation of labour and the compulsory assignment of workers.

136. The allegations also state that Czechoslovak citizens have been deported to the Soviet Union for compulsory labour.

137. At its Fourth Session the Committee had before it the allegations [1], a reply to the allegations [2], the documentary material concerning them [2] and the reply by the Permanent Delegation of Czechoslovakia to the United Nations to the Committee's questionnaire.[3]

138. The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in Czechoslovakia.

Forced Labour for Punitive and Corrective Purposes.

139. At the present time punitive and corrective measures accompanied by forced labour can be taken in Czechoslovakia either in application of the Penal Code, which deals with criminal and, more particularly, political offences, or in application of the Administrative Penal Code, which relates to other offences and, more particularly, to minor offences against the economic system. The offences covered by the Penal Code are dealt with by the courts, whereas those covered by the Administrative Penal Code are dealt with by the people's committees, or, in serious cases, by penal commissions of three members attached to these committees (Code of Administrative Criminal Procedure, Sections 1, 7 and 90).[4]

140. According to their opening sections [5] each of these two Codes "protects the People's Democratic Republic, its socialist construction, the interests of the working people and of the individual" and also "teaches observance of the rules of socialist communal life". The statements of objects and reasons (explanatory memoranda) on these Codes show that they are more particularly concerned with "incorrigible enemies of the people and the nation", that they are "directed against greed, a lax attitude towards work... as well as the vestiges of capitalist ideas in people's minds", that they have to be effective weapons "in the struggle against the class enemy" and, at the same time, provide "a suitable instrument for the political education of citizens". The same trend and similar considerations also appear in the statement of objects and reasons on the draft of a Constitutional Act on the judiciary and the public prosecutor's office which the Government submitted to the National Assembly in October 1952.[6] This document stresses the

[1] See below, p. 215.
[2] See below, p. 223.
[3] United Nations document E/AC.36/11.
[4] See below, p. 233.
[5] See below, pp, 225 and 226.
[6] See below, p. 236.

point that one of the essential tasks of the courts and the public prosecutor's office is to help in the struggle against the remnants of capitalism in the minds of the people, since these remnants are an obstacle to the building up of socialism and are the source of many criminal acts which hamper the development of the economy.

141. The law itself takes account of these considerations. As an instance, under Section 20 of the Penal Code [1], it is considered to be an aggravating circumstance if an offender " by a criminal act has shown himself to be hostile to the people's democratic régime ".

142. This trend, however, appears with even greater clarity in the provisions concerning " forced labour camps ".[2]

143. Under Section 36, subsection 1, of the Penal Code [3], " any person who, by his offence, has shown hostility to the people's democratic régime, and has failed, by his work and conduct while serving his sentence, to show an improvement such as to justify the hope that his future behaviour be satisfactory and befitting a good worker, may be committed to a forced labour camp for not less than three months and not more than two years after completing his full sentence of temporary deprivation of liberty ". Under Section 278 of the Code of Judicial Criminal Procedure, as amended by an Act dated 30 October 1952 [4], the decision to place a convicted person in a transitional institution is taken by a Conditional Release Board consisting of a judge appointed by the Minister of Justice, who acts as president, and two lay judges. Section 279, as amended, lays down that a person who otherwise fulfils the requirements for conditional release may also be placed in a " transitional institution " if his conditional release would be contrary to the purpose of the punishment.

144. Section 12 of the Administrative Penal Code of 1950 [5] also makes pro-

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[1] See below, p. 277.

[2] Forced labour camps were renamed " transitional institutions " by an Act passed in October 1952. The statement of objects and reasons on this Act gave the following explanation:

" The forced labour camps have today quite a different purpose from the one they had at the time when they were established....

" The forced labour camps—like the institutions in which sentences of deprivation of liberty are served—should educate the persons sent to them to do collective work of use to all, and so ensure that they are re-educated to a positive attitude towards the social order of the Republic. It is therefore useful to combine these institutions with the institutions in which penalties are executed, to form a single unified system. Since the purpose of these transitional institutions is to prepare the persons committed to them for their transition to work done at liberty, the forced labour camps will be renamed transitional institutions. In the transitional institutions will be carried out, first, such measures as have up to now been taken on the basis of court sentences or the decision of a conditional release board ; in addition, these institutions will be used for the execution of the remainder of any sentence of deprivation of liberty to be served by convicted persons who otherwise fulfil the requirements for conditional release (particularly as far as their positive attitude to work and orderly behaviour are concerned) but who cannot be granted their conditional release because it might be regarded with disfavour in the milieu to which they would return. In the transitional institutions they will be prepared for life and work at liberty through properly selected work and discipline, corresponding to the purpose of the institution. "

[3] See below, p. 228.

[4] See below, p. 238.

[5] See below, pp. 226, 228 and 230.

vision for detention in " forced labour camps ". Subsection 2 of this Section stipulates that if there are aggravating circumstances deprivation of liberty and a fine may be imposed concurrently, even if this is not specifically provided for in the special provisions of the Code and, according to the statement of objects and reasons [1], irrespective of the actual offence committed. According to subsection 3 [1], if the offence showed, or was intended to show, " a hostile attitude towards the people's democratic régime or the socialist development of the Republic, a penalty of deprivation of liberty for not less than three months and not more than two years may be imposed on the offender "; in this case, the sentence of deprivation of liberty is served " in a forced labour camp ". The statement of objects and reasons stresses that this provision " is aimed primarily at class enemies " [2] and that " such camps play an important part in the re-education of persons who, by their former anti-democratic convictions and actions, hinder the socialist development of the Republic ".[2]

145. From the text of these provisions it would seem that only persons convicted of a crime or minor offence can be detained in a forced labour camp. The statement of objects and reasons on the Administrative Penal Code points out, however, that the definitions given for these offences " are made as flexible as possible so that they may at all times be adapted to the rapidly changing requirements of a people's democracy ".[3] This is particularly true of offences against the economic system, and a person guilty of the slightest offence is liable to be detained in a forced labour camp if the conditions laid down in Section 12 are met, *i.e.*, if he is regarded as a " class enemy ".

146. Considering all these factors the Committee finds that Czechoslovak penal law provides a definite basis for a system of forced labour employed as a means of political coercion or punishment for holding or expressing political views.

147. The Committee has considered official publications and the material supplied by witnesses and representatives of organisations relating to the number of forced labour camps, the number of persons detained in them and the living and working conditions prevalent there. Although the material submitted to the Committee is fairly voluminous and organisations and witnesses have given detailed information concerning the location of forced labour camps, the number of prisoners detained in them and the severity of living conditions in such camps, the Committee, in the absence of any possibility of checking this information, refrains from formulating definite conclusions on these matters.

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[1] See below, p. 228.
[2] See below, p. 226.
[3] See below, p. 230.

The Mobilisation of Labour and the Compulsory Assignment of Workers.

148. The 1948 Act concerning the first Czechoslovak Five-Year Economic Plan [1] makes provision for the number of workers employed in the national economy to be considerably increased by various recruiting measures such as " the planned placement of young people ", and also by " placing persons not previously employed ", by " utilising redundant or otherwise superfluous labour for the tasks of the Five-Year Plan " and by creating " reserves of labour " made up of young persons sent to training schools and then " required to work in undertakings designated by the Ministry of Labour for a period of not less than three and not more than five years ".[2] The 1951 Act under which these labour reserves are organised quotes as justification for them the planned development of the national economy, which " requires a constant influx of new manpower into the mines, steel mills and other important branches of our economy ".[2]

149. This recruitment is conducted by the Ministry of Labour through the intermediary of the people's committees and undertakings, which are instructed to use " direct contact and persuasion ".[3] No express provision is made for coercion. Considering, however, the spirit of this legislation, and the corroborating evidence which the Committee heard, it cannot help thinking that at least indirect coercion may be used where necessary. In view of the extremely broad definitions of economic offences in the Administrative Penal Code relating to persons who endanger " the development of the national economy " (Section 33) or " the preparation, drafting, operation, execution or control of the unified economic plan " (Section 39) [4], it may be presumed that the workers and young people who are approached with a view to their recruitment are not genuinely free to reach their own decision and the existence of such penal clauses would seem to bring persuasion very near coercion.

Deportations to the Soviet Union.

150. The allegations on the subject mention deportations which allegedly took place in 1945 ; they were not supported by evidence which could be checked to prove that Czechoslovak citizens are now detained in the Soviet Union in forced labour camps.

151. It is therefore not possible for the Committee to conclude whether these allegations are either relevant or substantiated.

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[1] See below, p. 234.
[2] See below, p. 235.
[3] See below, p. 236.
[4] See below, p. 230.

Conclusions

152. To sum up, the Committee finds —

(a) that Czechoslovak penal and administrative penal law is expressly directed against " class enemies " and against " a hostile attitude " towards the Government or its ideology ; that offences are broadly and " flexibly " defined ; that persons who manifest or " intend " to manifest their opposition to the régime by committing offences, however insignificant, are subjected to penalties accompanied by forced labour and, more particularly, to detention in forced labour camps ; that the purpose of these institutions is the political re-education and correction of such persons ; and that this constitutes a system of forced or corrective labour employed as a means of political coercion and punishment for holding or expressing political views ;

(b) that it is not possible to reach any definite findings as to the number of persons thus subjected to forced labour, or as to the number and location of the forced labour camps (which can be inferred to exist from the laws examined above) ;

(c) that, to implement the economic plans and policy of the Government, Czechoslovak legislation makes provision for a number of measures to be taken in connection with the mobilisation and assignment of labour, that these measures appear to be accompanied, where necessary, by coercion, and that they therefore constitute a system of forced labour for economic purposes ;

(d) that it has not been possible to establish whether Czechoslovak citizens are deported to the Soviet Union for compulsory labour.

TERRITORIES ADMINISTERED BY OR ASSOCIATED WITH FRANCE

153. Allegations regarding the existence of forced labour in territories administered by or associated with France were made during the debates on forced labour in the Economic and Social Council by the representatives of the U.S.S.R., the Byelorussian S.S.R. and the World Federation of Trade Unions.

154. These allegations referred in substance to the following points :

(a) forced labour in general, which, although legally abolished, was allegedly still extant ;

(b) the use of men from the second portion of the military contingent for public works in French West Africa ;

(c) the creation of a pioneer corps for public works in French Equatorial Africa ;

(d) the imprisonment of vagabonds in forced labour camps on the basis of a wide interpretation of the word " vagrancy " (the Cameroons and Indo-China) ;

(e) forced labour for failure to pay taxes (the Cameroons and Indo-China);

(f) compulsory labour for Native chiefs in return for permits to buy fire-arms (French West Africa);

(g) the conscription of children from eight to twelve years old for manual labour.

155. At its Fourth Session the Committee had before it the allegations[1], the replies to the allegations[2], the documentary material concerning them[3], the comments and observations of the French Government[4] and its reply to the Committee's questionnaire.[5] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in territories administered by or associated with France.

Forced Labour in General.

156. In connection with the alleged existence of forced labour in general, the Committee noted that Article 2 of the Labour Code of 15 December 1952 for the oversea territories contains an absolute prohibition of forced or compulsory labour, which is defined as "all work or service which is exacted from any person under menace of any penalty and for which the said person has not offered himself voluntarily".[6]

157. Under Article 228 of this Code violations of the principle are punishable with imprisonment for from six days to three months and a fine. Article 232 lays down that the penalty is to be imposed as many times as there are workers employed in conditions contrary to the law, up to a stipulated maximum.[6]

158. Title III of the Code deals with labour contracts concluded by workers either individually or collectively. Article 31 fixes the maximum duration of a labour contract at two years. Article 36 prohibits an employer from imposing fines, and Article 37 declares null and void any clause in a labour contract which would prevent a worker from exercising any given activity after the expiration of his contract.

159. Other provisions of the Code lay down that a contract may always be terminated by either party and that a violation of a contract may only be punished by payment of damages to be fixed by a labour court, the competence of which is laid down in Title VIII of the Code.

160. Before this Labour Code came into force compulsory labour was prohibited by an Act of 11 April 1946, and any violation of this principle was punished under the relevant provisions of the Penal Code.[7]

[1] See below, p. 240.
[2] See below, p. 242.
[3] See below, pp. 244 and 256.
[4] And those of the Governments of Cambodia, Laos and Viet-Nam. See below, p. 249.
[5] United Nations document E/AC.36/11.
[6] See below, p. 250.
[7] See below, p. 245.

161. In view of the evidence examined above the Committee found that the allegation concerning the continued existence of forced labour in territories administered by or associated with France was not substantiated.

The Second Portion of the Military Contingent (French West Africa).

162. In its reply to the Committee's questionnaire the French Government stated that the institution had ceased to exist and that the employment of workers from the contingent had been abolished by a Decree of 6 February 1950.[1]

The Creation of a Pioneer Corps (French Equatorial Africa).

163. With reference to this allegation the full text of an Orderof 6 October 1949, together with two supplementary Orders dated 16 November 1950 and 19 December 1950, was submitted by the French Government.[2] According to these Orders members of this corps have the status of civilian workers, recruitment is voluntary and the duration of the engagement is for a maximum period of two years.

164. The allegation is not therefore substantiated.

Imprisonment of Vagabonds (the Cameroons and Indo-China).

165. In its comments and observations [3] the French Government states that detention as an administrative precautionary measure is non-existent in the Cameroons and in all the other territories overseas. It adds that the judicial system makes provision for penal detention only, imposed by regular judgments pronounced in application of the metropolitan Penal Code (Articles 269 *et seq.*). The French Government also observes that 220 convictions for vagrancy were pronounced in the Cameroons in 1951, the total population of the territory being three million.

166. In a letter dated 3 April 1953 the French Government transmitted the observations of the Governments of Cambodia, Laos and Viet-Nam to the allegations concerning them.[4] The Government of Cambodia states that no forced labour can be imposed by an administrative order and the Government of Laos states that forced or compulsory labour was abolished by an Act of 16 March 1951. The Government of Viet-Nam states that vagrancy is punishable by three to six months' imprisonment but that the interpretation

[1] See below, p. 247.
[2] See below, pp. 247-248.
[3] See below, p. 251.
[4] See below, p. 252.

by the courts of the relevant provisions is restrictive and that persons sentenced for vagrancy are not sent to forced labour camps. Compulsory labour was prohibited by a Decree of 30 December 1936 and by a Labour Code promulgated by an Ordinance of 8 July 1952.

Forced Labour for Failure to pay Taxes (the Cameroons and Indo-China).

167. Commenting on these allegations the French Government denies[1] the existence of such penalties for non-payment of taxes. Taxes are voted every year by freely elected representatives of the population. It appears from a report of the French Government to the Trusteeship Council on the administration of the Cameroons in 1947 that non-payment of taxes is dealt with by summons to appear before the magistrate, summons with expenses, an order to pay, distraint and sale.[2]

168. The Government of Cambodia denies that failure to pay taxes is punished by forced labour, as does the Government of Laos, and the Government of Viet-Nam declares that non-payment of taxes is punished by fiscal fines. The allegation recalled above is therefore not substantiated.

Compulsory Labour for Native Chiefs (French West Africa).

169. In its comments and observations on this allegation the French Government recalls the fact[1] that forced labour is prohibited by the Labour Code of 15 December 1952 for the oversea territories and adds that Native chiefs take no part whatsoever in the issue of permits for the purchase of fire-arms.

170. No evidence to the contrary has been submitted to the Committee; the allegation appears not to be substantiated.

Conscription of Children from Eight to Twelve Years Old for Manual Labour.

171. A Decree of 18 September 1936, mentioned by the French Government in its comments and observations[1], prohibit the employment of young persons under 14 years of age on work other than apprentice training in small craftsmen's workshops. The Labour Code of 15 December 1952 for the oversea territories lays down the principle in Title V, Chapter 3, that children may not be employed in any undertaking even as apprentices if they are under 14 years of age. The allegation is therefore not substantiated.

[1] See below, p. 252.
[2] See below, p. 248.

Conclusions

172. The foregoing examination of the allegations and documentary material concerning them, particularly the laws and regulations, discloses no evidence of the existence, in territories administered by or associated with France, of a system of forced labour within the meaning of the Committee's terms of reference.

Democratic Republic of Germany

173. Allegations regarding the existence of forced labour in the Democratic Republic of Germany were made during the debates on forced labour in the Economic and Social Council by the representatives of the United Kingdom, the United States of America and the American Federation of Labor, and were also submitted to the Committee by various non-governmental organisations.

174. These allegations refer in substance to the following points :

(a) punitive and corrective labour ;

(b) compulsory labour in general and more particularly in the uranium mines ;

(c) the existence of forced labour camps and working conditions and health in the camps and uranium mines.

175. At its Fourth Session the Committee had before it the allegations[1] and the documentary material concerning them.[2] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in the Democratic Republic of Germany.

Punitive and Corrective Labour.

176. In this connection the Committee had before it several legal texts referring to punitive or corrective labour. The Committee noted that Article 137 of the Constitution of the Democratic Republic of Germany introduced the principle that " the execution of punishment is based on the conception of the educative influence of joint productive labour on those capable of improvement "[2] and that the same principle is again stated in an Ordinance of 3 April 1952 on the employment of convicts.[2] The preamble to the Ordinance declares that its purpose is to " give convicted persons an opportunity of applying their abilities to tasks confronting the national economy ". Under

[1] See below, p. 258.
[2] See below, p. 263.

Article 1 of the Ordinance a convict may, with his consent, be assigned to work in specified industrial sectors and so become eligible for the remission of part of his sentence if his conduct is satisfactory and he regularly performs the full amount of work allotted to him.

177. An Ordinance of 22 June 1949 [1] punishing crimes of speculation enables the courts to impose heavy manual labour in conjunction with a prison sentence for offences of particular gravity from the standpoint of the reconstruction of the country.

178. Under the new Code of Criminal Procedure of 2 October 1952 [2], a district court may, on the written demand of the public prosecutor, issue an order inflicting " corrective labour " and a fine for minor offences. A penalty of " corrective labour " is therefore established for minor offences by this new Code.

179. No evidence has been submitted to the Committee to indicate that the above legislation is applied as a means of political coercion, as alleged.

Compulsory Labour in General, and More Particularly in the Uranium Mines.

180. The majority of the laws cited in the allegations in this connection refer to the assignment of workers, direction of manpower and similar matters.

181. One of the non-governmental organisations heard by the Committee [3] quoted Order No. 153 of 29 November 1945, an Ordinance dated 2 June 1948, an Ordinance dated 12 July 1951, and a First Executive Regulation dated 7 August 1951 to give effect to the Ordinance on the duties of labour authorities and the direction of labour. To these enactments may be added Order No. 3 of the Control Council for Germany dated 7 January 1946 and the Orders subsequently issued by the Soviet occupation authorities.

182. The Ordinance of 2 June 1948 on the guaranteeing and protection of rights in the assignment of workers [4] states that its purpose is to limit the assignment of workers, which may be resorted to in order to remedy a state of public emergency, to fulfil production programmes in essential undertakings, and to do work for the occupation authorities. Assignments are to be made through the labour and welfare offices and the duration of an assignment is not normally to exceed six months. Assignments may be terminated before their expiration only with the permission of the labour and welfare offices. Assignees are to be paid at the scheduled rates in force at the place of employment. Assignees contravening the provisions of the Ordinance may be punished by imprisonment up to three months or a fine.

183. The Ordinance of 12 July 1951 on the duties of labour authorities and the direction of labour [5] stipulates that the number of persons in employment

[1] See below, p. 264.
[2] See below, p. 274.
[3] See below, p. 259.
[4] See below, p. 265.
[5] See below, p. 267.

in the national economy is to reach 7,600,000 by 1955. The labour departments (which replace the former labour offices) are in charge of this programme and have to assist nationally owned and assimilated undertakings in recruiting labour.

184. The First Executive Regulations, dated 7 August 1951, to give effect to this Ordinance[1] lays down that all persons of working age are to be registered.

185. The laws promulgated by the Occupying Powers may be briefly mentioned here. Article 18 of Order No. 3 of the Control Council for Germany of 17 January 1946[2] lays down that in case of necessity the labour office has power to place persons in employment by compulsory direction. Various penalties such as fines or sentence of imprisonment not exceeding one year are instituted by Article 20 for violations of the Ordinance.

186. Order No. 153 issued by the Soviet Military Administration on 29 November 1945[3] confers upon the labour offices " the right, in case of need, to assign work to unemployed persons regardless of their occupation ". It further states that " persons who evade their obligation to work shall be denied food ration cards and be held answerable ".

187. An Instruction of 16 May 1947[3] points out that the right to direct labour should be exercised only in exceptional cases and that " work-shy elements " should be absorbed into the process of economic reconstruction.

188. Order No. 234 of 9 October 1947[3] issued by the Soviet Military Administration states that the competent authorities are to provide industries with labour through voluntary recruitment and that the " forced mobilisation of labour " envisaged by Control Council Order No. 3 should be limited to the utmost.

189. Lastly, the Act of 1 November 1951 concerning the Five-Year Plan 1951-1955[4] provides for a series of measures to be taken in connection with the recruitment and training of labour.

190. There is some indication in various documents quoted by Governments in the Economic and Social Council or submitted to the *Ad Hoc* Committee by non-governmental organisations that the legislation briefly examined above is used for the forcible assignment of workers to the uranium mines. One of these organisations has submitted photostat copies of assignment orders directing a person to work in the Aue mines.[5] Another of these documents reproduces a judgment passed by a court on 23 January 1951 sentencing the worker to four weeks' imprisonment under the Ordinance of 2 June 1948 and Control Council Order No. 3, mentioned above, for failure to comply

[1] See below, p. 268.
[2] See below, p. 264.
[3] See below, p. 265.
[4] See below, p. 269.
[5] See below, p. 271.

with an assignment order. [1] Other documents refer to the direction of manpower as carried out by the labour offices.[2]

The Existence of Forced Labour Camps and Working Conditions and Health in the Camps and Uranium Mines.

191. The existence of camps appears to be evident from an Executive Regulation dated 23 December 1950[2], which lists a number of " labour camps " and " places of detention " transferred to the administration of the Ministry of the Interior as from 1 January 1951.

192. Corroborative evidence concerning the existence of forced labour camps and information concerning working conditions and health in these camps and in the uranium mines has also been submitted to the Committee by representatives of non-governmental organisations appearing before it during its Second and Third Sessions.

Conclusions

193. The Committee finds—

(a) that the legislation of the Democratic Republic of Germany contains provisions referring to punitive and corrective labour, but it has been unable to verify whether or to what extent this legislation is applied as a means of political coercion, as alleged ;

(b) that, although certain laws examined above seem at first sight to be promulgated mainly with a view to facilitating the direction of manpower in the interest of the reconstruction of a country devastated by war, there are indications that they are used for the compulsory assignment of workers to enterprises important for the execution of State economic plans and in particular for the compulsory assignment of persons to work as miners, and that if such legislation were widely applied it would lead to a system of forced labour for economic purposes.

Hungary

194. Allegations regarding the existence of forced labour in Hungary were submitted to the Committee by various non-governmental organisations and by one private individual.[3]

[1] See below, p. 271.
[2] See below, p. 272.
[3] A memorandum concerning forced labour in Hungary addressed to the Director-General of the International Labour Office by the General Confederation of Labour of the Argentine Republic was also brought to the attention of the Committee.

195. These allegations maintain in substance—

(a) that forced labour exists in Hungary both *de facto* and *de jure* and can be imposed either by the administrative authorities on persons whom they hold in custody or in detention, or by virtue of a decision taken by a court of law;

(b) that such forced labour has two aims: (i) to correct the political views of persons who are opposed to the régime, or even to achieve their gradual extermination, and (ii) to help fulfil the country's economic plans;

(c) that, apart from the forced labour which exists inside the country, forced labour is exacted from Hungarians resident outside its present frontiers;

(d) that mass deportations have taken place in Hungary, their object being (i) to transfer Hungarian citizens to the Soviet Union for forced labour, and (ii) to transfer Hungarian citizens from one place of residence to another, forced labour being required of them in the majority of cases;

(e) that many forced labour camps have been opened;

(f) that forced labour has assumed considerable proportions, tens and even hundreds of thousands of citizens being affected;

(g) that free workers have been subjected to a number of restrictions which have, in fact, transformed all work into forced labour.

196. At its Fourth Session the Committee had before it the allegations[1] and the documentary material concerning them.[2] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in Hungary.

Punitive or Corrective Labour Imposed under Criminal Law.

197. The Committee had before it the documentation submitted by several non-governmental organisations. This documentation included Act No. VII of 1946[3], which prescribes that persons committing an act designed to overthrow the democratic order and the Democratic Republic as established by Act No. I of 1946, or to initiate, direct or lend substantial material support to any movement or organisation pursuing such an end, is to be punished by the death penalty or by rigorous imprisonment for life.

198. A Penal Code promulgated in 1950 (Act No. II of 1950) defines in Article 1, paragraph 2[4], what is meant by socially dangerous acts punishable in accordance with the relevant provisions of the Code. They are "any action or omission which injures or endangers either the public, social or

[1] See below, p. 276.
[2] See below, p. 282.
[3] See below, p. 283.
[4] See below, p. 284.

economic order of the People's Republic of Hungary or the persons and rights of Hungarian citizens". Paragraph 3 [1] defines an offence as any socially dangerous act for which a specified penalty is provided by law.

199. According to Article 50 [1], the Code aims at the correction and education of offenders. The penalty must be imposed within the framework of the law and must be commensurate with the menace to society presented by the offence or the danger to society constituted by the person of the offender.

200. None of these provisions mentions forced labour by convicts, but under Article 29, paragraph 1, of Act No. V of 1878 [2], which appears to be still in force, persons sentenced to rigorous imprisonment are obliged to perform such work as may be determined and assigned by the prison governors.

201. Corrective and educative labour is mentioned in Article 48 of the new Penal Code.[1] It would appear from this text that such labour may be imposed for a period of from one month to two years, that the persons concerned are required to do the work prescribed at the place to which they are assigned, and that their freedom is restricted only to the extent required for the purpose of the penalty and for the proper accomplishment of the work prescribed. The penalty is coupled with a reduction in wages of from 10 to 25 per cent. and, if persons so sentenced should refuse to discharge the obligation imposed upon them or should endanger labour discipline, they may be imprisoned for a period equal to the period of corrective and educative labour which they have still to serve. Corrective and educative labour measures may not be applied if the law prescribes for the offence committed a term of imprisonment longer than five years.

202. It may be mentioned in this connection that a newspaper article published on 10 January 1952 in *Népszava* [3] reports that four workers have been sentenced by the Budapest Central Court to corrective labour for from four to five months, with from 20 to 25 per cent. reduction in pay, for grave violations of labour discipline. If the convicted persons continue to commit breaches of labour discipline, the court may substitute a prison sentence for the remainder of the sentence of corrective and educative labour, if the Public Prosecutor so advises. Another article published in the same newspaper [3] reports a sentence passed by the Hungarian Supreme Court condemning two tractor drivers to two years' imprisonment for absenteeism and unauthorised departure from their workplaces. The sentence explains that persons who commit breaches of labour discipline without intent to commit sabotage are, as a general rule, to be sentenced to corrective labour at their place of work, in accordance with Article 48 of the Penal Code, which has been mentioned above.

[1] See below, p. 284.
[2] See below, p. 283.
[3] See below, p. 291.

203. The Committee, in reviewing the penal legislation before it, came to the conclusion that, with the exception of Article 48, the Penal Code of 1950, as such, does not appear to contain provisions that could form the basis of a system of forced or corrective labour imposed for political reasons by courts of law.

Punitive or Corrective Labour Imposed by Administrative Authorities.

204. On the other hand other legislative enactments enable the administrative authorities, on the basis of pre-war legislation which appears to be still in force, to order persons to be banished, placed under police surveillance or taken into police custody; some of these measures may be coupled with compulsory labour. Act No. II of 1939 on home defence [1] authorises these measures in respect of persons whose presence in a given place is liable to endanger public order and security or " other important interests of the State ".

205. Decree No. 760 of 1939 contains certain measures in application of Act No. II.[1] Article 5 prescribes that persons subjected to local banishment may be called upon to work if they are unable to support themselves from their income or have no relative obliged and able to support them. Under Article 16 persons taken into police custody are required to work according to their abilities. The Decree does not appear to set specific limits to the length of time for which persons may be held in custody.

206. The Committee is of the opinion that this legislation could constitute the basis of a system of forced labour applied as a means of political coercion. This conclusion appears to be confirmed by the numerous testimonies placed before the Committee.

Forced Labour for Economic Purposes.

207. As regards the allegations concerning forced labour imposed for economic purposes, the Committee examined, *inter alia*, Decree No. 4 of 1950 on the penal defence of the planned economy [2], which punishes with up to five years' rigorous imprisonment persons who jeopardise the implementation of the national economic plan. This Decree does not mention forced labour but, as stated before, persons sentenced to rigorous imprisonment are obliged to do work while in prison.

208. Article 2 of Decree No. 4 of 1950 gives some examples of offences to be punished by up to five years' rigorous imprisonment, *e.g.*, causing a stoppage

[1] See below, p. 285.
[2] See below, p. 288.

or reduction in the activities of an undertaking or carrying on production in a manner resulting in undue waste of material, energy or manpower.

209. The Hungarian Labour Code [1] also places certain restrictions on the freedom of employment. According to Article 133 a worker may be moved either at his request or in the interests of the national economy from one workplace, undertaking or area to another.

210. The Labour Code also introduces a compulsory system of work books and no undertaking may employ a worker who does not hold such a book.

211. Persons leaving trade schools are required to join the undertaking appointed by the competent Minister and to remain there for a period of compulsory practical experience which may range from six months to two years.

212. Considering that, according to Decree No. 4 of 1950, breaches of labour discipline are punishable by corrective and educative labour in accordance with the provisions of Article 48 of the Penal Code, and that such corrective labour may be transformed into a sentence of imprisonment if the worker does not discharge the obligation imposed upon him, and considering also the provisions governing the compulsory transfer of workers from one workplace to another in the interests of the national economy, the cumulative effect of these provisions seems to be that Hungarian legislation restricts the freedom of employment of workers to a considerable extent. These provisions, if rigorously enforced, might constitute the basis for a system of forced labour imposed for the fulfilment of the economic plans of the State.

Conclusions

213. The Committee finds—

(a) that the provisions enabling the Government to banish and intern persons " liable " to endanger public order and security or " other important interests of the State " might constitute the basis of a system of forced labour for the purpose of political coercion, especially as such measures may be applied by decision of the administrative authorities without the intervention of a court of law ;

(b) that the restrictions placed on freedom of employment, if rigorously enforced, might constitute the basis of a system of forced and compulsory labour imposed with a view to carrying out the economic plans of the State;

(c) that it is unable to come to any definite conclusions on the allegations concerning mass deportations, the number of forced labour camps alleged to exist or the number of persons allegedly subjected to forced labour in such camps.

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[1] See below, pp. 289-290.

Latin American Countries

Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Venezuela

214. Allegations regarding the existence of forced labour in Latin American countries in general and in Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru and Venezuela in particular, were made during the debates on forced labour in the Economic and Social Council by the representatives of Poland, the U.S.S.R. and the World Federation of Trade Unions, and were also submitted to the Committee by one non-governmental organisation.

215. The Committee noted that in some cases the same allegation referred to several Latin American countries or that similar institutions or practices were alleged to exist in more than one of these countries. During its Third Session the Committee therefore found it necessary to prepare a common summary of the allegations and of the related documentary material for transmission to all of these nine Governments for their comments and observations. [1]

216. For the same reason the Committee has examined these allegations jointly and prepared its findings and conclusions according to the institutions or practices to which they refer, rather than according to the countries concerned.

217. The allegations maintain in substance—

(a) that in Latin America generally there still persist forms or practices of forced labour in agriculture, mining, domestic work and the construction of public roads and buildings, and that they chiefly affect the Indian and Negro populations.

(b) that forced labour affects the indigenous population working in agriculture and results from certain institutions and practices such as *pongueaje* and *colonato* (Peru and Bolivia), *huasicamia* (Bolivia, Ecuador and Peru), *aparceria*, an institution known as *conuco* in Venezuela and *porambia* in Colombia, *yanaconazgo* (Peru), *siringuaje* (Bolivia, Brazil, Colombia, Peru and Venezuela) and *peonaje* ;

(c) that in some urban centres Indians are required to clean the squares and streets free of charge ;

(d) that conscription is imposed by law to repair roads and public monuments in Bolivia, Peru, and Paraguay, the indigenous population providing the principal source of this unpaid manpower ;

(e) that forced labour results from " payment in kind " or *acasillaje* which is practised in the forest areas of Argentina and Paraguay ;

[1] See below, p. 293.

(f) that labour conditions tantamount to slavery exist in the coffee, sugar, tobacco, rubber and banana plantations in Central America, the West Indies, Argentina, Colombia, Paraguay and Venezuela;

(g) that Chilean farm tenants are not allowed to seek employment outside their farms or to engage in money-making enterprises, and that workers are interned in camps in Chile;

(h) that workers in some Bolivian mines are forced to buy their food at the company stores and consequently become indebted to the company.

218. At its Fourth Session the Committee had before it the allegations[1], a reply by the representative of Peru to some these allegations[2], the documentary material concerning them[3], the comments and observations of the Governments of Bolivia and Peru[4] and the replies to the Committee's questionnaire from the Governments of Brazil[5], Chile[6] and Peru.[7]

219. The Committee notes that in their comments and observations the Governments of Bolivia and Peru indicated that forced labour did not exist in their respective countries. It also noted that the Governments of Brazil, Chile and Peru replied in the negative to the Committee's questionnaire and that the Governments of Brazil and Chile gave information on the work of convicts.

General Remarks

220. In its examination of the allegations and documentary material concerning them the Committee has been aware that certain practices or institutions referred to in the allegations have been considered by the Economic and Social Council and its *Ad Hoc* Committee on Slavery[8] and that the problem of labour conditions of indigenous populations in Latin America has been studied by the International Labour Organisation. In connection with this latter question the Committee considered the report entitled *Conditions of Life and Work of Indigenous Populations of Latin American Countries*, submitted by the International Labour Office to the Fourth Conference of American States Members of the International Labour Organisation, held at Montevideo in April 1949, and a mimeographed report prepared by the International Labour Office for the Committee of Experts on Indigenous Labour entitled *Indigenous Workers in Independent Countries*. The Committee of Experts is continuing its work in this field.

221. The Committee examined the institutions and practices mentioned in

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[1] See below, p. 293.
[2] See below, p. 295.
[3] See below, p. 296.
[4] See below, p. 298.
[5] United Nations document E/AC.36/11/Add.7.
[6] United Nations document E/AC.36/11.
[7] United Nations document E/AC.36/11/Add.23.
[8] United Nations documents E/1988 and E/2357.

the allegations on the basis, *inter alia*, of the above-mentioned reports, where the relevant legislation is extensively quoted.

222. The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in these Latin American countries.

General Allegations concerning Latin America.

223. The Committee found that these allegations were couched in general terms, that they covered the whole of Latin America, that no precise evidence was indicated and that it was consequently not possible to make a detailed investigation of them.

Forced Labour affecting the Indigenous Population working in Agriculture.

224. According to the allegation on this point the types of work involved include a diversity of tasks both accessory to and independent of the agricultural work which, in various parts of Latin America, the indigenous workers are called upon to do for landowners. The allegations described some of these forms of work as follows:

(i) *pongueaje* and *colonato* in Peru and Bolivia, consisting of compulsory unpaid labour on the landowner's land;

(ii) *huasicamia* in Bolivia, Ecuador and Peru, consisting of compulsory unpaid personal services of various kinds rendered to the landowner [1];

(iii) *aparceria (métayage)*, known as *conuco* in Venezuela and *porambia* in Colombia, under which the peasant is obliged to deliver part of his harvest to the landowner in return for the use of the land;

(iv) *yanaconazgo*, under which Indians are taken from their communities to work in groups on large country estates;

(v) *siringuaje*, practised in Bolivia, Brazil, Colombia, Peru and Venezuela;

(vi) *peonaje*, dating from the colonial régime, providing a source of cheap manpower for agriculture and mining.[2]

225. The Committee notes that the most important types of indigenous labour used in agriculture and stock-raising mentioned in these allegations appear to belong to the system of tenancy peonage described in the report *Conditions of Life and Work of Indigenous Populations of Latin American Countries*. The report describes the contracts of tenancy involving such types of labour in the following terms (page 55):

> The type of tenancy that is most common in Latin American indigenous areas is a mixed system under which the Indian is both tenant of a parcel of land and

[1] The forms of work called *huasicamia* are found under that name in Ecuador only.

[2] The Committee is aware that, in addition to the systems mentioned under (i)-(vi), there are other similar practices under different names with characteristics peculiar to the localities where they exist.

peon. The estate owner gives him the usufruct of a parcel of land, the payment for which consists in : *(a)* part of the harvest handed over direct and the rest sold to the owner at the price he fixes ; and/or *(b)* a specified number of days of work in the field, to which is sometimes added the payment of tithe or the compulsory performance of unpaid personal or domestic services in the landowner's house or on his estate.

226. The Committee is aware of indications that these practices, a legacy of the semi-feudal colonial past, give rise to abuses detrimental to members of the indigenous population, especially when the obligations to the landowner in kind and/or in services exacted from the Indians are much higher in value than the usufruct of the parcel of land which they receive. To the extent that these practices exist it seems clear that the central Governments are unable to put an end to them, despite legislative authority, owing to the remoteness of the regions, where governmental control is not easily exerted. It may also be that in certain cases local officials, despite directions to the contrary, do not exercise the control necessary to prevent abuses, and may even tolerate them.

227. The Committee is, however, of the opinion that where legislation exists prohibiting these abusive practices, and when it is not established that public authorities compel the group concerned, directly or indirectly, to undertake certain types of work, these practices, however much to be condemned, cannot be regarded as a system of forced labour within the meaning of the Committee's terms of reference.

Personal Services Exacted from Indigenous Populations in some Urban Centres

228. In this connection it was alleged that, in some South American urban centres or localities, Indians were required to clean the squares and streets free of charge. In support of this allegation the following information was quoted from the report *Conditions of Life and Work of Indigenous Populations of Latin American Countries* (pages 95-96) :

> In some urban centres to which the Indians go for commercial reasons it is still the custom to require them to clean the squares and streets free of charge. There have been cases where the local police have waylaid Indians early in the morning and taken away some article of their clothing, to be redeemed only by the performance of this task. In some places attempts have been made to obtain this service by persuasion, by playing on the Indian's belief in the value of the *ayni* or the *minga* [1], which are the traditional Indian systems for voluntary mutual aid.

229. Without drawing any conclusion as to whether these personal services belong to the category described as " minor communal services " excluded from the definition of forced labour given in international labour Convention No. 29, the Committee is of the opinion that they are of no economic significance and are therefore not relevant to its terms of reference.

[1] The *ayni* is a personal, public or private service, which must be reciprocated in kind. The *minga* is the union of the members of an *ayllu* or *comunidad* for a work of public utility such as the building or repair of drains, fences, houses, roads, etc.

Conscription of the Population to Repair Roads and Public Monuments.

230. It was alleged that in Peru, Paraguay and Bolivia the indigenous population provided the principal source for this unpaid manpower.

231. Legislation introducing conscription for road-building was enacted in Peru in 1920 and in Paraguay in 1925. In Bolivia a Decree of 1930 introduced the conscription of unemployed persons in labour brigades.

232. According to the reply of the Government of Peru to the Committee's questionnaire [1] Peruvian Act No. 4113 dated 10 May 1920 was repealed in 1930. The allegation concerning this country is therefore not pertinent.

233. With regard to Paraguay, Act No. 742 dated 13 July 1925 [2] lays down that all male persons are to be liable to compulsory labour for four days a year in the district in which they are resident for the construction and maintenance of roads and bridges or in order to avert some danger constituting a public calamity. A sum of 80 pesos may be paid in lieu of such compulsory labour.

234. The Committee is of the opinion that, in view of the short period for which the persons concerned are called upon to do such work (four days a year) and the possibility of substituting a cash payment for this service, this legislation does not constitute the basis for a system of forced labour of appreciable importance to the economy of the country.

235. A Decree dated 6 July 1936 [3] provides for compulsory labour throughout the Republic of Bolivia but does not refer specifically to road-building. The aim and structure of this Decree seem to be quite different from those of the Paraguayan Act mentioned above.

236. After stating that, with the exception of persons who are physically or mentally infirm, every inhabitant of the Republic is to be liable to compulsory labour, the Bolivian Deeree lays down that, within 20 days of its promulgation, every person between the ages of 18 and 60 years is to obtain a card from his employer showing the post he holds or the duties he performs. On the expiry of this time limit any person who is not the holder of such a document is to be enrolled as an unemployed person in a labour brigade and placed at the disposal of the State. The Minister of Labour is to allot them a task according to their occupations or trades, qualifications and abilities. Their remuneration and treatment must be in accordance with the provisions in force as regards the rights and duties of wage-earning and salaried employees who have freely entered into a contract of employment. The Deeree further states that if an employer refuses to issue such a certificate to his employees he is liable to a fine.

237. The Committee notes that this Decree enables the Ministry of Labour

[1] United Nations document E/AC.36/11/Add.23.
[2] I.L.O.: *Legislative Series*, 1925—Para. 2.
[3] *Ibid.*, 1936—Bol. 2 A.

to " place at the disposal of the State " persons who might be called " wo... shy elements " or " voluntarily unemployed ", that under the Decree t... task to be allotted to them by the public authorities must correspond to t... normal occupation or trade, qualifications and abilities, and that their wa... rights and duties are similar to those to which they would have been enti... had they freely entered into a contract of employment. A supplement... Decree dated 24 July 1936[1] provides that, if any person deserts the place ... employment assigned to him under the previous Decree the head of the u... dertaking is to inform the police authorities, who must take steps to appreh... him.

238. The Committee has no information as to the extent to which th... Decrees are being applied, but is of the opinion that, if extensively us... they could result in a system of forced labour of some importance to t... economy of Bolivia.

Forced Labour Resulting from Payment in Kind.

239. The practice of payment in kind (described in the allegation as *aca... laje*[2]) was alleged to exist in the forest areas of Argentina and Paraguay and... the *yerba mate* plantations of Paraguay. The alleged practice appare... consists in compelling the peon to buy in shops or stores belonging to ... landowner and to fix the prices in such a way that the worker is always ... debt to the enterprise concerned, thus forcing the peon to remain permanen... in the service of the landowner.

240. The Committee found that this practice would be very similar to d... bondage as investigated by the *Ad Hoc* Committee on Slavery, and that ... the extent to which it exists, it appears to be found only in certain rem... areas far from the centres of population and the seat of the higher authori... The Committee came to the conclusion that, in these circumstances, payme... in kind involves hardships, but does not constitute a system of forced labo... within the meaning of its terms of reference.

Labour Conditions Tantamount to Slavery in Plantations.

241. It was alleged that " conditions tantamount to slavery existed in ... coffee, sugar, tobacco and banana plantations of Central America, the W... Indies, Colombia, Venezuela, Argentina and Paraguay, which affected not o... the Indian population but the Negro, mixed and even the white popu... tion ". In Colombia and Venezuela, it was also stated, the authorities resor... to force to obtain the labour necessary to harvest rubber and sugar cro...

242. In the Committee's view this allegation is couched in too gene... terms to allow of a detailed investigation. It notes that the legislation of ...

[1] I.L.O. : *Legislative Series*, 1936—Bol. 2 B.

[2] The Committee found that the name *acasillaje* mentioned in this allegation is appli... a practice of land tenure existing only in Mexico.

countries referred to prohibits slavery and servitude. It has no evidence before it that, in the plantations of the regions concerned, conditions tantamount to slavery exist in violation of this legislation.

Farm Tenants Prohibited from Seeking Other Employment ; Internment of Workers (Chile).

243. It was alleged that Chilean farm tenants were not allowed to seek employment outside their farms or to engage in money-making enterprises. It was also alleged that there existed in Chile " what were virtually concentration camps in which workers were interned ".

244. No evidence was cited in support of either of these allegations. The Committee notes that debt bondage, slavery and servitude are prohibited by law in Chile.

Conditions of Work in Bolivian Mines.

245. It was alleged that in some Bolivian mines the workers were lodged in camps so remote from the towns that they were forced to buy their food in the stores of the company which employed them and that, as a result, they became indebted to the company.

246. The Committee finds that, even assuming that the alleged conditions exist, they are not relevant to its terms of reference.

Conclusions

247. To sum up, the Committee finds—

(a) that some of the institutions or practices referred to in the allegations may involve an indirect compulsion to work for members of the indigenous populations ; that those relating to agricultural work appear to be the result of traditions and customs chiefly related to a semi-feudal régime of land tenure not yet altogether eliminated ; and that, since they do not appear to be deliberately planned or tolerated by the Governments concerned, they cannot be regarded as a system of forced labour within the meaning of the Committee's terms of reference ;

(b) that compulsory labour for road-building and maintenance in Paraguay is not of appreciable importance to the economy of the country ;

(c) that if the legislation concerning compulsory labour in Bolivia were extensively used it could result in a system of forced labour of some importance to the economy of that country ;

(d) that the foregoing examination of the allegations and of the documentation before the Committee does not reveal the existence in any of these nine Latin American countries of a system of forced labour within the meaning of the Committee's terms of reference.

POLAND

248. Allegations regarding the existence of forced labour in Poland were submitted to the Committee by various non-governmental organisations.

249. The allegations maintain in substance that the country has a system of forced labour aiming both at political coercion and at implementing the Government's economic policy. The system has allegedly two aspects:

(a) the internment of persons opposed to the régime in forced labour camps or homes in execution of decisions taken by the administrative authorities in extensive or abusive application of legislation passed for other purposes;

(b) labour imposed on a considerable proportion of the population by various restrictions on the freedom of employment and other measures connected with the mobilisation of labour and the compulsory assignment of workers.

250. At its Fourth Session the Committee had before it the allegations[1], the documentary material concerning them[2] and a note dated 27 March 1953 from the Polish delegation to the United Nations.[3] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in Poland.

Punitive and Corrective Labour.

251. The allegations themselves affirm that it is not so much in application of general penal legislation and by the sentence of a court of law that the political opponents of the Government are condemned to do forced labour but rather in application of particular laws and by order of the administrative authorities. In so far as it has been able to examine the general penal law, the Committee has not in fact found any evidence in it to indicate that it constitutes the basis of a system of forced labour aiming at political coercion.

252. In their references to administrative measures based on particular laws, the allegations were essentially concerned with a Decree of 16 November 1945, confirmed on 31 August 1950, "concerning the creation and jurisdiction of a special commission for combating abuses and economic sabotage".[4] This Special Commission is appointed by the Council of State and has provincial agencies appointed and supervised by the presidia of the provincial people's councils.[5] These authorities are responsible for punishing "offences detrimental to the economic or social life of the country, in particular the

[1] See below, p. 300.
[2] See below, p. 306.
[3] See below, p. 317.
[4] See below, p. 310.
[5] See below, p. 312.

misappropriation of public property, corruption, bribery, speculation, and the creation of panic designed to harm the interests of the working masses ".[1] In addition to fines, prohibitions of residence in a given place and other penalties, the Commission and its agencies can impose detention in a labour camp for a maximum period of two years. [1] This latter penalty can also be imposed for failure to pay a fine or to observe a prohibition of residence. According to Article 9 of the Decree, " Proceedings regarding the direction of an offender to a labour camp shall be conducted without a defence counsel being present ". Under Article 11, paragraph 1, " No legal recourse shall lie from the sentences of the Special Commission and its provincial agencies "; on the other hand, under paragraphs 2 and 3 of the same Article, the Commission can review its own sentences as well as those of its provincial agencies.[2]

253. However severe this legislation may appear, and although it confirms the existence of punitive labour camps in Poland, it does not, in itself, constitute the basis for a system of forced labour designed to re-educate and punish those opposed to the régime, since offences detrimental to the economic and social life of the country are the only ones it covers. On the other hand, these offences are defined so broadly, the Commission and its provincial agencies are so constituted, their powers are so wide, and the rights of the defence so limited that, in the Committee's view, such legislation could well be used as a means of political coercion. The oral testimony heard by the Committee indicates that the legislation has in fact been so applied.

254. An Order dated 14 October 1927, confirmed by an Order of 30 May 1950 [3], provides for the compulsory placement of vagrants and beggars in "forced labour homes ". According to the allegations this legislation is also used to arrest those opposed to the régime and to subject them to forced labour. Allegedly, since anyone not registered with the police is regarded as a vagrant, and it is possible in practice for the police to refuse to register certain applicants, this offers a possibility of detaining any elements that are considered undesirable. However, nothing in these Orders indicates that they relate to any persons other than genuine vagrants and beggars and, in spite of various indications in the information submitted to the Committee either orally or in writing, it has not been possible to come to any definite conclusion as to whether this legislation is in fact extensively and abusively applied in order to subject political opponents of the régime to forced labour.

255. In connection with the number and geographical distribution of the camps established in consequence of the legislation just considered, the number of persons living in such camps, the type of work they do and the conditions which prevail there, the Committee has considered the fairly

[1] See below, p. 311.
[2] See below, p. 313.
[3] See below, p. 316.

voluminous material and detailed information supplied by organisati and witnesses, but, in the absence of any possibility of checking this mater refrains from drawing any definite conclusions on these matters.

Compulsory Labour Service and Restrictions on the Freedom of Employm

256. A Decree dated 8 January 1946 "respecting registration and comp sory labour service "[1] requires all Polish citizens to register with their lo employment offices, unless engaged in certain specified professions and occ pations. The employment offices may direct persons who have registered i any branch or type of paid employment for a period not exceeding two ye anyone failing to comply with a direction order being liable to a fine o term of detention not exceeding five years, or both. The Committee h not, however, received any information to show how far this legislati which was passed soon after the cessation of hostilities, is still appl today.

257. An Act of 25 February 1948 on the universal and compulsory train of youth [2] makes provision for young persons up to 21 years of age—or up 30 years of age if they have not been conscripted for military service—to recruited for special units in which they receive vocational training and a required for certain labour. In addition, an Act of 4 February 1950 on co pulsory military service [3] lays down that such service may be replaced special service lasting for two years and consisting " of military training a of the performance of work necessary for the defence of the State and for t realisation of national economic plans ".

258. Other laws impose severe restrictions on the freedom of employm in the interests of the national economy. As an example, an Act of 7 Ma 1950 " on the planned employment of graduates of vocational second schools and higher schools " [2] empowers the State to require such gradua to take up employment for a maximum period of three years in specif undertakings and institutions in accordance with a plan prepared by t Chairman of the State Economic Planning Commission. Another Act of t same date " to counteract the fluidity of labour in professions and tra particularly important for the socialised economy " [3] empowers the Gove ment to compel workers of certain types to remain in their jobs for a maxim period of two years or to take up another job corresponding to their aptitud Any person failing to comply with an order to do so is liable to a fine or a period of detention not exceeding six months, or to both.

259. Lastly, an Act of 19 April 1950 to ensure socialist labour disciplin introduced a penalty of compulsory labour without deprivation of liberty

[1] See below, p. 313.
[2] See below, p. 315.
[3] See below, p. 316.
[4] See below, p. 308.

"malicious or obstinate breaches of labour discipline". The maximum period of the penalty is three months and the penalty itself is served at the convicted person's normal workplace, his wages being reduced by from 10 to 25 per cent. Any person failing to carry out the work imposed upon him is liable to a period of detention not exceeding six months.

260. Considering all this legislation, which is evidently intended to facilitate the implementation of the Government's economic plans and, to varying degrees, involves the application of coercive measures to entire groups of persons or categories of workers, the Committee finds that it affords a basis for a system of forced labour for economic purposes.

Conclusions

261. To sum up, the Committee finds—

(a) (i) that there is in Poland legislation which enables the administrative authorities to detain persons in forced labour camps and homes if, under a system of procedure which severely restricts the rights of the defence, they are found guilty of various offences to which very broad definitions have been given, and that, although this legislation is not explicitly concerned with political offences, the above-mentioned elements suggest that it could be applied as a means of political coercion;

(ii) that, from the available information, it is unable to form an accurate opinion of the location, size or economic importance of the camps and homes in which forced labour is exacted;

(b) (i) that, in the interests of the national economy and to ensure the fulfilment of the country's economic plans, provision is made under Polish legislation for recourse to be had, when necessary, to various methods of constraint (compulsory labour service, restrictions on the freedom of employment) backed by penalties, in order to obtain and allocate a labour force, and that this affords a basis for a system of forced labour for economic purposes;

(ii) that it is unable to come to any conclusion as to the number of persons subjected to forced labour in application of this legislation.

Territories Administered by Portugal

262. Allegations regarding the existence of forced labour in territories administered by Portugal were made during the debates on forced labour in the Economic and Social Council by the representatives of the Byelorussian S.S.R. and the World Federation of Trade Unions and were also submitted to the Committee by one non-governmental organisation.

263. These allegations refer in substance to the following points:

(a) compulsory labour in the non-metropolitain territories administered by Portugal;

(b) recruitment of labour in Angola, particularly for the sugar plantations;

(c) recruitment of labour in the territory of Mozambique for the mines in the Union of South Africa;

(d) labour conditions in the Island of San Tomé.

264. At its Fourth Session the Committee had before it the allegations[1] the documentary material concerning them[2] and the comments and observations of the Government.[3] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in territories administered by Portugal.

Compulsory Labour in Portuguese Non-Metropolitan Territories.

265. The laws governing indigenous labour in territories administered by the Portuguese Republic include Articles 15 *et seq.* of the Colonies Charter, the provisions of which are part of the political Constitution of Portugal according to Article 133 of the Constitution, Articles 240 *et seq.* of the Organic Charter of the Portuguese Colonial Empire and the Native Labour Code approved by Decree No. 16999 of 6 December 1928.[4]

266. In its comments and observations[5] the Portuguese Government refers to Article 145 of the Constitution, which prohibits any system under which the State assumes an obligation to provide indigenous workers for any undertakings of an economic character, and any system under which indigenous workers are compelled to serve such undertakings on any basis.

267. The Native Labour Code of 1928[6] prohibits the exaction from Natives of compulsory or forced labour of any kind for private purposes. It stresses, however, the "moral obligation" of the Natives "to procure the means of subsistence by labour and thereby to promote the general interests of mankind". Another provision obliges the Government of the Republic to ensure the Natives full liberty to choose the work which suits them best, *e.g.*, "under a contract to serve another", if they so prefer. The Government has the right to "exercise benevolent supervision and tutelage in respect of their work under contracts of employment".

268. Other Articles elaborate these general principles: Article 294 of the Code prohibits forced labour for private purposes and Article 328 punishes

[1] See below, p. 318.
[2] See below, p. 320.
[3] See below, p. 331.
[4] See below, p. 324.
[5] See below, p. 332.
[6] See below, pp. 320-323.

officials contravening this general provision with temporary retirement for more than one year or dismissal; Article 329 explains what is meant by the "imposition of forced labour" (*e.g.*, any order coupled with threats of punishment to enter the service of a private employer, physical violence employed for the same purpose, or any order coupled with threats of punishment or with physical violence given to tribal chiefs requiring them to compel Natives under their authority to work for any private person).

269. Forced labour for public purposes may be decreed only by the metropolitan Government (Article 295). The cases in which recourse to forced labour for public purposes is legitimate are listed in Article 296. In the main they concern cases of emergency or public calamity, or work in the interests of the Native community, such as cleaning wells.

270. The administrative authorities are empowered to impose forced labour for such purposes, and they may employ "the persuasive methods and coercive measures which they consider necessary" (Article 299). According to Article 300 action taken by the authorities to compel Natives to take up or resume work for which they have voluntarily contracted is not to be deemed to be the imposition of forced labour.

271. The above examination of the documentary evidence leads the Committee to the conclusion that the Portuguese legislation available to it appears in principle to prohibit the imposition of forced labour on the indigenous population of territories under Portuguese administration. The principle appears to be qualified, however, by certain restrictions such as the "moral obligation" imposed on Natives to procure their means of subsistence by labour "and thereby to promote the general interests of mankind", by the authority vested in the metropolitan Government to decree forced labour for public purposes in non-metropolitan areas, coupled with the authority granted to the administrative officials competent in the areas of residence of the Natives concerned to employ the persuasive methods and the coercive measures which they consider necessary for the achievement of the ends prescribed, and finally by the provision that action taken by the authorities to compel Natives to take up or to resume work for which they have voluntarily contracted is not deemed to be an imposition of forced labour.

272. In the absence of more detailed information on the practical implementation of these provisions by the responsible officials, the Committee refrains from drawing definite conclusions, on the sole basis of this legislation, as to the existence or non-existence of compulsory labour in these territories.

273. The Committee notes that Portugal has not ratified international labour Convention No. 29 concerning forced or compulsory labour.

Recruitment of Indigenous Workers.

274. Another problem which is important with regard to the existence or non-existence of forced labour is that of the recruitment of indigenous workers.

It may be recalled here that international labour Convention No. 50 concerning the regulation of certain special systems of recruiting workers defines "recruiting" as including "all operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services...". Article 4 of the Convention requires the competent authority to take measures "to avoid the risk of pressure being brought to bear on the populations concerned by or on behalf of the employers in order to obtain the labour required", and Article 9 prohibits public officials from recruiting for private undertakings either directly or indirectly. Native chiefs and other indigenous authorities are also prohibited by the Convention from acting as recruiting agents.

275. These provisions were inserted, *inter alia*, because it had already been pointed out in a report submitted to the Twelfth Session of the International Labour Conference in 1929 that it is not always possible to indicate "whether the methods employed [for recruiting] are in fact tantamount to compulsion. This is especially the case, for example, where recruiting is carried out by officials of the Administration." Elsewhere, the same report observes that in such matters "the line between encouragement and command is a narrow one", one reason being that "it is clearly difficult for people at a low stage of social development to perceive the exact difference between encouragement and command, when they come from the mouth of those entitled to command". [1]

276. Portugal has not ratified international labour Convention No. 50 concerning the regulation of certain special systems of recruiting workers.

277. In the Committee's view it is in the light of the principles stated in this Convention that the Portuguese legislation governing the recruitment of indigenous workers has to be examined.

278. The question is dealt with in Sections 24 to 86 of the Labour Code of 6 December 1928. According to Section 25 [2] an official authorisation is necessary to recruit Natives. Section 30 [3] prohibits certain recruiting methods *e.g.*, the recruiter is not to lead Natives or their chiefs to believe that he represents public authority or make any sales on credit to them to be reimbursed by work.

279. According to Sections 36 and 37 [3], the authorities exercising jurisdiction over the Natives are bound to facilitate recruiting operations by pointing out, for instance, the more densely populated areas, by advising tribal chiefs and Natives either in the presence of recruiting agents or otherwise to obtain employment and, in any emergency, by affording such agents all such moral and material assistance as is right and customary.

280. Section 38 [4] prohibits the authorities from accompanying recruiting

[1] See below, p. 143.
[2] See below, p. 324.
[3] See below, p. 325.
[4] See below, p. 326.

agents, but the prohibition does not apply " to cases in which the authorities or their subordinates travel by chance in the company of recruiting agents... ".

281. The Committee feels that provisions of the kind examined above may lead the responsible officials to exercise a certain pressure on the Natives to induce them to enter into contracts of labour offered by recruiting agents. More detailed information concerning the implementation of these provisions would be necessary to enable the Committee to draw definite conclusions as to whether or not recruitment is in fact accompanied by compulsion in territories under Portuguese administration.

282. The Committee noted the observations of the Portuguese Government to the effect that " neither in Angola nor in any other Portuguese overseas territory can there be any compulsion to work for private undertakings ".[1]

Recruitment of Labour in the Territory of Mozambique for the Mines in the Union of South Africa.

283. This problem is dealt with in a convention concluded on 11 September 1928 between the two Governments concerned[2] and which appears to be still in force. The convention provides for the recruitment of approximately 100,000 Native workers from Mozambique for work in the gold and coal mines in the Union of South Africa. The convention contains provisions for the supervision and protection of such Natives by a Portuguese Government official stationed in the Union of South Africa. A fee of 35s. is to be paid per year for every Native recruited for the mines concerned.

284. The Portuguese Government, in its comments and observations[3], declares that no pressure is exercised on Natives to induce them to accept employment in the mines in the Union of South Africa and that the convention aims at protecting them. It is also stated that the Portuguese authorities neither encourage nor favour recruitment.

285. Although there are indications, as stated above, that at the recruiting stage some pressure might be exerted on the Natives, the Committee does not feel that the provisions of the convention of 11 September 1928 are such as to lead necessarily to forced labour for the Natives recruited in accordance with these provisions. Conditions of forced labour might, however, be created by the combined application of pressure at the recruiting stage and of the South African legislation governing breaches of labour contracts by indigenous workers, which is examined in the conclusions concerning the Union of South Africa.[4]

Labour Conditions in the Island of San Tomé.

286. The situation in this colony, as it appears from the documentation available to the Committee, is briefly examined below.

[1] See below, p. 332.
[2] See below, p. 329.
[3] See below, p. 333.
[4] See below, pp. 74-75.

287. *Modi vivendi* concluded in 1926 and 1927 between San Tomé on the one hand and Mozambique, Angola and Cape Verde on the other[1], provide for the recruitment of a certain number of workers through the San Tomé and Principe Emigration Company, which has to pay the Government a fee for every worker recruited, both on the conclusion and on the renewal of his contract of employment. The Company is responsible for the repatriation of the workers, and the duration of the contracts for workers recruited in Angola and Cape Verde is fixed at a maximum of four years.

288. A Decree of 8 May 1946[2] concerning the emigration of Native workers from Angola to San Tomé, after stressing the capital importance of Native labour for the agricultural prosperity of the Islands, fixes the maximum annual contingent of such immigrant workers at 5,000, prohibits transfer from one employer to another, and states, in Article 7, that the contract workers who have not been repatriated owing to the world situation "are considered as being re-engaged by the same employers as from the date of termination of the first contract, though remaining in the position of awaiting transport for repatriation".

289. The Government of San Tomé is, however, specifically requested (Article 10) to increase the repatriation of Natives from Angola working in San Tomé. In its comments and observations[3] the Portuguese Government stresses the fact that at present it ensures the repatriation of all workers whose contracts have expired.

290. The Committee cannot but conclude that provisions such as these engaging a worker for four years on an island which he cannot leave without help from the authorities, the close connection between immigrant Native labour and agricultural prosperity (as stated in the Decree of 8 May 1946) the impossibility for the worker to transfer from one employer to another and the automatic prolongation of employment contracts with the same employer when there are difficulties of repatriation, tend to limit very considerably the freedom of the worker to seek employment where he wishes or to terminate his contract of his own free will. The labour of such workers is of considerable economic importance to the territory and their situation appears to be similar to that of workers under a system of forced labour for economic purposes.

Conclusions

291. The Committee finds—

(a) that forced or compulsory labour is prohibited in principle by Portuguese legislation, but that there are certain restrictions and exceptions in this legislation which permit the exaction of forced or compulsory labour;

(b) that the provisions protecting indigenous workers against unfair methods of recruitment do not, however, exclude a certain amount of compul-

[1] See below, p. 327.
[2] See below, p. 328.
[3] See below, p. 333.

sion and it is possible that in practice certain pressure is brought to bear upon workers by responsible officials to induce them to conclude contracts of employment offered by recruiting agents;

(c) that, with regard to the recruitment of indigenous workers in Mozambique for the mines in the Union of South Africa, conditions of forced labour might be created by the combined application of pressure at the recruiting stage and of the South African legislation governing breaches of labour contracts;

(d) that the labour of workers in San Tomé is of considerable economic importance to the territory and their situation appears to be similar to that of workers under a system of forced labour for economic purposes.

ROMANIA

292. Allegations regarding the existence of forced labour in Romania were made during the debates on forced labour in the Economic and Social Council by the representative of the United States of America, and were also submitted to the Committee by various non-governmental organisations.

293. These allegations maintain in substance—

(a) that there exists in Romania a system of forced labour employed as a means of political coercion, that " people are sent to do forced labour by a simple administrative decision ", and that, under the new Penal Code, the principle of *nulla poena sine lege* is infringed and persons are sentenced for acts not specifically mentioned as punishable offences;

(b) that forced labour is widely employed as a means of fulfilling the country's economic plans;

(c) that considerable numbers of Romanian citizens are sent to forced labour camps and work there under most severe and inhumane conditions;

(d) that large numbers of the Romanian population have been deported to the Soviet Union for compulsory labour.

294. At its Fourth Session the Committee had before it the allegations[1] and the documentary material concerning them.[2] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in Romania.

Labour Exacted for Punitive or Re-educative Purposes.

Forced Labour Imposed by a Court under Penal Law.

295. Punitive work is mentioned in several Romanian penal laws, including Decree No. 183 of 1949[3], Law No. 9 of 1950[3] and Article 28 of the Penal

[1] See below, p. 335.
[2] See below, p. 341.
[3] See below, p. 342.

Code.[1] Each of these texts concerns a group of offences, which are not always defined with adequate precision. Imprisonment with hard labour, for which provision is made in the first two of these three texts, is ordered by the courts, namely, the people's courts, district courts, courts of appeal and the Supreme Court.[2]

296. Another Decree, No. 187 of 1949[3], not only supplements the above-mentioned provisions but extends their scope. This Decree, in particular, has retained the attention of the Committee. It lays down the fundamental principles and the bases of the Romanian penal system. After stating that "the aim of the criminal law is to defend the Romanian People's Republic and its established order against acts which are dangerous to society" the Decree defines "acts which are dangerous to society" as "acts of commission or omission which violate the economic, social or political structure or the security of the Romanian People's Republic or disturb the legal order established by the people under the leadership of the working class". The Decree further states that "acts considered to be dangerous to society are punishable even if they are not specifically mentioned as offences in a legal provision. In such cases the grounds and the limits of the responsibilities shall be determined in accordance with the legal provisions dealing with similar offences."

297. The Committee finds that the above definition of acts dangerous to society, especially when taken in conjunction with the principle of analogy in penal law, is so wide and comprehensive that it might well enable the courts to convict and to subject to forced labour any person who is opposed to the political ideology of the Government.

Labour Imposed on Persons Confined in "Re-education Centres" or "Internment Centres" under Administrative Law.

298. The Committee has examined Decree No. 351 of 19 August 1949 on the re-education of vagrants, beggars, prostitutes and procurers.[4] It was alleged that this text was actually designed to provide the State with a means of exacting forced labour from a large number of citizens by classing them as "vagrants".

299. "Vagrants" as defined in the above Decree, are "persons who have no habitual residence and do not carry on regularly any trade or other occupation although they are able to do so". Under the Decree such persons are to be confined in "re-education centres", where, it has been alleged, they are subject to forced labour.

300. The Decree itself lays down the procedure to be followed in implementing its provisions; on the motion of the militia vagrants can be sent to

[1] See below, p. 343.
[2] See below, p. 342.
[3] See below, p. 341.
[4] See below, pp. 343 and 344.

re-education centres" by "Boards for Selection and Guidance". These Boards are not judicial bodies but purely administrative authorities, and a person accused of being a vagrant is not offered any of the guarantees required for his defence.

301. The Committee's attention was drawn to another provision, Decision No. 30636 of 1945 [1], by which an administrative body called the "Service of Internment Centres and Labour Detachments" was made responsible for all internments and for the releases of internees from camps and labour detachments under the authority of the Department of Internal Affairs. By a subsequent Decision, No. 6991 of 1946 [1], this Service was dissolved, but its personnel have been taken over by a similar body—the "Service for Labour Detachments"—whose activities come under the Directorate-General of Police.

The Mobilisation of Labour for the Implementation of Economic Projects.

302. Article 111 of the Labour Code of 1950 [2], which appears in a chapter entitled "Temporary Labour Service", provides that in exceptional cases citizens of the People's Republic of Romania may, in order to prevent or combat disasters and to remedy a shortage of manpower required to carry out important State tasks, be called upon to perform certain types of temporary labour service. The authority to draft citizens for such service is vested in the Council of Ministers.

303. The fact that the implementation of this Article involves a recourse to compulsion is evident from the text of the Article itself, which speaks of calling up citizens.

304. As this legislation makes provision for such a mobilisation of labour, "to remedy a shortage of manpower required to carry out important State tasks", it might provide the basis for a system of forced labour for economic purposes.

305. It is apparently for the same purpose of ensuring the fulfilment of State economic plans—*i.e.*, without there being any idea of punishment—that the institution of labour reserves was created. Under Ordinance No. 399 of 12 May 1951 [2] and Decree No. 68 of 16 May 1952 [3], it is the duty of the Central Office of Labour Reserves to recruit between 45,000 and 55,000 workers annually, to train them in vocational schools and training courses in conformity with the State Plan, and to distribute them according to the requirements of the national economy.

306. The Decree provides for the courses in vocational schools to last two or three years; graduates from these schools and from training courses held

[1] See below, p. 344.
[2] See below, p. 345.
[3] See below, p. 346.

in factories or plants are subsequently required to work for at least four years in the unit to which they have been assigned.

307. No evidence was submitted to indicate that compulsion is employed at the recruiting stage for vocational training under the labour reserve scheme although it appears that, once recruited and trained, persons are required to work for at least four years at the place to which they are assigned.

The Number of Persons Sent to Forced Labour Camps.

308. Representatives of non-governmental organisations have submitted estimates as to the number of persons committed to punitive or re-education work. They have also given a list of the forced labour camps which allegedly exist, indicating their location.

309. Having no possibility of checking this information, the Committee was not able to come to any conclusions on these points.

Deportations to the Soviet Union.

310. In connection with the alleged mass deportations of Romanian citizens to the Soviet Union for compulsory labour, the Committee has not had any precise evidence in substantiation of the allegation.

Conclusions

311. To sum up, the Committee finds—

(a) that Romanian penal and administrative laws—in particular Decree No. 187 of 1949—provide the basis for a system of forced labour as a means of political coercion or " re-education " of those opposed to the Government;

(b) that, to fulfil the country's economic plans, Romanian legislation of a non-penal character empowers the administrative authorities to call up any able-bodied person to remedy a shortage of manpower required to carry out important State tasks, and to recruit large numbers of young persons for vocational training and thereafter for a minimum of four years' work in the factories or plants to which they are assigned, and that this legislation might provide the basis for a system of forced labour for economic purposes.

SPAIN

312. Allegations regarding the existence of forced labour in Spain were submitted to the Committee by a non-governmental organisation.

313. These allegations refer in substance to the following points :

(a) conditions in Spain from the Civil War up to 1946, and from 1946 onwards ;

(b) arrest and detention with no guarantee of due process of law and the procedure for judging political offences ;

(c) political prisoners ;

(d) detention of unconvicted persons and convicts who have completed their prison sentences ;

(e) prison work, prison conditions and the number of prisoners.

314. At its Fourth Session the Committee had before it the allegations [1], the material concerning them [2] and the comments and observations of the Government.[3] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in Spain.

315. With regard to the allegations concerning conditions in Spain at the end of the Civil War the Committee observes that it is only concerned with conditions relating to forced labour as they exist at the present time ; it has therefore refrained from investigating these allegations.

316. It was alleged that the legal system—an emergency system for time of war proclaimed at the outbreak of the Civil War in 1936—is still in force. The Committee noted the Spanish Government's observations [4] that the state of emergency had ended prior to the promulgation of the Charter of the Spanish People on 17 July 1945, that the Spanish legal system is not an emergency system in so far as criminal law is concerned, that it is governed fundamentally, by the provisions of the ordinary Penal Code of 1944 and by the Code of Military Justice of 1945, and that the only penal legislation subsequent to those Codes is the enactment of 18 April 1947 which provides for the punishment of the crimes of banditry and terrorism and, in view of the danger to public safety which such offences represent, empowers the military courts to try and to punish them.

317. While it appears that ordinary crimes are punished in accordance with the provisions of the Penal Code of 1944, a number of special enactments, some of which are partly incorporated in this Code, define and punish political, economic or " special " crimes. The Committee has examined a number of these enactments, including the Vagrancy Act of 4 August 1933, the Proclamation of a State of War of 28 July 1936, which appears to be still in force, the State Security Act of 29 March 1941, as amended, the Military Rebellion Act of 2 March 1943, on Act of 17 July 1945 (the Charter of the Spanish People), a Legislative Decree of 18 April 1947 on terrorism and banditry, and the Freemasonry and Communism Act of 1 March 1940. Some of the provisions of these enactments are briefly examined in the paragraphs which follow.

318. The Vagrancy Act of 4 August 1933 authorises special tribunals to

[1] See below, p. 348.
[2] See below, p. 354.
[3] See below, p. 362.
[4] See below, p. 363.

impose penalties of up to five years' imprisonment on vagrants, drunkards, persons concealing their identity, persons who, by their activity and propaganda, encourage terrorism or armed aggression, and persons publicly condoning such offences.

319. The Proclamation of a State of War of 28 July 1936 entrusts to military jurisdiction the summary punishment of such offences as rebellion and sedition, offences committed against persons or property for political or social motives, the spreading of false and tendentious rumours, and other similar offences.

320. The Military Rebellion Act of 2 March 1943 empowers military tribunals to judge by summary procedure offences qualified by law as military rebellion, such as the spreading of false or tendentious rumours with a view to disturbing public order or causing international conflicts. According to the Act, strikes, sabotage and similar acts are also considered to constitute military rebellion if they are of a political nature and cause a serious disturbance of public order. However, strikes may also be punished as sedition, under Articles 222 and 223 of the Penal Code, by up to twelve years' imprisonment for the ringleaders and up to six years' imprisonment in other cases.[1]

321. Article 12 of the Act of 17 July 1945[2] grants to every Spaniard the right to free expression of his ideas " provided that they do not violate the fundamental principles of the State ". Article 251 of the Penal Code of 1944 punishes with between six months' and six years' imprisonment persons who, inside or outside Spanish territory, engage in propaganda designed to overthrow the political, social, economic and legal structure of the State or to weaken national feeling. Under Article 253[3], the spreading of false and tendentious rumours is punished with between six and 12 years' imprisonment and the total loss of civil rights.

322. The Legislative Decree of 18 April 1947[4] provides for the death penalty or imprisonment to be imposed on persons causing explosions, fires and floods and committing other similar acts of terrorism with a view to vengeance or reprisals of a social or political character or to disturbing public peace and order.

323. The Freemasonry and Communism Act of 1 March 1940[5] punishes persons belonging to masonic or communist organisations by twenty to thirty years' imprisonment. It was noted that the Act enables the Government to apply its provisions with the necessary adaptations to such formations and groups as it considers should be added to the list of masonic or communist associations.

324. The Committee considered the Spanish Government's observations on the procedure followed in judging political offences, and noted, in particular

[1] See below, pp. 357 and 364.
[2] See below, pp. 355 and 370.
[3] See below, p. 355.
[4] See below, pp. 363 and 370.
[5] See below, pp. 356 and 370.

the difference between normal criminal procedural law and the procedure followed by military tribunals.[1] While in the first case the rights of the defence appear to be similar to generally recognised principles of law, such rights are severely curtailed in the procedure adopted in military courts in judging political offences. The investigating magistrate, for instance, has absolute authority to determine what witnesses may be called ; the defence is entrusted to a single attorney, whatever the number of the accused. Appeal does not prevent sentences from becoming immediately effective and, in the case of a death sentence, only the granting of a pardon can stay the execution.

325. The Committee found that under Spanish legislation prisoners, whether convicted of political or other offences, must do useful work and, in addition, that under conditions defined by the laws and regulations on the "remission of sentences through work", both classes of prisoners (with certain exceptions) may earn a partial remission of their penalties.

326. With regard to the number of prisoners and prison conditions, the Committee noted the statement of the organisation submitting the allegations (which had been given facilities to visit Spanish prisons) that the number of political prisoners appears to have decreased since 1946 and that, recently, conditions in prisons seem to have improved.

327. The Committee also took into consideration the relevant observations of the Spanish Government relating to the number of prisoners [2], the work of prisoners, and prison conditions.[3]

Conclusions

328. In reviewing the above-mentioned evidence, the Committee has found that Spanish law permits freedom of expression, provided that it does not violate " the fundamental principles of the State " ; that it contains very broad definitions of political offences ; that such offences are judged by military tribunals under summary procedure and are punished by heavy penalties which carry with them the obligation to work. It concludes that these legal provisions could be applied as a system of forced labour for political coercion or punishment for holding or expressing political views.

Union of South Africa and South-West Africa

Union of South Africa

329. Allegations regarding the existence of forced labour in the Union of South Africa were made during the debates on forced labour in the Economic and Social Council by representatives of the Byelorussian S.S.R., Poland

[1] See below, p. 363.

[2] Out of 23,461 prisoners now undergoing sentence, 19,051 were convicted by the civil judicial authorities and 3,410 by the military judicial authorities. See below, p. 369.

[3] See below, pp. 365-369.

and the World Federation of Trade Unions, and were also submitted to t Committee by one non-governmental organisation.

330. These allegations refer in substance to the following points :

(a) the political rights of non-whites ;

(b) the question of pass laws ;

(c) the residential segregation of the Indian population ;

(d) the compulsory nature of labour contracts for " non-whites " ;

(e) prohibitive taxation as a means of securing a contract labour forc

(f) the use of penal laws to obtain a supply of Africans for work i industry and agriculture ;

(g) the recruitment of labour in the Territory of Bechuanaland for t mines of the Union of South Africa ;

(h) the recruitment of labour in the Territory of Mozambique for t mines in the Union of South Africa.

331. At its Fourth Session the Committee had before it the allegations the documentary material concerning them[2], the comments and observatio of the Government[3] and its reply to the Committee's questionnaire.[4] T following are the Committee's findings and conclusions concerning the alleg existence of forced labour in the Union of South Africa.

332. The Committee found that some of the allegations made could be el minated from the outset, either because they were irrelevant to its ter of reference or because they were not substantiated. These allegatio referred to the political rights of non-whites, the residential segregation the Indian population, prohibitive taxation as a means of securing a contra labour force, the recruitment of labour in the Territory of Bechuanaland f the mines in the Union of South Africa, and the recruitment of labour in t Territory of Mozambique for the same purpose.

333. With regard to the allegation that non-whites do not enjoy politic rights in the Union, the Committee has come to the conclusion that t absence of political rights is not, in itself, proof of the existence of forc labour. In the Committee's view this allegation is irrelevant to its ter of reference. The Committee has therefore refrained from investigating i

334. The treatment of persons of Indian origin in the Union of Sou Africa was extensively discussed during the First, Third, Fifth, Sixth an Seventh Sessions of the General Assembly of the United Nations, and a numb of resolutions dealing with these problems were adopted. No charges concerni the subjection of the Indian population in the Union of South Africa to forc labour were made in these debates. The allegation on the subject[5] refe

[1] See below, p. 373.
[2] See below, pp. 377 and 418.
[3] See below, p. 403.
[4] United Nations document E/AC.36/11.
[5] See below, p. 374.

to a Decree of 29 May 1946 " extending the ghetto system to the Indian population ". The allegation does not affirm that forced labour is exacted from this population.

335. The Committee found that residential segregation does not necessarily involve the existence of forced labour within the meaning of its terms of reference unless it is accompanied by other measures of a coercive nature directly or indirectly compelling those concerned to do certain kinds of work, the residential segregation being a means of facilitating supervision by the authorities of persons subjected to such work. No evidence to the effect that the Indian population is submitted to such work or to coercive measures of the kind described above has been brought to the Committee's knowledge.

336. Another allegation[1] states that use is made of prohibitive taxation to secure a contract labour force. In its comments and observations[2] the Government states that " the allegation that Natives must seek work solely in order to pay their taxes is completely untrue ". The Government then gives a detailed account of the purposes for which taxes levied on Natives are used. The Committee found that, although in some cases Natives might have to resort to labour to pay taxes, the allegation that they were prohibitive in their incidence and were maintained to secure a contract labour force was not substantiated.

337. No evidence has been found concerning the forcible recruitment of workers in Bechuanaland for the South African mines.[3]

338. With regard to the recruitment of labour in the Territory of Mozambique for the mines of the Union of South Africa, the Committee studied a convention concluded on 11 September 1928 between the Governments of the Union of South Africa and the Portuguese Republic[4] regulating the migration of Native workers from Mozambique to the Union. This convention has been renewed from time to time and was adopted in 1944 for an indefinite period.[5] The text of this convention does not expressly indicate that workers recruited under its terms are subjected to forced labour. The conditions under which recruitment takes place at the instance of the Portuguese Government have been studied, and the Committee's findings in this respect are to be found in the conclusions concerning territories administered by Portugal.[6] However, reference should also be made to the Committee's conclusions concerning penal sanctions for breach of labour contracts, which appear to affect these workers in the Union of South Africa.[7]

339. The remaining allegations are examined below.

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[1] See below, p. 374.
[2] See below, p. 408.
[3] See also the conclusions relating to point *(a)*: " Mass recruitment for African mines (Bechuanaland) " in the United Kingdom Territories, p. 102.
[4] See below, p. 395.
[5] See below, p. 423.
[6] See above, p. 63.
[7] See below, p. 76.

The Question of Pass Laws.

340. The various pass laws in force in the Union of South Africa are alleged to be a means of supplying European employers with African labour, under the menace of a penalty. Non-whites, it is said, are compelled to remain where they work through the application of such laws.[1]

341. These charges seem serious enough to the Committee to warrant an investigation of the relevant legislation and of how it affects the people to whom it is applied. It can indeed be argued that if, by such devices as passes, freedom of movement is sufficiently restricted to compel great numbers of persons to remain where they are, they will be forced to accept work at the conditions offered at their place of residence. Furthermore, the existence of such laws may also enable the Government to direct workers towards areas where labour is required. Legislation of this kind may, therefore, be used as a direct or indirect means of carrying out the economic plans or policies of the Government or of private interests important for the economy of the country.

342. A *prima facie* case as to the relevancy of the allegation seems therefore to be established.

343. Legislation on pass laws has been summarised in the document transmitted by the Chairman to the Government of the Union of South Africa.[2] It is evident from this summary that the legislation concerned severely restricts the movements of Natives, that urban authorities may direct Natives to live in certain areas and may remove them from such areas, that Natives may not come to or be introduced into such areas without the written permission of the competent authorities, that contracts of service may have to be registered under regulations issued by the Governor-General, that pass areas may be defined by Proclamation in the *Gazette* and that regulations for the control and prohibition of the movement of Natives into, within, or from such areas may be prescribed. Natives arriving in pass areas must report at the police station or Native Commissioner's office and authorised officers may refuse to issue or endorse passes for any Native to enter or leave or travel within a pass area, for any reason appearing to such an officer to be sufficient (for instance, if the Native concerned is under an unexpired contract of employment).

344. Violations of this legislation by Natives are punished by fines, or imprisonment with hard labour in case of non-payment of the fines.

345. The report of the Native Laws Commission (1946 to 1948)[3] considers such legislation necessary because the settlement of Native communities in proximity to European ones and contacts between the Europeans and the Natives will, according to the Commission, be regarded by a large portion

[1] See below, p. 373.
[2] See below, pp. 377-385.
[3] See below, p. 377

of the white population as a danger to the economic life of the country. The legislation is also considered essential for the maintenance of the principle of residential segregation.

346. In its comments and observations[1] the Government states that pass laws have now been repealed by the Natives (Abolition of Passes and Co-ordination of Documents) Act, 1952.[2]

347. This Act, which consolidates the pass legislation, enables the authorities to issue reference books to Natives having attained the age of 16 years, in lieu of the various passes. The Native has to carry this reference book with him and to exhibit it upon request to a competent officer. It contains the holder's identity card as well as other essential particulars, such as his employment contract, tax receipts and so on.

348. The South African Government states[3] that the 'pass system was originally intended as a protection for Natives compelled by economic circumstances to seek employment in the towns and cities of the Union. Passport systems were also evolved, according to the Government, not to control the movement of Natives but purely for identification purposes. The mass migration of the Bantu population into the industrial areas, newly developed since the First World War, has resulted in unemployment, a decline in health and an increase in crime, and has compelled the Government to convert the passport into a means of controlling and often preventing the movement of Natives towards the towns. The registration of contracts of employment, curfews and the expulsion of idle and undesirable persons have served the same purpose.

349. In view of the evidence briefly examined above, the Committee has found that the pass legislation in the Union of South Africa constitutes a serious handicap to the freedom of movement of the Native population and that it has, or may have, important economic consequences.

350. The Committee is of the opinion that this legislative device may be used for the control and regulation of the flow of Native labour from one part of the territory to the other. There can be no doubt that such control may serve the purpose of directing a supply of ample, and consequently cheap, labour towards regions where it is required for economic reasons.

351. The former pass laws and the Natives (Abolition of Passes and Co-ordination of Documents) Act, 1952, which replaces them, may therefore be considered as an indirect means of implementing economic plans and policies, whether emanating from the Government or from private interests powerful enough to command Government support. The State, through the operation of this legislation, is in a position to exert pressure upon the Native population which might create conditions of indirect compulsion similar in its effects to a system of forced labour for economic purposes.

[1] See below, p. 406.
[2] See below, p. 418.
[3] See below, pp. 406-407.

The Compulsory Nature of Labour Contracts for Non-Whites.

352. It has been alleged that, under the Native Labour Regulation Act, 1911, a breach of a labour contract by an African, or his refusal to obey a lawful order, is a criminal offence.[1] The Committee was of the opinion that such legislation might be conducive to forced labour exacted for economic purposes. It therefore examined the relevant South African legislation—the Native Labour Regulation Act, 1911, as amended by Act No. 56 of 1949.[2]

353. This legislation is applied to those Natives (approximately 500,000) who are recruited for employment or are employed or working on any mine or works, *i.e.*, a place where machinery is used. The legislation contains provisions designed to protect the Native against unscrupulous dealings by labour agents. The Act also punishes by fines or, in default of payment, by imprisonment with or without hard labour for a period not exceeding two months any Native worker who deserts or absents himself from his place of employment or fails to carry out the terms of his contract.

354. The Natives (Urban Areas) Consolidation Act, 1945, and the relevant regulations[3] also contain detailed provisions punishing breaches of contract by Native workers and failure to do work which it is their duty to do by virtue of such contracts.

355. When passing sentence the presiding judicial officer dealing with such matters may, if the employer so desires, direct the Native concerned, after the sentence imposed upon him has expired, to return to work with his employer and complete his contract.

356. The Government in its observations[4] explains these provisions by the fact that Natives have no conception of the binding nature of civil contracts. Abolition of the penal sanctions provided by law for any breach of contract would, in the opinion of the Government, leave the employer without means of obtaining redress, if, for instance, the labourer deserted from his place of employment.

357. The evidence briefly examined above appears to substantiate the allegation that the legislation in force in the Union of South Africa makes it " a criminal offence to refuse to obey an order or to break a contract ".

358. It remains to be seen whether this legislation constitutes forced labour within the meaning of the Committee's terms of reference.

359. The Committee notes, in the first place, that at least the recruitment of Natives for work in mines or works is not compulsory. The Native enters voluntarily into the agreement. Penal sanctions are applied only in the event of a breach of contract or some other violation of the law.

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[1] See below, p. 374.
[2] See below, pp. 386-388.
[3] See below, pp. 382 and 388.
[4] See below, p. 408.

360. There can, however, be no doubt, in the Committee's view, that the fact that it is impossible for the worker to terminate his contract unilaterally before the expiration of its term, without running the risk of heavy penalties, constitutes a serious restriction of his personal liberty.[1] Since the total number of Africans working under such contracts of employment is very large, legislation of this kind, if abused or vigorously implemented, might lead to a system of forced labour for economic purposes.

The Use of Penal Laws to obtain a Supply of Africans for Work in Industry and Agriculture.

361. The allegations reproduced under this heading[2] referred to the right of a magistrate to declare that a Native leads an idle, dissolute or disorderly life and to sentence him to be detained until he is assigned to suitable employment. The allegations also mentioned that convict labour is hired out to farmers and industrial enterprises at a nominal amount per day.

362. With regard to the first of these allegations, Section 29 of the Native (Urban Areas) Consolidation Act, 1945, as amended by Section 36 of the Native Laws Amendment Act, 1952, reproduced in the comments and observations of the Government of the Union of South Africa[3] lays down that Natives may be ordered to be detained in a work colony established under the Work Colonies Act, 1949, that if a Native is declared to be an idle person he may be sent for a period not exceeding two years to a farm colony, work colony or similar institution and that, if the Native agrees, he may be ordered to enter a contract of employment with an employer and may be detained pending his removal to the place where he will be employed.

363. The Act aims, according to the Government's observations, at removing vagrant Natives to some place where they may be rehabilitated and at giving them a chance to prove that they are prepared to lead an industrious life.

364. The report of the Penal and Prison Reform Commission[4], examined by the Committee in connection with these allegations, shows that prison labour is hired out to railways, harbours, local authorities, certain gold mines, farmers and other private persons.

365. The report states that it has been the practice since 1934 to hire out to farmers at 6d. per day non-European male first offenders undergoing sentences of less than three months. Also, according to the report, it is a widespread practice in the Union to hire out to private persons at 2s. per unit per day non-European prisoners serving sentences of hard labour. In

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[1] The Government of the Union of South Africa has not ratified international labour Convention No. 65 concerning penal sanctions for breaches of contracts of employment by indigenous workers.

[2] See below, p. 374.

[3] See below, p. 409.

[4] See below, p. 391.

its comments and observations [1], the Government of the Union declares that pass offenders are not sent to farm prison outstations. Under a scheme inaugurated 20 years ago, a petty offender admitted to gaol could intimate his preparedness to work in a rural area at a fixed wage, but it is only on his express wish that he is engaged as a labourer for the period of his sentence. It was recently decided to extend this scheme to persons with sentences of up to four months.

366. In the statement on farm prison outstations prepared by the Department of Prisons [2], the Government of the Union declares that in certain areas there are associations of farmers formed at the Government's request. These associations are authorised to construct prisons in accordance with specifications laid down by the Department of Prisons. A proper contract is entered into with these associations determining, *inter alia*, the basis on which the Department would make prisoners available to the association. The prisons themselves remain under the supervision of the staff of the Department.

367. The only persons transferred to these stations are those who have received sentences ranging from six months upwards for serious offences. The districts where these prisons are situated include the country's highest food producing centres, where labour is extremely short.

368. The Committee also noted that in the 1950 report addressed by the Government of the Union of South Africa to the International Labour Office on the Forced Labour Convention (No. 29) [3] it is stated that " the advisability of abolishing the practice of hiring convict labour to private companies and individuals has been the object of further study ; however, the situation remains unchanged, and the Union of South Africa is accordingly unable to ratify the Convention ".

369. In reviewing the evidence examined above the Committee has found that the allegations made with regard to the use of penal labour for work in industry and agriculture are substantiated by the legislation in force in the Union of South Africa and by the comments and observations of the Government of the Union. It also seems certain that the use of such labour is of some economic importance. The Committee has noted in this connection that, in its comments and observations, the Government states that farm prison outstations are situated in regions where labour is scarce. Since moreover, a very considerable number of Natives are committed for short terms for minor offences [4], the Committee found that labour of the kind described above is of importance for the economy of the country and that the laws might be applied in such a way as to increase the Native labour force at the disposal of the national economy and thereby lead to a system of forced labour for economic purposes.

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[1] See below, p. 412.
[2] See below, p. 403.
[3] See below, p. 394, footnote.
[4] See below, pp. 391 and 422.

Conclusions

370. No allegation has been made regarding the existence of forced labour as a means of political coercion in the Union of South Africa. The Government of the Union of South Africa, in its comments and observations, referred to the Suppression of Communism Act, 1950.[1] Its attention having been drawn to this legislation, the Committee has examined its provisions in some detail. The Act, amended by Act No. 50 of 1951, prescribes various penalties up to ten years' imprisonment for offences against its main provisions, such as furthering the achievement of any of the objects of communism. The Government of the Union of South Africa states that under the Act the propagation of the doctrine of communism is a criminal offence but that no attempt is made to influence the opinion of any offender while he is serving his sentence, and that the number of convictions under these Acts has been so insignificant that " it could not conceivably be suggested that it plays any part at all in the economy of the country ".

371. In the Committee's view these Acts could be used as an instrument for the correction of the political opinions of those who differ from the ideology of the State. Whether these laws will remain as a simple deterrent for potential politieal offenders planning to overthrow the constitutional Government by illegal means, or whether they will become an instrument of political persecution and oppression, thereby leading to a system of forced or corrective labour as a means of political coercion or punishment, will depend on the meaning placed by the competent judicial and administrative authorities on the numerous and important provisions of these Acts which are susceptible to a variety of interpretations.

372. With regard to the economic aspect of its terms of reference, the Committee is convinced of the existence in the Union of South Africa of a legislative system applied only to the indigenous population and designed to maintain an insuperable barrier between these people and the inhabitants of European origin. The indirect effect of this legislation is to channel the bulk of the indigenous inhabitants into agricultural and manual work and thus to create a permanent, abundant and cheap labour force.

373. Industry and agriculture in the Union depend to a large extent on the existence of this indigenous labour force whose members are obliged to live under the strict supervision and control of the State authorities.

374. The ultimate consequences of the system is to compel the Native population to contribute, by their labour, to the implementation of the economic policies of the country, but the compulsory and involuntary nature of this contribution results from the particular status and situation created by special legislation applicable to the indigenous inhabitants alone, rather than from direct coercive measures designed to compel them to work, although

[1] See below, pp. 406 and 423-425.

such measures, which are the inevitable consequence of this status, were also found to exist.

375. It is in this indirect sense therefore that, in the Committee's view, a system of forced labour of significance to the national economy appears to exist in the Union of South Africa.

South-West Africa

376. Allegations concerning the existence of forced labour in the territory of South-West Africa were made during the debates on forced labour in the Economic and Social Council by the representative of Poland.

377. These allegations refer in substance to the following points:

(a) the conditions to which indigenous workers are subjected, as reported in a memorandum addressed to the General Assembly of the United Nations by the Reverend Michael Scott;

(b) compulsory labour imposed on indigenous workers.

378. At its Fourth Session the Committee had before it the allegations[1], the documentary material concerning them[2], the comments and observations of the Government of the Union of South Africa[3] and its reply to the Committee's questionnaire.[4] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in South-West Africa.

The Conditions of Indigenous Workers.

379. The first of the allegations on this point refers to certain documents including petitions by South-West Africans.[5] The complaints of the petitioners refer, *inter alia*, to the existence of pass laws and the oppressive use that is made of them by Government authorities, to the low wages paid for their work, and to the fact that Native workers wishing to complain about ill-treatment by their masters, and appearing before the police without a proper pass, are gaoled, and have later to return to their place of employment.

380. In a report by the South-West Africa Native Labourers Commission[6], also quoted in the document in question, it is stated that Natives are unanimous in their criticism of the low wages paid to farm labourers.

381. The Committee noted the comments of the Government of the Union of South Africa[7] to the effect that the main object of the pass laws is to

[1] See below, p. 396.
[2] See below, p. 397.
[3] See below, p. 403.
[4] United Nations document E/AC.36/11.
[5] Reproduced in United Nations document A/C.4/L.66. See below, pp. 397-398.
[6] See below, p. 398.
[7] See below, pp. 413-414.

provide identification papers for those members of the indigenous population who have not advanced sufficiently to be able to do without them, and that persons who have progressed beyond this stage have been exempted from the provisions of these laws.

382. The Committee refers to its conclusions with regard to pass laws and their possible effect on the Natives concerned in the Union of South Africa [1], which apply also in the case of the territory of South-West Africa. As to the low wages paid to workers, the Committee considers that investigation of this question would be outside its terms of reference. It noted the observations of the Government of the Union on this matter.[2]

383. Concerning the allegation that workers wishing to complain about their employers have to carry a pass to be able to go to the nearest police station and that failure to carry such a document is punished with imprisonment, the Government of the Union states [2] that, according to the law, Native workers in such circumstances may proceed without a pass to the nearest authorised officer.

Compulsory Labour Imposed on Indigenous Workers.

384. In connection with the second allegation, concerning compulsory labour imposed on indigenous workers in South-West Africa, the Committee had before it the information contained in United Nations document T/175.[3] It is evident from this document that the legislation in force in the territory concerning, for example, habitually unemployed Natives, breaches of contracts of service, and the master and servants laws is similar to that applied in the Union itself. The Committee noted the comments of the Government of the Union referring *(a)* to a judgment of one of the Supreme Courts of the Union of South Africa [4]; *(b)* to the necessity of maintaining penal sanctions for breach of labour contracts because of the impossibility of enforcing such contracts otherwise [4]; and *(c)* to the protection afforded to the employee by the master and servants laws. [5]

Conclusions

385. The Committee's findings on these allegations are the same as those which it reached in the case of the Union of South Africa regarding the compulsory nature of labour contracts for "non-whites".[6]

[1] See above, pp. 74-75.
[2] See below, p. 415.
[3] See below, p. 398.
[4] See below, p. 416.
[5] See below, p. 417.
[6] See below, p. 76.

386. The evidence before the Committee leads it to confirm in the case of South-West Africa the conclusions it reached with regard to the Union of South Africa itself.[1]

Union of Soviet Socialist Republics

387. Allegations regarding the existence of forced labour in the U.S.S.R. were made during the debates on forced labour in the Economic and Social Council by the representatives of Australia, Chile, France, the United Kingdom, the United States of America and the American Federation of Labor and were also submitted to the Committee by various non-governmental organisations and one private individual.

388. These allegations maintain in substance—

(a) that the Soviet Union has a system of forced labour, one of the main aims of which is to crush all opposition, particularly as expressed in political opinions differing from those of the régime ;

(b) that one of the foundations of the system is the criminal law and criminal procedure of the country, which are so conceived that many persons especially those opposed to the régime, can be convicted and sentenced to forced labour without adequate provision being made for their defence and in circumstances which, in many other legal systems, would not be recognised as constituting an offence or involving their responsibility ;

(c) that the administrative authorities of the M.V.D. have extensive extra-judicial powers whereby persons can be subjected to forced labour ;

(d) that the forced labour system is of great importance to the national economy, since it supplies cheap labour in large quantities for many different types of work, particularly in undeveloped and unhealthy areas ;

(e) that the number of persons sentenced to forced labour runs into millions, the persons concerned being confined in numerous camps located at widely scattered points throughout the Soviet Union, that conditions in the camps are bad, and that the death rate among the prisoners is high ;

(f) that millions of persons have been deported either from one part of the Soviet Union to another or from neighbouring countries to the Soviet Union and that the deportees have been subjected to forced labour ;

(g) that in the Soviet Union the difference between the status of a free worker and that of a forced labourer is tending to diminish as a result of the many restrictions placed by law on the freedom of employment.

389. At its Fourth Session the Committee had before it the allegations[2]

[1] See above, pp. 79-80.
[2] See below, p. 426.

the replies to the allegations [1], the documentary material concerning them [2], and a letter, dated 30 December 1952, from the Delegation of the U.S.S.R. to the United Nations.[3] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in the U.S.S.R.

Punitive and Corrective Labour.

Legal Basis.

390. According to the allegations, the Soviet penal system constitutes the legal basis of a system of forced labour designed to oppress and re-educate those who disagree with the ideology of the régime in power.

391. In this connection, the Committee had before it the official 1950 edition of the Penal Code of the R.S.F.S.R. (text in force on 1 July 1950)[4], the 1940 edition of the Corrective Labour Code of the R.S.F.S.R. issued on 1 August 1933[5], an Act of 16 August 1938 concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics[6], the 1947 edition of the Code of Criminal Procedure of the R.S.F.S.R. (text in force on 1 November 1946)[7], various special laws and decrees, a number of Soviet legal textbooks published between 1935 and 1952, and, finally, information from various sources on the *de facto* situation.

392. It is evident from these sources that the Soviet penal system makes provision for three types of penalties accompanied by " corrective labour "[8] —corrective labour without deprivation of liberty[9], exile with corrective labour[10] and deprivation of liberty with corrective labour.[11] This last penalty is normally carried out in " colonies " if the deprivation of liberty is of less than three years' duration and in " camps " if it is imposed for three years or more. It is carried out in prison only in exceptional cases.[12]

393. The aim of Soviet penal policy and, more particularly, of that branch of it known as corrective labour policy is clear both from Soviet legislation and from Soviet commentaries. According to Article 1 of the Corrective Labour Code—

> The task of the penal policy of the proletariat during the period of transition from capitalism to communism is to protect the dictatorship of the proletariat and

[1] See below, p. 455.
[2] See below, pp. 464 and 519.
[3] See below, p. 519.
[4] See below, p. 465.
[5] See below, p. 466.
[6] See below, p. 486.
[7] See below, p. 488, footnote 5.
[8] This expression has now replaced the term " forced labour " in Soviet legislation. See below, p. 467.
[9] See below, p. 467.
[10] See below, p. 470.
[11] See below, p. 468.
[12] See below, p. 469, footnote 5.

the socialist construction it is undertaking against encroachments by class-hostile elements and infractions not only by *déclassé* elements but also by unstable elements among the workers.[1]

394. Article 1 of the Penal Code lays down that—

> The aim of the penal legislation of the R.S.F.S.R. shall be to protect the socialist State of the workers and peasants and the established legal order thereof against acts which constitute a danger to society....[2]

According to a Soviet author writing in 1935, all the authorities involved in the implementation of penal policy (the N.K.V.D., the courts, the public prosecutors' offices and the corrective labour institutions) "participate in the class struggle of the proletariat by suppressing the opposition of class enemies and of workers disorganising socialist construction".[1] A manual of criminal procedure written in 1936 by A. Ya. Vyshinski and V. S. Undrevich emphasises that "... the task of revolutionary legality is so to organise summary justice and the suppression of class enemies that the courts under the dictatorship of the proletariat are turned into an unerring weapon against class enemies, pitilessly suppressing them and mercilessly dispensing justice".[3] In another book published in 1941, A. Ya. Vyshinski again writes that "Soviet socialist law aims at overcoming the opposition of class enemies and their agents to the cause of socialism, at ensuring the completion of socialist construction and the gradual transition to communism".[4] A manual of Soviet criminal law published as late as 1950 stresses that—

> The tasks of Soviet socialist legality also determine the part played by Soviet socialist penal legislation in protecting the workers' and peasants' State against every kind of criminal violation, both by hostile elements and by a certain section of the corrupt or unreliable members of Soviet society whose minds still harbour survivals of the ideas of capitalist society.[4]

395. This same "class approach" is apparent in the application of the various corrective labour measures mentioned earlier. As an instance, according to Article 34 of the Corrective Labour Code[5], the labour colonies situated in distant areas are intended for "persons from the milieu of class-hostile elements...". On the other hand, as is confirmed by Soviet writers[1], agricultural colonies are reserved for workers only; class alien elements and *kulaks* in particular are not to be directed there. Exile with corrective labour is a penalty applied mainly to "class enemies". According to Articles 68 and 69 of the Corrective Labour Code[5], various duties in places where persons are deprived of liberty may be entrusted to prisoners "from among the

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[1] See below, p. 472.
[2] See below, p. 479.
[3] See below, p. 487.
[4] See below, p. 520.
[5] See below, p. 475.

working people " but not to persons " belonging to the category of class-hostile elements ". When so contrasted with the idea of " the working people ", the expressions " class enemies " and " class-hostile elements " would seem to be those used to designate the opponents of the régime in power.

396. In the Committee's view, such principles may well be taken to imply that the Soviet penal system could be used to ensure the domination of the class in power and to oppress those who are opposed to it. Any final judgment, however, must be based on a closer study of the penal system, in order to see why, how and for what purposes persons can be sentenced in application of this system to penalties accompanied by corrective labour. This involves a study of the definition of crime in general and of political offences in particular, of the principles of criminal procedure and the aim of penalties which involve corrective labour.

Crime in General and Political Offences in Particular.

397. According to Article 1 of the Penal Code[1], crimes are " acts which constitute a danger to society " ; Article 6[1] lays down that " any action or inaction shall be deemed a danger to society if it is directed against the Soviet régime or violates the legal order established by the workers' and peasants' authority for the period of transition to a communist régime ".

398. According to Article 7 of the Penal Code[2], measures of social defence may be applied not only to persons who have committed acts that are a danger to society, but also to persons " who constitute a danger through their ties with criminal elements or their previous activities ". This rule, however, like Article 22 of the " Basic Principles governing the Penal Legislation of the U.S.S.R. and Union Republics "[2]—in which a similar principle was stated—would seem to be no longer applied ; the Supreme Court of the U.S.S.R. does not consider these texts to be still valid and has laid down the principle that measures of social defence may not be ordered by the courts unless the accused has been found guilty of committing a specific crime.[3] Moreover, Article 10 of the Penal Code[4] makes punishment conditional upon the deliberate or negligent commission of a fault. The most recent writers on the subject stress the importance of this factor, without which no punishment may be inflicted for an act which constitutes a danger to society.[5]

399. While, in this way, Soviet penal law makes punishment conditional upon the commission of a specific crime and on the existence of a fault—and thereby restricts the judge's powers— it recognises the principle of analogy

[1] See below, p. 479.
[2] See below, p. 482.
[3] See below, p. 483.
[4] See below, p. 484.
[5] See below, p. 522.

whereby an act considered to be a danger to society is punishable even if it is not explicitly covered by the Special Section of the Code. Article 16 states that—

> Where the present Code makes no express provision for some act which constitutes a danger to society, the basis and limits of responsibility for such an act shall be determined in accordance with those Articles of the Code which cover crimes whose nature is most similar to such an act.[1]

Admittedly, the tendency in doctrine and jurisprudence at the present time is to restrict the application of this principle by subjecting it to various limiting conditions[2], so that it is possibly nothing more than a principle in the interpretation of the law. Nevertheless, it at least sanctions an extensive interpretation of the penal law, for which, in the words of a manual on criminal procedure published in 1951, " judges must take their socialist sense of justice as a compass to direct them ".[3]

400. This principle of extensive interpretation is more particularly valid for crimes against the State, which Article 46 of the Penal Code[4] regards as constituting the greatest danger and for which no maximum penalty is specified. Very broad definitions are given for such crimes ; as an instance Article 58[5] states that—

> Any action shall be deemed to be counter-revolutionary if it is directed towards the overthrow, undermining or weakening of the authority of the Workers' and Peasants' Soviets ... or towards the undermining or weakening of the external security of the U.S.S.R. and the fundamental economic, political and national conquests of the proletarian revolution.

The various sections of Article 58 list the different specific types of counter-revolutionary crimes, which include wrecking (Article 58 (7)) and counter-revolutionary propaganda and agitation (Article 58 (10)), for which the definitions given are also very broad.[5] The crime covered in Article 58 (10) is defined as—

> Propaganda or agitation containing an appeal to overthrow, undermine or weaken the Soviet régime or to commit particular counter-revolutionary crimes (Articles 58 (2)—58 (9) of the present Code) as well as the dissemination, preparation or possession of literature with such a content.

In the case of counter-revolutionary crimes, the application of limitation is left to the discretion of the court, which might make it possible to punish acts at any time, however long ago they were committed. Under Article 59[6], any action is deemed to be a crime against the system of administration

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[1] See below, p. 481.
[2] See below, pp. 481-482 and 521-522.
[3] See below, p. 521.
[4] See below, p. 479.
[5] See below, p. 480.
[6] See below, p. 481.

and may, in certain cases, be a crime against the State, " if, while not specifically directed towards the overthrow of the Soviet régime and the Workers' and Peasants' Government, it nevertheless results in a disturbance of the proper operation of the organs of administration or of the national economy and is accompanied by opposition to the organs of authority and obstruction of their work, disobedience to the laws or other acts which tend to weaken the power and authority of the régime ". According to Article 47 of the Penal Code [1], it is considered an aggravating circumstance in all crimes that the act might have been prejudicial to the interests of the State or of the working people, even though it was not specifically intended to prejudice those interests.

401. If taken in conjunction with the general definition stating that a crime is constituted by " any action or inaction... directed against the Soviet régime ", such provisions, the scope of which is widened by the principle of analogy, might make it possible, in the Committee's view, for a court or other authority so to interpret the law as to impose a penalty of corrective labour on any person who, in any manner, reveals his opposition to the régime in power.

402. This impression is confirmed by several records of sentences and other official documents which the Committee has had before it [2], and particularly by the written testimonies it has received. It is striking that, out of 194 civilians who have escaped from corrective labour camps and whose testimonies the Committee has been able to examine, 103 affirm that they were sentenced under Article 58 of the Penal Code, 39 of them under Article 58 (10) (counter-revolutionary propaganda and agitation).[3] Many of these witnesses affirm that no specific act was held against them.

403. The Committee observes that the amnesty Decree promulgated in the Soviet Union on 27 March 1953 recognises the need to revise the country's penal law in such a way as to reduce the liability incurred by an offender, though only in the case of certain crimes, which include a number of crimes committed by officials in office, economic and other crimes " of lesser danger ". The Committee also notes that the amnesty itself is granted to persons " who have committed crimes not constituting a great danger to the State ", but not to persons with sentences longer than five years for counter-revolutionary crimes and certain other serious offences.[4]

Procedure.

404. In Soviet law, criminal cases are normally dealt with by the people's courts, which are elected by universal, direct and equal suffrage.[5]

[1] See below, p. 479.
[2] See below, pp. 511-514, paragraphs 182, 184-186, 188, 190, 192, 194-196.
[3] See below, pp. 517-518.
[4] See below, pp. 519 and 520.
[5] See below, p. 487.

On the other hand, certain cases involving counter-revolutionary crimes a crimes of particular danger to the administrative system of the State a heard directly by the territorial and regional courts, which are elected b " Soviets of Working People's Deputies ".[1] In addition, certain crimes agains the State which are investigated by the M.V.D. authorities are tried by speci tribunals organised within the system of territorial courts.[1] Cases involvi treason, espionage, terrorism, diversionary activities and other similar offence are dealt with, even in peacetime, by the military courts, irrespective of th status of the person committing the offence.[2]

405. These various courts are not, however, the only ones empowered t apply corrective labour measures. A " Special Council " which was set up i 1934 within the People's Commissariat for Internal Affairs (N.K.V.D., no M.V.D.) and which is an adminstrative body, has the power to impose vario administrative penalties, including detention in corrective labour camps for a period not exceeding five years, on " persons who are recognised as constitutin a danger to society ".[3] According to the testimony which the Committee h received, the part played in practice by this Special Council is importan As an instance, of the 194 civilians whose testimonies the Committee h been able to examine, 102 affirm that they were sentenced by an administra tive body and many make explicit references to the N.K.V.D. or M.V.D Only 45 state that they were sentenced by an ordinary court, while four clai to have been sentenced by a military court. Judging by these testimonie it would seem that the Special Council of the M.V.D. can, and in fact doe take action against persons recognised as constituting a danger to socie even though they have not committed a specific crime.

406. The Committee's study of the procedure adopted by these vario authorities has been limited to the Code of Criminal Procedure of the R.S.F.S.R and a number of Soviet publications on the subject. These give various pro cedural rules which, in accordance with the general principles of the Sovie Constitution, are designed to ensure that regular and impartial justice is don both during the preliminary investigation and in the conduct of the tria It is evident, however, from various provisions of the Code of Criminal Pro cedure that these rules do not apply in every instance. For certain case including those involving counter-revolutionary crimes, in which the pre liminary investigation is conducted by the Ministry of State Security of th U.S.S.R., there are special regulations governing investigations and arrest The Committee has not been able to obtain these regulations, which do no appear to have been published.[5] According to the book by A. Ya. Vyshinsk and V. S. Undrevich, published in 1936, a summary system of procedur

[1] See below, p. 488.
[2] See below, pp. 488 and 523.
[3] See below, pp. 491-492.
[4] See below, p. 517.
[5] See below, p. 489.

is adopted " when, for political reasons, the accent is placed upon the rigorous and swift repression of class enemies in cases involving crimes which bear the stamp of a class struggle by class-hostile elements and their agents against the socialist régime and the dictatorship of the proletariat ".[1] M. A. Cheltsov observes in a book published in 1951 that, to ensure the swift and pitiless repression of traitors, spies, terrorists and diversionists, the military courts often have to adopt an accelerated and reduced system of procedure, though this does not exempt them from observing the basic procedural principles, within the limitations imposed by the background to the court and the circumstances of the case ".[2] As regards the procedure followed by the Special Council of the M.V.D., the Committee has not been able to obtain any authoritative information either from Soviet legislation or from Soviet legal commentaries.[3]

407. With more particular reference to the rights of the defence, the Act of 1938 concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics lays down in Article 8 that " In accordance with Article 111 of the Constitution of the U.S.S.R.... the accused is guaranteed the right to defence ". The Code of Criminal Procedure, however, imposes various restrictions on this right, particularly in certain cases involving terrorism, counter-revolutionary wrecking and diversion, where the restrictions go so far as to exclude the parties from the hearings and deprive defendants of the right to lodge appeals.[4] In his book published in 1951, M. A. Cheltsov remarks in this connection that " in Soviet criminal procedure, an accused is never left without defence, even if, at certain stages of the trial, he cannot avail himself of the services of the special person empowered to perform the functions of the defence, *i.e.*, the defending counsel ". He explains that " A Soviet defending counsel is not a representative of the accused, who does as the accused desires; he is a member of the social organisation, whose function is to defend the legitimate interests of the accused ". Elswhere, he quotes from a book written by A. Ya. Vyshinski in 1934, where it is stated that—

> The first requirement of a defending counsel is a high sense of political responsibility, superior political qualifications ... an ability to defend his point of view and fearlessly give battle for his beliefs, not in the interests of his client but in the interests of socialist construction and the interests of our State.[5]

408. In the Committee's view, such a conception of the rights of the defence and the restrictions to which they are subjected in the case of political offences considerably increase the risk that the penal system and the penalty of corrective labour will be used for the oppression of those who are opposed to the

[1] See below, p. 490.
[2] See below, p. 524.
[3] See below, p. 493.
[4] See below, pp. 490-491.
[5] See below, p. 525.

régime. Here again, the testimonies which the Committee has been able t. examine confirm the impression created by Soviet legislation and legal commentaries.

The Aim of Penalties which Involve Corrective Labour.

409. According to Article 9 of the Penal Code [1], one of the aims of applying measures of social defence is " to adapt persons having committed criminal acts to the conditions of communal existence in the working people's State ". In Article 2, the Corrective Labour Code lays down that the aim of corrective labour policy is—

(a) to place convicted persons in conditions where they are deprived of the possibility of committing acts harmful to socialist construction, and

(b) to re-educate and adapt them to the conditions of a communal life of labour by directing their work to ends of general utility and by organising it on the principle of the gradual approximation of forced labour to voluntary labour on the basis of socialist competition and shock-work.[2]

Article 3 of the Act of 16 August 1938 concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics also states that "Soviet courts, in inflicting penalties for crimes, shall not only punish the offender but shall also aim at their re-education and reform ".[3]

410. During the debates in the Economic and Social Council, the representatives of the U.S.S.R., the Byelorussian S.S.R. and Poland discussed this subject at some length [4], pointing out that in every country prisoners were compelled to work and that the Soviet system of corrective labour was particularly progressive and humane, in that it made offenders work, not to punish and humiliate them but to reform them and assist them later to become useful members of society.

411. It is true that, according to the modern principles of penology now applied in many countries, the main purpose of a penalty is to re-educate the convict and so reform him and rid him of his criminal leanings, and that the work required of prisoners often plays an important part in this re-educative work. In the Committee's view, however, where the prisoners are political offenders convicted of having in some way shown their opposition to the régime in power, such re-education can only be political in character, designed to alter their opinions and so deter them from any future manifestation of their opposition. The Committee more particularly notes that a political character is openly attribued by Soviet law and Soviet legal commentaries to the re-education of prisoners of every type. So much is clear from the

[1] See below, p. 473.
[2] See below, p. 472.
[3] See below, p. 486.
[4] See below, pp. 458-460.

corrective Labour Code (Articles 4, 5, 7, 33 and 105) which speaks of "politically educative influences", to be exercised on persons sentenced to corrective labour in any of its forms.[1] Furthermore, many Soviet authors[2] comment that these influences are exercised with the object of eradicating the habits and ideas which prisoners have inherited from the past, of refashioning the minds of men, of overcoming the survivals of capitalism and "of re-educating the *déclassé* elements among the shattered hostile classes by passing them through the furnace of 'dekulakisation', isolation and labour influences".

412. The object, therefore, is not merely to re-educate offenders and so rid them of their criminal leanings; it is at least as much, and probably even more, to correct their political opinions and so eliminate all opposition to the régime. In this way also, in the Committee's view, the Soviet penal system with its methods of corrective labour would appear to constitute a system of forced or corrective labour employed as a means of political coercion or punishment for holding or expressing political views.

Economic Importance of the System.

413. It is evident from several Soviet sources[3] that, since about 1930, the work of both political and other prisoners has been used in the Soviet Union for large-scale public works (*e.g.*, canals, railways and roads), for the development of vast areas with abundant and hitherto unexploited resources of raw materials, and for the economic development of previously uncultivated regions. Several Soviet authors have also stressed the great importance for the national economy of the work done by the corrective labour camps and colonies. This information from Soviet sources actually relates to conditions existing before the Second World War, but nothing either in the statements made in the Economic and Social Council by the representatives of the U.S.S.R., the Byelorussian S.S.R. and Poland on the work of prisoners[4] or in other information which the Committee has been able to obtain would seem to indicate that the situation is different today. It is also clear from the most recent testimonies examined by the Committee that during the war and even after, persons sentenced to corrective labour were still used on large-scale projects or in big industrial or farming undertakings.[5]

414. In the Committee's view it would therefore seem to be established that the work of prisoners, particularly in corrective labour camps and colonies, is used in the Soviet Union for essential tasks in the interests of the national economy, and that the part it plays is of considerable significance.

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[1] See below, pp. 476-477.
[2] See below, pp. 475-476.
[3] See below, pp. 477-478, 504-505 (paragraphs 169 and 170) and 507 (paragraph 174).
[4] See below, pp. 458-460.
[5] See below, p. 518.

415. On the other hand, the Committee does not feel itself in a position to estimate its magnitude or to assess its relation to the entire economic activity of the country. All the material the Committee has been able to examine gives the impression that corrective labour plays a relatively large part in the national economy, but to reach any definite conclusions it would need economic statistics which it has not been able to obtain. It would at least have to know with some degree of certainty the number of persons sentenced to corrective labour, and it has been unable to make any estimates in this connection. Nor has the Committee felt itself in a position to draw any definite conclusions from the " State Plan for the Development of the National Economy of the U.S.S.R. in 1941 " [1], which was brought to the Committee's notice in connection with this problem. It might be possible from this document to obtain a fairly clear idea of the relative importance of the economic tasks assigned to the N.K.V.D., which is responsible for the administration of all camps, colonies and other corrective labour institutions in the Soviet Union.[2] However, owing to the outbreak of the war, it is not certain whether or to what extent, the plan was implemented ; nor is it established that the tasks assigned to the N.K.V.D. were to be carried out solely by the corrective labour institutions.

Number and Location of Corrective Labour Camps and Colonies, Number of Prisoners and Living Conditions.

416. The Committee has received lists from various unofficial sources which attempt to establish the number and geographical distribution of the corrective labour camps and colonies in the Soviet Union. A certain amount of information is also provided by a number of documents submitted to the Committee as official [3] and by the written testimonies the Committee has received.[4] Considering, however, that this information is extremely fragmentary, that it refers to different periods and that there have apparently been frequent changes both in the location and even in the number of the camps, the Committee has refrained from any attempt to give a precise picture of the situation. The most it can do is to observe that the corrective labour camps and colonies appear to be scattered over the whole of the Soviet Union but that they seem to be mainly located in areas far away from the principal centres of population.

417. In the absence of official statistics and of adequate and genuine conclusive unofficial information, the Committee is even less in a position to assess, however roughly, the number of persons sentenced to corrective labour in camps, in colonies or in exile.

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[1] See below, p. 505.

[2] See below, p. 494.

[3] See below, pp. 505-506 (paragraph 173), 509-511 (paragraphs 176-180 and 183) and 512-513 (paragraphs 187, 188 and 190).

[4] See below, p. 518.

418. In its consideration of the living conditions in the corrective labour camps and colonies the Committee had before it laws and regulations governing the administration of these institutions[1], statements made in the Economic and Social Council by the representatives of the U.S.S.R., the Byelorussian S.S.R. and Poland[2], and the testimonies of persons claiming to have lived in camps or colonies.

419. As regards the laws and regulations on this subject, the Committee's attention was devoted mainly to the Corrective Labour Code, which governs the administration of the colonies intended for persons sentenced to less than three years' detention by a court of law, and the Statute governing corrective labour camps dated 7 April 1930, which regulates the administration of the camps intended for persons sentenced by a court to detention for three years or more and for persons detained by order of the N.K.V.D. (M.V.D.) Special Council.[3]

420. The first of these two texts—to which the representatives of the U.S.S.R., the Byelorussian S.S.R. and Poland made explicit references during the debates in the Economic and Social Council to show that the penitentiary system in the Soviet Union was among the most humanitarian—lays down in Article 7 that detention is not to be accompanied "either by the infliction of physical suffering or by the abasement of human dignity". It lays down detailed and generally satisfactory regulations for the accommodation, labour and clothing of the prisoners, who are remunerated for their work. It stipulates that the rations fixed must have an adequate calorie content and be sufficiently nutritious and states that persons exceeding their production norm are to be granted increased rations. It also makes provision for the organisation of a medical service.[4]

421. The Statute of 1930 governing corrective labour camps, though containing similar rules on many points, would appear in certain respects to be less favourable. Its provisions are less definite, the remuneration of prisoners is left to the Unified State Political Department (O.G.P.U.) in consultation with the People's Commissariat for Labour of the U.S.S.R., and the prisoners themselves are divided into various categories, the least privileged of which includes persons "who are not members of the working people", irrespective of the offence they have committed, and persons convicted of counter-revolutionary crimes, irrespective of the class from which they come. The rations issued correspond to the nature of the work performed and fall into four categories—basic, working, augmented and punitive.[5]

[1] See below, pp. 494-498 and 505-506.

[2] See below, pp. 458-460.

[3] See below, pp. 468-470. Confirmation that both the 1930 Statute and the Corrective Labour Code are still in force is provided by a book which became available to the Committee just before the close of its deliberations. The book in question was edited by Professor V. M. CHKHIKVADZE under the title *Sovetskoe Ugolovnoe Pravo* [Soviet Criminal Law] (Moscow, State Publishing House for Literature on Law, 1952), and the relevant information is to be found on pp. 102, 339 and 349 *et seq.*

[4] For a more detailed summary, see below, pp. 494-496.

[5] See also below, pp. 505-506.

422. The very large majority of the former prisoners whose testimonies t Committee has been able to examine[1] have given a very different pictu of the living conditions in the camps from that offered by these regulation Most of them have described the conditions as being inhumane, particular as regards the accommodation and the food ; they allege that the rationi system is made quite unbearable by its subjection to production norms whi no normal man can possibly fulfil.

423. Despite all the often moving and apparently sincere eviden provided in these testimonies, the Committee refrains from drawing any gener conclusions, since the rule it has consistently followed is to base i conclusions mainly on laws and regulations.

Mass Deportations.

424. The allegations mention deportations inside the Soviet Union itse from one part of the country to another and also the deportation of perso arrested in neighbouring countries and taken to the Soviet Union either i connection with the occupation of these countries or with the complici of their governments, most of the persons involved being subsequently su jected to forced labour.

425. Evidence of deportations inside the Soviet Union itself has bee submitted to the Committee only in connection with the population of t former Crimean and Chechen-Ingush Autonomous Republics. The Decree of June 1946 which abolished these Republics[2] expressly states that " the Chechen and Crimean Tartars have been moved to other areas of the U.S.S.R., whe they have been allotted land and given the requisite assistance from the Sta for their economic settlement ". There is nothing in this Decree to indica however, that they have been detained in corrective labour camps or in a other way subjected to forced labour. In the absence of any informatio showing that the real object of the deportee to take up work in an area where no voluntary labour was available, t Committee cannot regard it as an instance of forced labour within t meaning of its terms of reference.

426. The most definite allegations which have been submitted to t Committee in connection with deportations from various countries to t Soviet Union are concerned with the deportation of persons from the Balt States in 1941 during the occupation of these countries, in 1945-1946 when the were annexed by the Soviet Union, and even later. These deportatio had allegedly the double purpose of eliminating those opposed to the ne régime and of providing fresh supplies of labour for the Soviet Union.

427. In this connection, the Committee has received photostat copies o secret orders and instructions issued between April and June 1941 by offici

[1] See below, p. 518.
[2] See below, p. 505.

of the People's Commissariats of State Security of the U.S.S.R. and the Lithuanian S.S.R.[1] From these documents it appears that in May and June 1941 the Soviet authorities organised an " operation to deport anti-Soviet elements from Lithuania, Latvia and Estonia " and that this operation affected whole groups of persons regarded as constituting a danger to society by reason, *inter alia*, of their membership of certain associations, social classes or professions. One of these documents states that " persons with an anti-Soviet attitude ... are to be prepared for deportation to distant places in the U.S.S.R. ". None of these documents speaks of the activities of the deportees after their deportation, but various testimonies submitted to the Committee seem to indicate that, in all probability, they were detained in corrective labour camps or obliged to enter specified employment. More than ten years have passed, however, since these wartime deportations, and the Committee refrains from expressing any opinion on the case, since it is only called upon to study present situations and also since it has not received any information on the present position of these deportees.

428. As regards allegedly more recent deportations to the Soviet Union involving the nationals of the Baltic States or those of other countries such as Hungary, Romania and Eastern Germany, the Committee has before it no legal texts or official documents from which it can conclude that such deportations have in fact occurred or that they still continue.

Restrictions on the Freedom of Employment and Other Measures Involving the Mobilisation or Direction of Labour.

429. The Committee has given careful consideration to the various legal texts which the allegations quote to prove that, in the Soviet Union, apart from forced labour of a punitive or corrective nature, many restrictions on the freedom of employment and other similar measures render the status of free workers hardly different from that of persons sentenced to forced labour.

430. The first of these measures is the " compulsory labour service "[2] which the Council of People's Commissars can impose in exceptional cases on all citizens of certain age groups, with a number of exceptions, in application of Articles 11-14 of the Labour Code of the R.S.F.S.R. The Committee has no information as to the use the Government may have made of the power thus given it at the present time. It notes, however, that the exceptional cases mentioned in the Code range from " fighting the elements " to " a shortage of labour for carrying out important State work " ; this very wide provision might allow recourse to compulsory labour even in normal times and on a large scale in the interests of the national economy.

[1] These documents are summarised below, on pp. 507-509. See also p. 516, paragraph 201, subparagraphs 4, 5 and 6.

[2] See below, p. 498.

431. The Committee next examined the 1940 legislation—which would appear to be still in force—on State labour reserves for industry.[1] The Decree of 2 October 1940, amended in 1946 and 1947, states that the further expansion of industry "demands a constant stream of fresh manpower to the pits, mines, transport services and factories", and consequently organises various vocational training schools and empowers the Council of People's Commissars to call up between 800,000 and 1,000,000 young persons in towns and on collective farms each year for training in these schools. At the end of their apprenticeship, these young people are considered mobilised and are required to work for four consecutive years in remunerated employment as directed by the Central Department of Labour Reserves. They have the same rights and duties as ordinary workers. At the end of the four-year period[2], they may leave the employment which has been assigned to them only if they have received permission to do so from their administration, in accordance with a Decree of 26 June 1940 which will be examined later.

432. It is clear from the text summarised above that persons may, if necessary, be compelled to enter these vocational schools, in which case neither the period of training nor the compulsory period of practical work which follows it can be regarded as free labour. Several recent Soviet publications[3] indicate that considerable use is made of this legislation and that it plays an important part in the national economy. Some of these publications mention that, apart from the persons conscripted for the labour reserve schools, there are many volunteers, and that the increase in their numbers has been such that in 19[illegible] all the young persons recruited for certain branches had applied for training of their own free will. The Committee nevertheless feels that this system involves at least an indirect compulsion to do work of a specific type, since constraint is legally applied when the number of volunteers does not suffice and also since the possibility of their being compulsorily enrolled restricts the freedom of the young recruits in making their decision.

433. The Committee also notes that, under Article 37 of the Labour Code of the R.S.F.S.R.[4], workers may be compulsorily transferred from one undertaking to another for a period not exceeding one month "if industrial conditions render it necessary". Persons refusing to do so may be prosecuted for a breach of labour discipline. The Committee further notes that a Decree of 19 October 1940[5] empowers various authorities to order the transfer of certain categories of skilled workers from one undertaking to another for unlimited periods in order to provide new industrial undertakings and transport services with skilled staff. Any person refusing to comply with such an order is regarded as having left his work without permission and is liable to prosecution under the Decree examined in the paragraph which follows.

[1] See below, p. 499.
[2] See below, pp. 526-527.
[3] See below, pp. 500 and 526-527.
[4] See below, p. 502.
[5] See below, p. 501.

434. The Committee has devoted particular attention to a Decree of 26 June 1940[1] prohibiting wage-earning and salaried employees recruited for work with State, co-operative or public undertakings or institutions under contracts of employment concluded for indefinite periods from leaving their employment or accepting any other without the prior permission of the manager of the undertaking or the head of the institution. Any person doing so is liable to imprisonment for from two to four months. In the Committee's view, such a restriction on the freedom of employment creates conditions closely resembling compulsory labour, since certain workers can be obliged to remain for what may prove to be an unlimited period in a job which they no longer want.

435. The scope of these provisions is extended even further by the fact that they apply not only to employment which has been freely undertaken but also to employment which has been assigned. According to certain Soviet authors[2], they apply to young persons who are serving their compulsory period of practical work after finishing their apprenticeship, and also to workers who have been obliged to change their jobs by a transfer order issued under the Decree of 19 October 1940 mentioned earlier.

436. When, during the debates in the Economic and Social Council, the representatives of the U.S.S.R., the Byelorussian S.S.R. and Poland replied to the allegations made in connection with these restrictions on the freedom of employment[3], they stressed the point that the right to work was guaranteed both by the Soviet Constitution and by Soviet law and that, in consequence, there had been a considerable improvement in the material and social circumstances of the population. A recent Soviet manual on labour law[4] adopts the same approach, stating that " together with the right to work, one of the basic and determinant factors in the institution and development of employment relationships is the fulfilment by citizens of another most important constitutional principle of the Soviet State—the duty to work ". The various restrictions placed on the freedom of employment under Soviet legislation, like the various forms of compulsion to work to which they lead, thus constitute, in the opinion of the writer of the manual, the corollary to the right to work guaranteed by the Soviet Constitution. In the Committe's view, however, the fact remains that the various measures which have been discussed above mean that whole groups of persons are obliged by order of the public authorities to take up, or remain in, a given job, against their will if necessary, and may be penalised for not doing so. Such measures, applied on a large scale and in the interests of the national economy, lead, in the Committee's view, to a system of forced or compulsory labour constituting an important element in the economy of the country.

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[1] See below, p. 502.
[2] See below, pp. 503 and 528.
[3] See below, pp. 463-464.
[4] See below, p. 525.

Conclusions

437. Given the general aims of Soviet penal legislation, its definitions of crime in general and of political offences in particular, the restrictions it imposes on the rights of the defence in cases involving political offences, the extensive powers of punishment it accords to purely administrative authorities in respect of persons considered to constitute a danger to society and the purpose of political re-education it assigns to penalties of corrective labour served in camps, in colonies, in exile and even at the normal place of work, this legislation constitutes the basis of a system of forced labour employed as a means of political coercion or punishment for holding or expressing political views and it is evident from the many testimonies examined by the Committee that this legislation is in fact employed in such a way.

438. Persons sentenced to deprivation of liberty by a court of law or by an administrative authority, particularly political offenders, are for the most part employed in corrective labour camps or colonies on large-scale projects, on the development of mining areas or previously uncultivated regions, or on other activities of benefit to the community, and the system therefore seems to play a part of some significance in the national economy.

439. The Committee has not been able to arrive at any definite conclusions as to the number or location of the corrective labour camps and colonies; much less has it been able to assess how many persons are detained in them.

440. The Committee refrained from drawing any conclusions in connection with the mass deportations referred to in the allegations, in some cases because they were stated to have taken place in a relatively distant past, in others because it was not established that they were accompanied by forced labour, and in others again because the Committee did not have sufficient information to come to the conclusion that they actually occurred.

441. Soviet legislation makes provision for various measures which involve a compulsion to work or place restrictions on the freedom of employment; these measures seem to be applied on a large scale in the interests of the national economy and, considered as a whole, they lead, in the Committee's view, to a system of forced or compulsory labour constituting an important element in the economy of the country.

United Kingdom and Territories Administered by the United Kingdom

442. Allegations regarding the existence of forced labour in the United Kingdom or territories under its administration were made by the representatives of the U.S.S.R., the Byelorussian S.S.R., Poland and the World

Federation of Trade Unions during the debates on forced labour in the Economic and Social Council, and were also submitted to the Committee by a non-governmental organisation.

443. At its Fourth Session the Committee had before it the allegations[1], the replies to the allegations[2], the documentary material concerning them[3], the comments and observations of the Government[4] and its reply to the Committee's questionnaire.[5] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in the United Kingdom and the territories under its administration. Those for the United Kingdom are given first.

United Kingdom

444. Allegations regarding the existence of forced labour in the United Kingdom refer *(a)* to the labour of prisoners; and *(b)* to emergency measures compelling workers to change their place of work and to accept work in any part of the country.[6]

The Labour of Prisoners.

445. The Committee observed that several allegations referred only to prison conditions as such[7] and for that reason they were not relevant to its terms of reference.

446. Other allegations referring to hard labour and compulsory labour were based on laws of 1822 and 1913. In this connection the Committee noted that the Criminal Justice Act of 30 July 1948 abolished penal servitude, hard labour and the sentence of whipping. It thereby repealed the Law of 1822 and the provisions of the Law of 1913 relating to penal servitude. The Committee therefore concluded, without needing to examine the question of their relevancy, that these allegations were not substantiated. It also noted the comments and observations of the United Kingdom Government regarding the application of these laws prior to the Act of 1948.[8]

447. The Committee considered that the various allegations relating to corporal punishment in prisons[9] were irrelevant to its terms of reference.

448. The remaining allegations mentioned under this heading referred to prison labour in general. It was asserted that this labour was regarded as "a means of constraint", rather than as a means of re-educating a prisoner

[1] See below, pp. 529-562, *passim*.
[2] See below, pp. 530-554, *passim*.
[3] See below, pp. 533-565, *passim*, and pp. 584-585.
[4] See below, pp. 565-584.
[5] United Nations document E/AC.36/11/Add.10 and see below, pp. 530-533.
[6] See below, pp. 529-530.
[7] For the comments and observations of the United Kingdom Government on these matters, see below, pp. 566-568.
[8] See below, p. 567.
[9] For the information on this matter submitted by the United Kingdom Government, see below, pp. 567-568.

for a useful life on his release. The only evidence cited in support of this assertion was the Law of 1913 but, as has been seen above, the provisions of this Law relating to penal servitude were repealed in 1948. With regard to the position before 1948, the Committee noted the Government's comments and observations [1], which stated that hard labour as a form of work had, in fact, been a dead letter since 1898, when the Government passed the Prison Act on the basis of the recommendation of a Committee (set up in 1895) that prisoners should be employed in useful and industrious work " such as will fit the prisoner to earn his livelihood on release ". The Committee also examined the Statutory Rules for England and Wales of 1949 from which it appears that prison labour is not regarded as punitive but as a means of social rehabilitation since, in accordance with accepted principles of modern penology, " the purpose of training and treatment of convicted prisoners shall be to establish in them the will to lead a good and useful life on discharge and to fit them to do so " (Rule 6). There is, moreover, no evidence to suggest that prison labour in the United Kingdom is regarded or used as a means of political punishment or political re-education. The Committee concludes that the above-mentioned allegations relating to prison labour in the United Kingdom are not substantiated, and that neither the purpose of this labour (as set forth in the Statutory Rules) nor its nature and extent [2] are relevant to the Committee's terms of reference.

Emergency Measures compelling Workers to change their Place of Work and to Accept Work in any Part of the Country.

449. The representative of Poland alleged that " the laws of Czechoslovakia and Bulgaria cited by the United Kingdom representative in accusing those countries of using forced labour were very similar to the United Kingdom National Service Acts ". The National Service Acts deal with compulsory military service, and the Committee has found no similarity between the laws in question. Nevertheless the Committee has examined the National Service Acts, 1948-50, and has found that, as stated by the United Kingdom Government [3], the only category of persons who may be required under these Acts to perform civilian work are conscientious objectors, whose work is only required in substitution for compulsory military service. The Committee has also noted that the number of persons concerned is extremely small. It has concluded that the allegation is not relevant to its terms of reference.

450. With regard to the allegation that under an Act dated 6 October 1947 workers can be compelled to change their place of work, the Committee notes that the Control of Engagement Order, 1947, to which the statement appears

[1] See below, p. 567.

[2] See the *Report of the Commissioner of Prisons for the Year 1949* (referred to on p. 567 below).

[3] See below, p. 565.

rently refers, was revoked on 13 March 1950.[1] The Committee nevertheless noted that prior to this date powers of direction were exercised in accordance with rules issued for the guidance of National Service Officers, that these rules provided that workers were to be given a wide choice of available jobs in essential work, that powers of direction were to be exercised only as a last resort, and that appeal against such directions was permitted.[1] It also noted that only fifteen directions were issued in 1947, fourteen in 1948, and none in 1949 or 1950.[1] The Committee concluded that this allegation was not relevant to its terms of reference.

Territories Administered by the United Kingdom

451. Allegations regarding the existence of forced labour in territories administered by the United Kingdom refer to the following 12 territories : Bechuanaland, Cameroons, Gambia, Gold Coast, Kenya, Malaya, Nigeria, Northern Rhodesia, Sierra Leone, Southern Rhodesia, Tanganyika and Uganda.

452. For each of these territories the Committee prepared a separate summary of allegations and related documentary material[2] for transmission to the United Kingdom Government, which has submitted comments and observations for each of these 12 territories.[3]

453. The Committee noted, however, that in some cases the same allegation is applied to several territories and that the same source (chiefly I.L.O. publications) is cited in support of these allegations. In other cases similar institutions or practices are alleged to exist in more than one territory. For these reasons the Committee has examined the allegations according to the institutions or practices to which they refer, rather than according to territories.

454. These allegations refer in substance to the following points :

(a) mass recruitment for African mines (Bechuanaland) ;

(b) the groundnut scheme (Tanganyika) ;

(c) forced labour for failure to pay taxes (Cameroons, Tanganyika and Uganda) ;

(d) compulsory porterage (Cameroons and Nigeria) ;

(e) compulsory labour in wartime (Kenya and Tanganyika) ;

(f) conscription of labour in peacetime for industries of national importance (Kenya) ;

(g) political prisoners carrying out forced labour (Malaya) ;

(h) compulsory labour for public works and services (Tanganyika) ;

[1] See below, p. 566.
[2] See below, pp. 533-565.
[3] See below, pp. 568-584.

(i) requisitioning of labour by indigenous authorities for communal works (Nigeria) ;

(j) compulsory employment in local land conservation work (Southern Rhodesia) ;

(k) forced convict labour (Nigeria) ;

(l) conscription of voluntarily unemployed persons (Kenya) ;

(m) general allegations regarding forced labour (Gambia, Gold Coast, Nigeria, Northern Rhodesia and Sierra Leone).

455. The following are the Committee's findings and conclusions on the allegations regarding the above-mentioned points.

Mass Recruitment for African Mines (Bechuanaland).

456. It was alleged that mass recruitment organised in British Central Africa in order to supply labour for African mines was a " barely disguised form of forced labour ", and that virtually the sole purpose of Bechuanaland seemed to be to supply an annual contingent of 9,000 to 10,000 workers for the South African mines. This allegation was supported by a reference to the United Kingdom Government's report to the United Nations on Bechuanaland ; this states that " between 9,000 and 10,000 leave the Territory each year for employment in the mines in the Union of South Africa ".[1]

457. Although international labour Convention No. 50 concerning the regulation of certain special systems of recruiting workers has not been applied to Bechuanaland, the recruitment of indigenous workers and the conclusion of contracts of employment are regulated by the Bechuanaland Protectorate Native Labour Proclamation, 1941 [2], the provisions of which are very similar to those of the Convention.

458. The Committee has examined this legislation, together with the report of the United Kingdom Government to the I.L.O. concerning its application ; it has no evidence that the recruitment involves compulsion and has therefore found that the allegation is not substantiated.

The Groundnut Scheme (Tanganyika).

459. It was alleged that the groundnut scheme applied in Tanganyika by the British authorities was based entirely on the use of forced labour.

460. In connection with this allegation the Committee has examined *A Plan for the Mechanised Production of Groundnuts in East and Central Africa* (submitted to Parliament in February 1947), the report of the Visiting Mission sent to Tanganyika by the Trusteeship Council in 1948, the United Kingdom

[1] See below, pp. 533 and 534.
[2] See below, p. 534.

Government's reply to that report, I.L.O. reports on the application of the Recruiting of Indigenous Workers Convention (No. 50) [1], and the comments and observations of the United Kingdom Government on this allegation.[2]

461. As a result of its study of this material the Committee has found that the only matter requiring examination is the recruitment of persons to work on the groundnut scheme. In this connection the United Kingdom Government states [2] that a large proportion of the workers employed by the Overseas Food Corporation (for the scheme) have offered their services voluntarily at the places of employment and that the remainder have been recruited on licences issued under the provisions of local legislation, which complies with the requirements of the Recruiting of Indigenous Workers Convention (No. 50). With regard to the workers recruited on licence, the Government states that they " in all cases offer their services voluntarily ". The Committee has found no evidence in the documentation before it to suggest that this is not the case.

462. The Committee has also noted the statistics submitted by the Government of the United Kingdom [2], which indicate that the maximum number of persons employed on the groundnut scheme in 1949 was 22,800, of whom 5,310 were recruited, and that 8,199 persons were so employed in 1952, of whom 1,539 were recruited.

463. From its examination of the evidence briefly reviewed above, the Committee has found *(a)* that the allegation that the groundnut scheme is based entirely on the use of forced labour is unfounded, and *(b)* that it has no evidence that the employees specially recruited for the scheme are employed against their will.

Forced Labour for Failure to Pay Taxes (Cameroons, Tanganyika and Uganda).

464. It was alleged that forced or compulsory labour for failure to pay taxes could be exacted from the indigenous populations of the Cameroons, Tanganyika and Uganda.[3]

465. In connection with these allegations the Committee has examined the relevant legislation and/or official reports pertaining to each of these territories [4], as well as the comments and observations of the United Kingdom Government [5] relating to Tanganyika and Uganda. It appears from these sources that the institution still exists in the Cameroons and Uganda, but that the legal sanction for the discharge of tax obligations by labour was

[1] See below, pp. 558-560.
[2] See below, p. 581.
[3] For the text of these allegations (which vary in their terminology), see below, pp. 535, 556-557 and 562.
[4] See below, pp. 535-536, 561-562 and 562-564.
[5] See below, p. 583.

abolished in Tanganyika in 1951. The Committee observed that, under Article 10 of international labour Convention No. 29, " forced or compulsory labour ... exacted as a tax ... shall be progressively abolished "; it is only tenanced by the Convention only as a transitional measure, subject to restrictive regulations.[1]

466. It remains to be seen whether this institution constitutes a system forced labour within the meaning of the Committee's terms of reference From the official statistics available to the Committee it appears that in the year 1949 there were 308 prosecutions for failure to pay taxes in the Cameroons.[2] In Tanganyika, in 1951, 1,127 persons (or 0.0007 per cent. the total number of taxpayers) discharged their tax obligations by labour No recent statistics are available for Uganda, where the institution of *luwo* still exists in the form of a Native administration tax, and the Committee noted the statement of the Government[4] that " it is now most rare for a taxpayer to meet his liability by direct labour rather than by cash payment

467. On the basis of these official statistics and of this statement concerning Uganda the Committee found that the labour of tax defaulters is (in the case of Tanganyika—was) insignificant to the economy of the Cameroons Tanganyika and Uganda and that the extent of the compulsory labour exacted in this form does not constitute a system of forced labour within the meaning of its terms of reference.

Compulsory Porterage (Cameroons and Nigeria).

468. It was alleged that the conscription or requisitioning of Natives for work as porters or bearers exists in the Cameroons and Nigeria and that it constitutes forced labour.[5]

469. Since the laws of Nigeria are also applied to the British Cameroons the Committee examined the Nigerian Labour Code of 1945[7], under which the Governor may authorise " the exaction of forced labour in order to provide carriers for purposes of transport ". It also examined the relevant regulations appearing as a Schedule to this Code, which are based on Article 18 of international labour Convention No. 29, which permits, as a transitional measure subject to restrictive regulations, " forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen ", and stipulates that such labour " shall be abolished within the shortest possible period ".

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[1] See below, p. 143.

[2] See below, p. 536.

[3] The legal sanction for the discharge of this obligation by labour was abolished on 25 June 1951. See below, p. 562.

[4] See below, p. 583.

[5] For the text of these allegations, see below, pp. 535 and 545.

[6] See the statement by the United Kingdom Government, p. 569.

[7] See below, p. 548.

470. The Committee also examined the report of the Nigerian Government to the I.L.O. on the application of Convention No. 29 for the period 1 July 1948 to 30 June 1949[1], as well as the comments and observations of the United Kingdom Government[2], from which it appears that the legislation relating to compulsory porterage has not been applied in Nigeria and that the position is the same in the British Cameroons. The provisions relating to forced labour for porterage are still in effect, but can only be applied by an Order issued by the Governor in Council. The Government states that no such Order has been issued. Compulsory porterage is permitted only " for the purposes of facilitating the movement of Government officers when on, or proceeding to or from, duty, or for the transport of Government stores, and, in cases of very urgent necessity, the transport of persons other than Government officers ". Even if an Order were issued it is evident that such compulsory labour could have no appreciable economic importance for the territory concerned and would therefore not constitute a system of forced labour within the meaning of the Committee's terms of reference.

Compulsory Labour in Wartime (Kenya and Tanganyika).

471. It was alleged that, according to a report published in 1946 by the I.L.O., forced labour had been introduced into Kenya and Tanganyika during the war and that 18,865 persons had been subjected to forced labour in Kenya and 39,000 in Tanganyika.[3]

472. The I.L.O. report to which this statement referred is probably the publication entitled *Proposed International Labour Obligations in respect of Non-Self-Governing Territories*, from which it appears that " on 30 September 1945 the number of forced workers in employment in Kenya was 18,765, and in Tanganyika 29,450. " The passage cited deals with the question of " the liquidation of war emergency forced labour ". The publication states that in both territories " no further men will be compulsorily recruited for private employment after 31 December 1945 " and that " the whole system will be liquidated not later than 30 September 1946. "[4]

473. The Committee also examined the comments and observations of the Government[5], together with the legal texts it quoted, and found that the labour referred to was executed under war emergency measures and that these measures were abolished in 1946 in both territories. It therefore found that these allegations were not relevant.

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[1] See below, p. 548.
[2] See below, p. 575.
[3] For the text of these allegations, see below, pp. 539 and 556.
[4] See below, pp. 540 and 557.
[5] See below, pp. 572 and 580.

Conscription of Labour in Peacetime for Industries of National Import: (Kenya).

474. It was alleged that "under the law published in the *Official Ga:* in January 1950, the Government was entitled to decide even in time peace which industries were of national importance and therefore had t right to use forced labour."

475. The Committee has been unable to trace such a law either in t Kenya *Official Gazette* for January 1950 or in the Compendium of Ordinan enacted in Kenya in 1949 and 1950. The only legislative text of that pe which may be connected with this allegation is the Emergency Powers Or nance, 1948, as amended on 8 February 1950.[1] Under this Ordinance the Gov nor in Council may, during a Proclamation of Emergency, make regulati "for securing the public safety or interest and the essentials of life to t community" and may confer on any person such powers and duties as t Governor in Council may deem necessary "for the preservation of the pe for securing and regulating the supply and distribution of food, water, f light and other necessities, for maintaining the means of transit or locomo and for any other purposes essential to the public safety and the life of t community." A state of emergency was in fact proclaimed in Kenya 20 October 1952.[2]

476. The Committee noted that the duties which may be required u this Ordinance relate only to "essential services", that is, the water, electric health, hospital and sanitary services and the transport services necess thereto. Finally, it observed that the Ordinance provides that no such re lations may be made "imposing any form of compulsory military serv or industrial conscription". The Committee found that the allegation w contradicted by the text of the Ordinance itself, and that it was therefore substantiated.

Political Prisoners carrying out Forced Labour (Malaya).

477. It was alleged that "according to a Telepress Agency report 7 July 1950, 15,000 political prisoners were carrying out forced labour concentration camps."

478. In connection with this allegation the Committee exami Regulation 22 of the Emergency (Detained Persons) Regulations, 1948, wh are described in the Government's reply to the Committee's questionnaire[3] "temporary powers that have been assumed in the interests of the pu and of the security of the Federation ... permitting the detention of pers

[1] See below, p. 542.
[2] See below, p. 574.
[3] United Nations document E/AC.36/11/Add.10.

against whom there is reasonable presumption of having aided, abetted or consorted with the terrorists ", who are waging, according to the same reply, " a systematic campaign of murder and terrorism having as its aim the overthrow of the Government by force ". Emergency Regulation 22 provides that every person detained in a special detention camp is to do such work not of a severe or irksome nature as he may be required to do by the Superintendent.[1] With regard to the application of this Regulation the Committee noted the comments and observations of the Government on this allegation[2] (which the Government held to be false in every particular), to the effect that no persons were detained in special camps under Regulation 22 at the time alleged, that the maximum number of persons so detained at any one time was 116 (on 16 December 1950), and that the number of persons so detained at the beginning of January 1953 was 20.

479. The Committee also noted the Government's observation that on 1 July 1950 (approximately the date mentioned in the allegation) the total number of persons detained in Malaya under the Emergency Regulations was 9,992, that they were detained under Regulation 17 which expressly provides that such detained persons shall not do any labour other than that which is necessary for keeping their quarters and their places of detention clean and in good order, and that they were not performing any labour other than that so authorised.

480. It follows from the evidence reviewed above that the labour of persons detained under the Emergency Regulations (both 17 and 22), according to the statistics and description of this work given above, could have no economic significance in the Malayan economy.

481. With regard to the nature of the offences involved, the Committee feels that the provisions of the Emergency Regulations authorising the detention of persons " against whom there is reasonable presumption of having aided, abetted or consorted with the terrorists ", if broadly interpreted and extensively applied, could lead to a system of forced labour as a means of political coercion. There is, however, no evidence that these regulations are being so interpreted or applied.

Compulsory Labour for Public Works and Services (Tanganyika).

482. The allegation on this subject simply quotes the report of the Visiting Mission of the Trusteeship Council to Tanganyika, which, in turn, refers to the provisions of the Native Authority Ordinance.

483. As indicated in this quotation the Native Authority Ordinance, 1927, as amended in 1949, makes provision for " the engagement of paid labour for essential public works and services " (Article 9). No persons may be

[1] For the full text of this Regulation, see below, p. 544.
[2] See below, pp. 574 and 575.

compulsorily employed for a longer period than 60 days in any one year and only able-bodied males between the ages of 18 and 45 may be so employed. Article 10 of the Ordinance lays down that in periods of famine, the local population may be required to help with public work and also to cultivate the land, and Article 13 provides that offenders against the Ordinance are liable to a fine not exceeding 200 shillings or imprisonment not exceeding two months, or both.[1]

484. In addition to the report of the Visiting Mission and the text of the Ordinance cited in the allegation, the Committee examined recent reports of the United Kingdom and Tanganyika Governments to the United Nations and the I.L.O.[1], as well as the comments and observations submitted to the Committee by the United Kingdom Government[2], indicating the administrative institutions under which these provisions are applied, the type of labour actually required, and the number of persons involved. The Committee also noted the statement of the Government of Tanganyika in its report to the I.L.O. on the Forced Labour Convention (No. 29) for 1948-1949, to the effect that this form of compulsory labour is being progressively reduced in the Territory.

485. As a result of its study of this documentation, the Committee has found that compulsory labour for essential public works and services is provided for by law and does in fact exist in Tanganyika ; that labour exacted under the Native Authority Ordinance is permissible under international labour Convention No. 29 only for a transitional period, and should be progressively abolished ; that the number of persons conscripted between 1 July 1950 and 30 June 1951 for minor public works (essential anti-tsetse measures and essential and urgent road and building work) was 6,405 ; and that the number conscripted for work for the Native authorities (essential Native administration road and building work of direct benefit to the community) was 1,091[3]. Assuming that these persons were not employed for periods exceeding 60 days (as provided), the Committee considers that such compulsory labour does not constitute an important element in the economy of Tanganyika[4] and for this reason concludes that the allegation is not relevant to its terms of reference.

Requisitioning of Labour by Indigenous Authorities for Communal Works (Nigeria).

486. It was alleged that in Nigeria the Native Authority Ordinance gave the Native authorities power to requisition Native labour for public purposes

[1] See below, p. 560.
[2] See below, p. 581.
[3] See below, p. 561.
[4] The total employed population of Tanganyika is 450,000. See below, p. 581.

and any other purposes approved by the Governor, and that indigenous authorities could, with the Governor's approval, requisition workers for the execution of communal works.

487. The Committee has found that the facts stated in the allegations are correct and that the provisions of the 1945 Labour Code, as amended in 1950, and the Native Authority Ordinance of 1943 empower indigenous authorities to requisition labour for communal works.[1] It has noted that such minor communal services and any work or service exacted in case of emergency (*i.e.*, " in the event of famine . . . violent epidemic or epizootic disease ") are excluded from the definition of forced labour given in Article 2, paragraph 2 *(d)* and *(e)* of international labour Convention No. 29 and has found that, in any case, such communal services do not constitute an important element in the economy of the territory concerned and are therefore not relevant to the terms of reference of the Committee.

Compulsory Employment in Local Land Conservation Work (Southern Rhodesia).

488. It was alleged that under the Native Land Husbandry Act of Southern Rhodesia, 1951, any Native who is unemployed, or has been unemployed for a month, is liable to be ordered by the appropriate authority to do work connected with the conservation of natural resources or the promotion of good husbandry. It was further alleged that this was not a " minor communal service " within the meaning of international labour Convention No. 29 and that the provision enabling the " appropriate authority " to impose such labour had been inserted in the Act in order " to get round the Forced Labour Convention ".[2]

489. The Committee has observed that, under the Native Land Husbandry Act of Southern Rhodesia, 1951[3], the " appropriate authority " (defined as " the Native Council ", " the chief or headman " or " the head of the kraal ") in any area may determine whether Natives are needed to perform labour in the direct interests of the Native inhabitants of the area in connection with the conservation of the natural resources of the area or the promotion of good husbandry ; if they are the appropriate authority may order any Native in the area (who is liable under Section 51) to attend before the Native Commissioner for such work for a period not exceeding 90 days per year. Wilful failure to comply with such an order is an offence punishable by a fine not exceeding £5 or, in default of payment, to imprisonment not exceeding one month.

490. Without drawing any conclusions as to whether or not these provisions constitute a " minor communal service " excluded from the definition of

[1] See below, p. 547.
[2] See below, p. 552.
[3] See below, p. 554.

forced labour given in international labour Convention No. 29, the Committee has noted the comments and observations of the United Kingdom Government [1] to the effect that " in practice it is hoped that it will not prove necessary to invoke the provisions of Section 53 of the Native Land Husbandry Act " and has found that such labour (whether compulsory or not within the meaning of the Convention) does not at present constitute an important element in the economy of the territory, and that, for this reason alone, the allegation is not relevant to its terms of reference.

Forced Convict Labour (Nigeria).

491. It was asserted that, according to the United Kingdom Colonial Office *Annual Report on Nigeria for the Year 1947*, 41,746 persons were under arrest, the majority of whom were employed on public works and in prison factories. This was alleged to constitute forced labour.

492. The Committee has examined the report cited in this allegation according to which the total population of Government prisons in Nigeria in 1947 was 31,746 (and not 41,746 as alleged).[2] The Committee also examined the comments and observations of the Government in this connection where it is stated that, of the persons committed to prison in 1947, " a total of 13,385 were liable to be employed in public work or prison industries ".[3] The Committee found from these statistics that such convict labour did not constitute an important element in the Nigerian economy in 1947. It also examined the categories of offences for which these 13,385 persons were sentenced and found no evidence of the use of penal law as a means of political coercion. It concludes that convict labour in Nigeria does not constitute a system of forced labour for political or economic purposes and that the allegation is therefore not relevant to its terms of reference.

Conscription of Voluntarily Unemployed Persons (Kenya).

493. It was alleged that an Act passed in Kenya in 1949 aimed at regulating the employment of persons not working voluntarily, that it provided for the compulsory registration of all able-bodied men between the ages of 18 and 45 years, that the persons registered could be made to work for any length of time, and that violations of the Act were punishable by imprisonment.

494. The Committee has examined the Voluntarily Unemployed Persons (Provision of Employment) Ordinance, 1949.[4] The Ordinance provides that within seven days all unemployed persons not in possession of a certificate of exemption have to report to a labour exchange, which has to offer them suitable employment; that voluntarily unemployed persons (*i.e.*, persons

[1] See below, p. 580.
[2] See below, p. 549.
[3] See below, p. 576.
[4] See below, p. 540.

who do not genuinely seek employment when they have no regular employment, or no lawful and regular means of livelihood other than an income derived from their employment or no lawful and regular income sufficient for their livelihood) who refuse to accept an offer of employment may be ordered to report to a labour exchange committee; that those failing to report are liable to arrest without warrant; that the labour exchange committee may then permit them to engage in any employment it approves, or direct them to enter into a written contract of service for not more than six months, or direct them into a rehabilitation or training centre; that persons directed to enter into contracts of service may appeal to a first-class magistrate; and that persons guilty of an offence against the Ordinance are liable to the maximum penalties of three months' imprisonment with or without hard labour or a 500 shilling fine, or both, such penalties being increased to 12 months' imprisonment or a 2,000 shilling fine, or both, for subsequent offences.

495. The Committee has also examined the Annual Report for 1950 by the African Affairs Department of the Colony and Protectorate of Kenya [1], as well as the comments and observations of the United Kingdom Government in this connection [2], from which it appears that, during the year 1950, only nine persons were directed into employment, while in 1952 only 15 persons were so directed. With regard to the number of prosecutions and convictions under this Ordinance, the Committee noted the report by the Kenya Labour Department [3] which indicates that in 1951 386 persons were prosecuted, 271 were convicted, 86 were discharged and 20 were acquitted.

496. Although from the above statements it seems that the labour of persons directed into employment under this Ordinance has been of no importance to the economy of Kenya, the Committee found that the Ordinance provides for a form of compulsory labour, for the application of summary proceedings by administrative authorities to persons who are voluntarily unemployed and for severe penalties, including hard labour, for offenders. The Committee concludes that, although there is evidence that the labour of persons who have been directed into employment under this Ordinance has been of no importance in the economy of Kenya and that these provisions have not been widely applied, they are capable of being applied in such a way as to result in a system of forced labour of some importance to the economy of Kenya.

General Allegations regarding Forced Labour (Gambia, Gold Coast, Nigeria, Northern Rhodesia and Sierra Leone).

497. In addition to the more specific allegations examined by the Committee, several statements simply alleged that forced labour existed in

[1] See below, p. 541.
[2] See below, p. 572.
[3] See below, p. 584.

Gambia, the Gold Coast, Nigeria, Northern Rhodesia and Sierra Leone, without indicating any precise institutions or practices, laws or regulations. The Committee has nevertheless endeavoured to assemble documentary material which might have a bearing on these allegations.

498. It was alleged that "according to the International Labour Organisation there had recently been cases of forced labour in practically every non-self-governing territory... Natives had been subject to compulsory labour in Sierra Leone and the Gold Coast".

499. In connection with the Gold Coast, the Committee has examined the Labour Ordinance, 1948[1], which stipulates that any recourse to forced or compulsory labour is prohibited and punished (Article 107). It has found, moreover, that the only types of work or service that are permitted under this Ordinance are explicitly exempted from the definition of forced labour given in international labour Convention No. 29. The Committee has also noted the detailed comments and observations of the Government[2] on this legislation and its application and has found that this allegation is not substantiated.

500. With regard to Sierra Leone, the Committee has examined the Forced Labour Ordinance, 1932[3], which prohibits forced labour as defined in international labour Convention No. 29, with the exception of certain types of compulsory work or service which are permitted by the Convention during the transitional period. In this connection the Committee has noted the Government's comments[4] that "the use of the powers of the authorities and Native chiefs under the Forced Labour Ordinance (in accordance with the provisions of the Convention) is being progressively reduced as communications are developed and improved in the Territory".[5] While noting that these powers still exist, the Committee finds that they do not, in themselves, constitute a system of forced labour in Sierra Leone, within the meaning of its terms of reference.

501. Another general allegation was that "in the small colony of Gambia, whose total population amounted to only 210,000, 20,000 Natives had been subjected to forced labour in one year".

502. The International Labour Organisation was mentioned in connection with this allegation. The reference was probably to the I.L.O. publication *Social Policy in Dependent Territories*, published in 1944, from which it appears that some 20,000 persons had been working in war industries in Gambia up to 1942, when it was decided to reduce the industrial force to 7,000.[6] The Committee has noted that there is no reference to forced labour in this text, that there is no indication that the 20,000 persons who worked in war indus-

[1] See below, p. 538.
[2] See below, pp. 570-571.
[3] See below, p. 551.
[4] See below, p. 578.
[5] Recent statistics concerning these practices may be found on p. 585 below.
[6] See below, p. 537.

tries were compelled to enter such employment, and that the mass recruitment of industrial workers has ceased. On the basis of the sources cited the Committee therefore concludes that this allegation is unfounded.

503. The Committee has also examined the Gambia Forced Labour Ordinance of 1934 [1] which prohibits and represses forced or compulsory labour in accordance with the Forced Labour Convention (No. 29). The latest reports to the I.L.O. on the application of this Convention in Gambia, as well as the Government's comments and observations [2], confirm that this legislation is in force and is respected.

504. With regard to Nigeria, it was alleged (again in general terms) that forced labour was in many cases sanctioned by law. The Committee has already examined a number of Nigerian laws in connection with certain specific allegations which were found to be irrelevant to its terms of reference (see above, sections relating to allegations *(d)*, *(i)* and *(k)*). In connection with this general allegation the Committee has examined the General Regulations appearing in the 1945 Labour Code of Nigeria [3] and has found that, in principle, they prohibit and penalise forced labour within the meaning of the Forced Labour Convention (No. 29). The Committee has also noted the Government's comment in this connection [4] confirming that forced labour, as defined in the Convention, is prohibited, and has found that forced labour within the meaning of its terms of reference is not sanctioned by Nigerian law.

505. With regard to Northern Rhodesia, it was alleged that " the Natives were compelled to work, and the people who mined approximately 100 million dollars' worth of ore each year were paid only 16 cents a day for their labour ".

506. The United Kingdom Government has submitted certain comments and observations on the allegation.[5] The Committee agrees that the allegations relating to wage rates in the mining industry are not relevant to its terms of reference.[6] With regard to the allegation that Natives are compelled to work, it notes the Government's observation that " all Africans employed on the copper mines seek employment voluntarily at the place of employment and there is no outside recruitment ; those seeking employment always exceed in number the posts vacant ".

507. With regard to the general allegation of compulsory Native labour in Northern Rhodesia, the Committee has noted the Government's detailed comments and observations.[7]

508. Finally, the Committee has noted the Government's statements [7] that forced labour, as defined in international labour Convention No. 29, is

[1] See below, p. 538.
[2] See below, pp. 538 and 569.
[3] See below, p. 546.
[4] See below, p. 575.
[5] See below, pp. 576—577.
[6] Precise information concerning these wages was, however, supplied by the Government on this point ; see below, p. 577.
[7] See below, p. 577.

prohibited in Northern Rhodesia, and has observed that, under Section 234 of the Penal Code, any person who unlawfully compels any person to labour against the will of that person is guilty of a misdemeanour.[1] It has found that the allegation is not substantiated.

Conclusions

509. The foregoing examination of the specific and general allegations in the light of the documentary material, and particularly the laws and regulations, discloses no evidence of the existence of a system of forced labour within the meaning of the Committee's terms of reference either in the United Kingdom itself or in any of the 12 territories under its administration.

510. However, the Committee has observed that the Emergency Regulations in Malaya, if broadly interpreted and extensively applied (though there is no evidence that they have been so interpreted or applied), could lead to a system of forced labour as a means of political coercion, and that the Voluntarily Unemployed Persons Ordinance in Kenya could be applied (although it appears that it is not at present so applied) in such a way as to result in a system of forced labour of some importance to the economy of Kenya.

United States of America

511. Allegations regarding the existence of forced labour in the United States of America were made during the debates on forced labour in the Economic and Social Council by the representatives of Czechoslovakia, Poland and the U.S.S.R., and were also submitted to the Committee by one private individual.

512. These allegations refer in substance to the following points :

(a) forced labour as the basis of capitalist economy, in particular in the United States ;

(b) the curtailment of trade union rights by the Taft-Hartley Act ;

(c) child labour ;

(d) restriction of social security in the United States to unemployment and old age—large numbers of workers not covered by social insurance ;

(e) existence of the principle of equal pay for equal work in nine States only—women not protected ;

(f) racial discrimination in regard to employment and wages tantamount to forced labour ;

(g) the President's Federal Loyalty Order and the activities of the Loyalty Boards tantamount to measures of political discrimination ;

[1] See below, p. 550.

(h) exploitation of persons detained in mental clinics ;

(i) exploitation of certain Indian tribes ;

(j) arrest of Negroes in order to subject them to forced labour ;

(k) imposition of forced labour on Mexican and other foreign immigrant workers ;

(l) wartime exploitation of foreign workers and conscientious objectors ;

(m) convict labour tantamount to forced labour ;

(n) peonage in certain regions ;

(o) application of vagrancy laws as an instrument of forced labour.

513. At its Fourth Session the Committee had before it the allegations [1], the replies to the allegations [2], the documentary material concerning them [3], the comments and observations of the Government [4] and its reply to the Committee's questionnaire.[5] The following are the Committee's findings and conclusions concerning the alleged existence of forced labour in the United States of America.

Forced Labour as the Basis of Capitalist Economy, in particular in the United States.

514. The allegations in this connection [6] refer to questions of unemployment, unemployment insurance, the level of wages and the living conditions of workers. The Committee, while noting the comments of the Government of the United States of America on these points [7], observes that such matters fall within the competence of various organs of the United Nations and of the International Labour Organisation, that they do not in themselves constitute a system of forced labour, and that therefore the allegations are not relevant to the terms of reference of the Committee.

The Curtailment of Trade Union Rights by the Taft-Hartley Act.

515. The Committee has considered the allegations [8], together with the relevant provisions of the Labor-Management Relations Act, 1947, and has found that they are not relevant to its terms of reference.

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[1] See below, p. 586.
[2] See below, p. 594.
[3] See below, p. 596.
[4] See below, p. 605.
[5] United Nations document E/AC.36/11.
[6] See below, p. 586.
[7] See below, p. 606.
[8] See below, p. 587. The comments and observations of the United States Government on these allegations may be found below on pp. 606-607.

Child Labour.

516. The Committee has considered the allegation that American capitalists use the labour of children [1], and, while taking note of the comments of the Government of the United States of America [2] and the various laws it cites in connection with child labour, observes that the precise charges of child labour, even were such labour to exist in certain parts of the United States of America, do not constitute forced labour within the meaning of its terms of reference.

Restriction of Social Security in the United States to Unemployment and Old Age—Large Numbers of Workers not Covered by Social Insurance.

517. The Committee found that this allegation [1] was irrelevant to its terms of reference.

Existence of the Principle of Equal Pay for Equal Work in Nine States only—Women not Protected.

518. The Committee is of the opinion that this allegation [3], even if established [1], is irrelevant to its terms of reference.

Racial Discrimination in regard to Employment and Wages Tantamount to Forced Labour.

519. The statements [4] made in this connection allege racial discrimination in the fields of employment and wages, especially with regard to the Negro population in the United States of America, and affirm that such discrimination is " a clear example of forced labour at its worst ".

520. The Committee believes that, to create conditions of forced labour, such discrimination must be accompanied by coercive measures directly or indirectly compelling the member of the group concerned to undertake certain types of work. The Committee has found no indication that such conditions exist or are applied to the Negro population in the United States of America. The Committee therefore finds that this allegation has not been substantiated.

The President's Federal Loyalty Order and the Activities of the Loyalty Boards Tantamount to Measures of Political Discrimination.

521. The comments and observations of the Government of the United States of America on this subject [5] indicate that the Order aims at securing the

[1] See below, p. 588.
[2] See below, p. 607.
[3] The comments and observations of the United States Government on this point may be found below, p. 608.
[4] See below, pp. 588—589.
[5] See below, p. 609.

nation against the infiltration of disloyal or subversive individuals into Government service. The Committee therefore holds that these allegations[1] are irrelevant.

Exploitation of Persons Detained in Mental Clinics.

522. The Committee, having examined the report of the Workers' Defense League cited as the basis for this allegation[2] and the comments and observations of the Government of the United States of America[3], finds that the allegation is not relevant to its terms of reference.

Exploitation of Certain Indian Tribes.

523. The Committee examined the report of the Workers' Defense League which was cited as the basis for this allegation[2], the comments and observations of the Government of the United States of America[4] and the legal texts and other documentation, particularly the Pribilof Report, 1949, submitted by the United States Government, and found that the allegation was not relevant to its terms of reference.

Arrest of Negroes in Order to Subject Them to Forced Labour.

524. The Committee noted that no evidence was cited in support of this allegation[2] and considered that the allegation itself was not sufficiently precise to allow of any detailed investigation. The general question of convict or prison labour is examined in connection with the allegations relating to that issue.[5]

Imposition of Forced Labour on Mexican and Other Foreign Immigrant Workers.

525. The allegations[6] concerning Mexican immigrant workers must be considered in two aspects, *i.e.*, according to whether they refer to legal or illegal immigrants.

526. The position of Mexican workers who have legally entered the United States of America is regulated by the Agreement of 1951, as amended in 1952, between the Governments of the United States of America and Mexico concerning migrant labour.[7] The Committee examined this Agreement and

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[1] See below, pp. 589—590.
[2] See below, p. 590.
[3] See below, p. 609.
[4] See below, p. 610.
[5] See below, pp. 119—121.
[6] See below, pp. 590—591.
[7] See below, p. 597.

found that it provided adequate safeguards against the imposition of forc labour on Mexican immigrants whose employment and contracts are gover by the terms of the Agreement.

527. The only precise allegation in this connection is that " Mexica who crossed the border into the United States of America were tied to the far where they worked, because the penalty for breaking their contract was fine so heavy that they could never afford to pay it ". It was implied that th was " a kind of forced labour ". In this connection the Committee note the observation of the Government of the United States of America [1] th there is no fine laid upon the Mexican employee if he breaks his contrac " he is merely liable to be returned to Mexico and he is not entitled to the gu rantee that he will have the opportunity to work for at least three-fourth of the total work days of his contract (Articles 16 and 30) ". The Committe found this statement to be in accordance with the terms of the Agreemen and concluded that the allegation was not substantiated.

528. With regard to the allegations concerning illegal Mexican immigra labour, the Committee examined the report of the President's Commissio on Migratory Labor [3], which describes how Mexican labourers are brought in the United States of America by organised smugglers for work on farms i the southern States. It appears from this official report, from the comment and observations of the Government of the United States of America [4] an from the legal texts quoted therein that these Mexican labourers (" wet-backs " enter the United States of America illegally, *i.e.*, against the law, that the entry is voluntary, and that their contracts of employment, though illegal, a concluded voluntarily. It also appears from the above-mentioned report th once a worker is inside the United States of America and on a farm numerou devices are employed to keep him on the job and that " basic to all thes devices is the fact that the ' wet-back ' is a person of legal disability who is i jeopardy of immediate deportation if caught ".[5] The Committee noted th Article 38 of the Agreement between the Governments of the United State of America and Mexico obliges both Governments " to take all possibl measures for the elimination of such illegal traffic and entry across the interna tional boundary "[6], and that the relevant provisions of the Agricultural Act implementing this Agreement make the employment of such Mexican aliens n lawfully within the country an offence. There is evidence, however, of th existence of certain practices whereby illegal Mexican immigrants are influenced to remain on their job under threat of deportation, that their conditions o service leave much to be desired, and that in some cases at least there i

[1] See below, p. 611.
[2] For summaries of Articles 16 and 30 see below, pp. 598 and 599.
[3] See below, pp. 600-601.
[4] See below, pp. 611-612.
[5] See below, p. 600.
[6] See below, p. 612.

complicity on the part of the local authorities.[1] This evidence also indicates that the United States Government itself does not countenance these practices, since it deports Mexican aliens found to be unlawfully on United States territory—such deportation of illegal immigrants being a normal and well-established rule in most legal systems. Since, moreover, the " wet-back " can in fact always leave the farm on which he is employed, such employment cannot be viewed as forced labour within the meaning of the Committee's terms of reference.

529. No precise allegation has been made concerning the imposition of forced labour on immigrants from other countries, the assertion being that there was " exploitation of foreign workers ", which the Committee considered to be not relevant to its terms of reference.

Wartime Exploitation of Foreign Workers and Conscientious Objectors.

530. This allegation[2] relates to a period of war when a state of emergency was declared in the United States of America. Otherwise, no precise charges have been made regarding the wartime exploitation of foreigners. The position regarding citizens of Japanese origin in the United States of America, to which reference was made in the unofficial *Report on Legal and Illegal Forms of Forced Labor in the United States*, is explained in the comments and observations of the United States Government[3], which cites legislation and court decisions on the subject. The Committee is satisfied that these charges are not relevant to its terms of reference.

531. With regard to the allegation concerning conscientious objectors in wartime, the Committee notes that according to the law such persons may be ordered to perform " civilian work contributing to the maintenance of the national health, safety or interests ".[4] The Committee understands that labour imposed on conscientious objectors is a substitute for compulsory military service and that such labour therefore does not constitute forced labour within the meaning of its terms of reference.

Convict Labour Tantamount to Forced Labour.

532. Under this heading the Committee considered the general allegation that " in the United States... prisoners received almost no wages and performed forced labour " as well as the more specific charges.[5] It observed that both the general and the specific allegations were concerned not with hard labour as " a punishment for crime whereof the party shall have been

[1] See below, p. 601.
[2] See below, p. 591.
[3] See below, pp. 612-613.
[4] See below, p. 603.
[5] See below, p. 591-592.

duly convicted "[1], but with the work of prisoners in general. In this connection the Committee examined the legal texts cited in the allegations and those quoted in the comments and observations of the United States Government as well as various other official and unofficial publications, including those cited in the allegations.

533. Under paragraph 4122 of the United States Code, the Federal Prison Industries' Administration determines—

> ... in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments and agencies of the United States, but not for sale to the public in competition with private enterprise.[3]

Its board of directors "shall provide employment for all physically fit inmates in the United States penal and correctional institutions". With regard to the application of this law, the Committee examined the Department of Labor publication *Prison Labor in the United States 1940* (cited in the allegations) and reports of the Bureau of Prisons and Federal Prison Industries from which it appears that prison labour in the United States of America, in accordance with accepted principles of modern penology, has as its object the social rehabilitation of prisoners. Donald R. Taft, in his book *Criminology* cited by the Polish representative, provides further verification of this point. It has not been alleged, and no evidence has been brought to the knowledge of the Committee to suggest, that convict labour in the United States of America is exacted to correct the political opinions of those who differ from the ideology of the State. From the latest official statistics before the Committee it is evident that convict labour does not constitute an important element in the economy of the United States of America. The Committee therefore found that the allegation, in general, is not relevant to its terms of reference.

534. The Committee examined the unofficial *Report on Legal and Illegal Forms of Forced Labor in the United States* cited by the representative of the U.S.S.R. This report contradicts the allegation in so far as Federal prisons are concerned, in the following statement. "Federal prisons do not exploit the labour of prisoners." With regard to certain alleged practices in the State of Arkansas, the United States Government states[3] that the practice of leasing prisoners to farmers, contractors and manufacturers was abolished in 1913. In 1952 however, the authority to hire out convicts to work on public roads or to do any other useful agricultural work was revived, provided that the convicts so employed are at all times under the management and custody

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[1] Which is permissible under Article XIII of the United States Constitution; see below, p. 595.

[2] See below, pp. 613—616.

[3] See below, p. 615.

[4] See the passage quoted by the United States Government on p. 614.

[5] *Report of the Federal Bureau of Prisons, 1952*, submitted by the United States Government.

the regular penitentiary superintendent and wardens, are humanely treated and are worked only a reasonable number of hours each day. The Government also states that in fact convicts are hired out only to other State agencies for performance of public activities and that the agreement under which this had been done needed the approval and consent of the Governor of the State and the terms and conditions approved by the Attorney General.

535. With regard to the charge that "the State placed convicts at the disposal of private enterprises", the only evidence which the Committee has found relating to the existence of this practice in the United States of America is that referred to above with regard to Arkansas under the conditions indicated. Although the United States Government has indicated that in fact convicts are hired out only to other State agencies for performance of public activities, the Committee has noted that under the Law of 1925 of the State of Arkansas, the authority to hire them out for private purposes, including agricultural work, appears still to exist; this is not in accordance with Article 2, paragraph 2 *(c)*, of international labour Convention No. 29, which has not been ratified by the United States of America. There is, however, no evidence to indicate that the "public activities" actually undertaken by convict labour in Arkansas play a significant part in the economy of the country, and for this reason the Committee considers that this allegation is not relevant to its terms of reference.

Peonage in Certain Regions.

536. The general allegation was that "peonage, or servitude for debt, was also a means of forced labour very widespread in the southern States of the United States of America".[1] In United States jurisprudence peonage is described as "a status or condition of compulsory service, based upon the indebtedness of the peon to the master. The basic fact is indebtedness."[2]

537. The representative of Poland alleged that "there were more sharecroppers than any other type of plantation labour, and that their cash income was so low and their debts to the operators so high that they were virtually tied to the land". In support of this statement, the Polish representative quoted a publication *The Plantation South Today*. The Committee has examined this document, which is an official monograph concerning economic conditions in the southern United States during the early years of the depression. It contains no reference to the existence of peonage or forced labour.

538. The Committee examined the various reports which had been cited in support of other allegations and found that, in some cases, they were not supported by the sources quoted. The articles in the *New York Star* of 23 January 1949, and the *New York Times* of 26 February 1949 report various statements made in connection with an investigation carried out by the unoffi-

[1] See below, p. 592.

[2] Clyatt v. United States 197 U.S. 207,215 (1905).

cial Commission of Inquiry into Forced Labour of the Workers' Defense League but it appears that the charge that " 76,000 Americans lived in peonage " was not accepted by this Commission.

539. No evidence was cited in support of the allegation that in South Carolina 70 per cent. of the textile workers were kept in a state of permanent servitude by means of a credit system, and the Committee has been unable to obtain any evidence in support of this assertion.

540. The Committee also examined transcripts of six recorded interviews with workers in the turpentine industry in Florida. Some of these persons stated that they incurred debts with their employer for transportation costs or with the company's store or " commissary " because of inadequate remuneration, and that various devices were employed to compel them to remain on the job until these debts were liquidated.

541. In connection with the above-mentioned allegations and statements the Committee examined the relevant laws and regulations, in particular Title 18 of the United States Code (1948) providing that " whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage " is guilty of a crime for which he may be fined $5,000 and imprisoned for five years.[1] It appears from this text that peonage is directly outlawed in the United States of America. Any instances of peonage which may be found are, therefore, illegal. In this connection the Committee examined the article by Brodie on " The Federally-Secured Right to be Free from Bondage "[3], which indicates the volume of complaints, investigations and prosecutions handled by the Civil Rights Section of the United States Department of Justice, from which it appears that instances of peonage are still found in certain regions of the United States of America. The Committee also noted the statement of the United States Government[2] that " any instances of peonage committed by individuals, past or present, are in clear violation of the laws of the United States, and when discovered, are investigated and prosecuted ". The Committee finds that the practices referred to in the allegations are directly outlawed in the United States of America, and that when cases of peonage are brought to the notice of the competent authorities the laws are apparently enforced.

Application of Vagrancy Laws as an Instrument of Forced Labour.

542. In connection with this allegation[4] the Committee examined the rules governing vagrancy, to be found in the vagrancy laws of the 48 States.[5] No

[1] Made by a private individual and submitted as documentary evidence in his memorandum to the Committee. See below, p. 593.

[2] See below, p. 616.

[3] Submitted by the United States Government ; see below, p. 616.

[4] See below, p. 593.

[5] For a summary of these rules, see below, p. 604.

precise evidence, other than a general reference to " vagrancy laws ", was cited in support of this allegation. The Committee noted, in particular, that certain statutes which would permit the hiring out of persons convicted of vagrancy have been held unconstitutional by the courts. The authority to frame laws relating to vagrancy has been delegated to State legislatures and municipal governing bodies and under the laws of some of these States the punishment for vagrancy is either a fine or a gaol sentence, with or without hard labour, usually up to six months and in some cases up to one year and even three years. Certain State laws give very broad definitions of what is legally meant by vagrancy. The Committee has no information as to the way in which these laws are enforced in any particular State but is of the opinion that if they were widely interpreted and extensively applied they could be employed to form the basis of a system of forced labour for economic purposes.

Further Allegations.

543. The Committee also considered various allegations [1] presented by a private individual, together with annexes submitted in support of them. The allegations concerning immigrant labour, peonage (particularly in the turpentine industry in Florida [2] and in lumbering camps) and vagrancy have already been examined by the Committee and its conclusions noted above.

544. The allegations concerning migratory agricultural labour [3] were the subject of investigation by the Commission on Migratory Labor appointed by the President in 1948.[4] It appears from this official report, as well as from the allegations themselves, that the main problem involved is that many farm labourers " find it impossible to make a living in a single location and hence have had to become migratory ". The Committee found that this allegation is not relevant to its terms of reference.

545. Finally, the Committee considered the allegation [5] that the Selective Service Act is used "to force Negro workers into involuntary servitude". Commenting on this allegation, the United States Government [6] observes that the Selective Service and Training Act of 1940, as amended, " provided for the deferment of certain individuals because their specific occupational status was considered essential ", that " it does not know of any instance in which this provision was illegally used ", and that " had such practices been discovered by Federal authorities, the offenders would have been prosecuted ". The Committee considers that, in the absence of any evidence to the contrary, the allegation is not substantiated.

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[1] See below, p. 593.
[2] Mentioned above in connection with peonage.
[3] See below, p. 593, paragraph 17 *(a)* and *(b)*.
[4] See below, p. 602.
[5] See below, p. 593, paragraph 17 *(f)*.
[6] See below, p. 619.

Conclusions

546. From the foregoing examination it appears that most of the specific allegations concerning the United States of America are not relevant to the Committee's terms of reference, or where they appear to be relevant, they are not substantiated by the evidence available to the Committee. In the two cases where there appears, *prima facie*, to be evidence of the existence of practices resembling forced labour, namely in connection with illegal Mexican immigrants (" wet-backs ") and with certain instances of peonage, the Committee finds on further examination that these practices are directly outlawed in the United States of America and it has no evidence to suggest that, when offences are brought to the knowledge of the United States Government, the laws are not enforced. For this reason the Committee concludes that these practices do not constitute forced labour within the meaning of its terms of reference.

547. As regards vagrancy laws, however, the Committee noted that in some States the term " vagrancy " is defined so broadly and the punishment for the offence is so severe that, if extensively interpreted and applied, it could lead to a system of forced labour for economic purposes in the States concerned.

V

General Observations

548. The Committee's enquiry has revealed the existence in the world of two principal systems of forced labour, the first being employed as a means of political coercion or punishment for holding or expressing political views, the second being employed for important economic purposes.

549. *A system of forced labour as a means of political coercion* was found by the Committee to be established in certain countries, to be probably in existence in several other countries, and to be possible of establishment in others. Such a system was found to exist in its fullest form and in the form which most endangers human rights where it is expressly directed against people of a particular " class " (or social origin) and even against political " ideas " or " attitudes " in men's minds ; where a person may be sentenced to forced labour for the offence of having in some way expressed his ideological opposition to the established political order, or even because he is only suspected of such hostility ; when he may be sentenced by procedures which do not afford him full rights of defence, often by a purely administrative order and when, in addition, the penalty of forced labour to which he is condemned is intended for his political " correction " or " re-education ", that is, to

alter his political convictions to the satisfaction of the government in power. Such a system is, by its very nature and attributes, a violation of the fundamental rights of the human person as guaranteed by the Charter of the United Nations and proclaimed in the Universal Declaration of Human Rights.[1] Apart from the physical suffering and hardship involved, what makes the system most dangerous to human freedom and dignity is that it trespasses on the inner convictions and ideas of persons to the extent of forcing them to change their opinions, convictions and even mental attitudes to the satisfaction of the State.

550. The Committee has also found that the systems of forced labour as a means of political coercion are applied with varying degrees of intensity in a number of countries, but it has observed in the trend of the laws and the aims and purposes of legislative enactments and administrative practices a tendency for countries which have less severe systems to approximate them to the more severe described above. The possibility of the extension of this system of forced labour as a means of political coercion to other countries or territories where unsettled conditions may prevail cannot be ignored.

551. The Committee's enquiry once again brings out the importance of the work undertaken by the United Nations to ensure and effectively safeguard human rights and dignity. It notes that the Commission on Human Rights is engaged in drafting articles for a Covenant on Human Rights which have a direct bearing on many of the issues considered by this Committee and the problems raised by such issues.

552. The Committee feels that an earnest appeal should be addressed to all Governments concerned to re-examine their laws and administrative practices in the light of present conditions and the increasing desire of the peoples of the world " to reaffirm faith in fundamental human rights [and] in the dignity and worth of the human person ".

553. While less seriously jeopardising the fundamental rights of the human person, *systems of forced labour for economic purposes* are no less a violation of the Charter of the United Nations and the Universal Declaration of Human Rights. Although such systems may be found in different parts of the world, their nature and scope are not everywhere the same.

554. These systems—still found to exist in some countries or territories where a large indigenous population lives side by side with a population of another origin—most often result from a combination of various practices or institutions affecting only the indigenous populations, and involving direct or indirect compulsion to work, such as compulsory labour properly so-called, various coercive methods of recruiting, the infliction of heavy penalties for breaches of contracts of employment, the abusive use of vagrancy legislation, restrictions on freedom of movement, restrictions on the possession and use of land, and other similar measures.

[1] See, in particular, Articles 2, 9, 10, 11 and 19 of the Universal Declaration.

555. For nearly 25 years the International Labour Organisation has b striving to bring about the abolition of such practices and to improve t situation of indigenous workers. Conventions Nos. 29, 50, 64 and 65, a a number of supplementary Recommendations adopted by this Organisati have shown the way of advance. The Committee's investigation has revea that many of the countries concerned have ratified these Conventions a accepted the Recommendations, and in several of these countries or territo progress is commendable inasmuch as many of these practices have eit been eliminated or are gradually declining. But progress has not been rapid elsewhere.

556. The Committee feels assured that the International Labour Organis tion will continue and intensify its efforts towards the abolition of th practices. The Committee's review of the situation makes it clear that, in vi of present conditions, all Governments concerned which have not yet ratifi the Convention should do so as early as possible, and that it is most desira that those Governments which have ratified the Conventions with certain lim tations should consider the advisability of withdrawing such limitations. T Committee has noted that some of these Conventions prescribe that the exem tions granted therein are only for a transitional period, while others state th the practices concerned should be ended as early as possible. Bearing in mi that a considerable time has elapsed since the exemptions and limitatio were allowed—sufficient time progressively to alter the conditions—a noting further that many of the States ratifying the Conventions have i fact done so, the Committee feels that it may now be possible to implem fully these Conventions without limitations or temporary exemptions. T Committee notes that, at the instance of the Governing Body, the Internatio Labour Office has undertaken the work of reviewing the position in differe countries relating to penal sanctions for breach of contract of employme by indigenous workers. The Committee feels that this review is particula opportune and necessary and that it may be possible soon to make reco mendations for the complete abolition of such penal sanctions by all countri and in all territories under their jurisdiction.

557. The Committee's enquiry has revealed that, while the forms of force labour contemplated in the Conventions of the International Labour Org nisation were virtually in relation to " indigenous " inhabitants of depende territories, the systems of forced labour for economic purposes found to ex in some fully self-governing countries (where there is no " indigenous population) raise new problems and call for action either by the countri concerned or at the international level.

558. Such systems of forced labour affecting the working population fully self-governing countries result from various general measures involvi compulsion in the recruitment, mobilisation or direction of labour. T Committee finds that these measures, taken in conjunction with other r strictions on the freedom of employment and stringent rules of labour disciplin

—coupled with severe penalties for any failure to observe them—go beyond the "general obligation to work" embodied in several modern Constitutions, as well as the "normal civic obligations" and "emergency" regulations contemplated in international labour Convention No. 29.[1] They often deprive the individual of the free choice of employment and freedom of movement, and in this and other ways are contrary to the principles of the Universal Declaration of Human Rights.[2]

559. In view of these findings, the Committee is of the opinion that the problems of compulsory labour, labour recruiting, the length of contracts of employment, penal sanctions for breaches of such contracts and other measures which have been examined in greater detail in regard to individual countries in Section IV, and which the International Labour Organisation has so far considered mainly in connection with indigenous workers, should now be examined also in connection with workers in fully self-governing countries.

560. The Committee has come to the conclusion that, however attractive the idea of using such methods with a view to promoting the economic progress of a country may seem to be, the result is a system of forced labour which not only subjects a section of the population to conditions of serious hardship and indignity, but which must gradually lower the status and dignity of even the free workers in such countries. The Committee suggests that, wherever necessary, international action be taken, either by framing new Conventions or by amending existing Conventions, so that they may be applicable to the position regarding forced labour conditions found to exist among the workers of fully self-governing countries.

561. The Committee undertook its work as a fact-finding body; its enquiry has revealed the existence of facts relating to systems of forced labour of so grave a nature that they seriously threaten fundamental human rights and jeopardise the freedom and status of workers in contravention of the obligations and provisions of the Charter of the United Nations. The Committee feels, therefore, that these systems of forced labour, in any of their forms, should be abolished, to ensure universal respect for, and observance of, human rights and fundamental freedoms.

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[1] Article 2, paragraph 2.
[2] See Articles 13 and 23.

APPENDICES

APPENDIX I

HISTORICAL SURVEY OF INTERNATIONAL ACTION CONCERNING FORCED LABOUR

Foreword

The purpose of this Appendix is to present a short historical survey of the work undertaken at the international level for the suppression of forced labour.

This work, for which no precedent existed, was initiated about thirty years ago by the League of Nations. After the Second World War it was taken over and continued by the United Nations. Parallel with this, the International Labour Organisation has dealt with the problem since 1922, independently or in co-operation with the United Nations Economic and Social Council.

During the nineteenth century a number of international instruments dealt with or referred to a problem which, although closely related to forced labour, differs from it in many respects—the problem of slavery. These included the Peace Treaties of Paris of 1814 and 1815, the Declaration of the Congress of Vienna of 1814, the Franco-British Treaties of 1831, 1833 and 1845, the Treaty of London of 1841, the Treaty of Washington of 1862, and the General Acts of the Berlin (Congo) Conference of 1885 and of the Brussels Conference of 1890. However, none of these Acts, Treaties and Declarations mentioned forced labour as such and as an institution distinct from slavery.

For the sake of clarity of presentation this survey has been divided into four separate sections, namely: The Work of the League of Nations; The Work of the International Labour Organisation; The Work of the United Nations; Origin and Establishment of the *Ad Hoc* Committee on Forced Labour.

The Work of the League of Nations

Forced labour, in so far as it is analogous to slavery, was the concern of the League of Nations for several years during the early twenties when this question was handled mainly in connection with the League's Mandate System.

Obligations under the Covenant and the Mandates.

The Covenant of the League contained no express reference to forced labour. Article 22 mentioned merely, among the " safeguards . . . in the interest of indigenous population " of the Territories to be placed under League Mandate, " the prohi-

bition of abuses such as the slave trade". More specifically, Article 23 of the Covenant stated—

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League: *(a)* will endeavour to secure and maintain fair and humane conditions of labour for men, women and children both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations....

Accordingly, express provisions were inserted in both B and C Mandates for the prohibition of forced labour. The Mandate for Tanganyika, for example, contained the following clause:

The Mandatory ... (3) shall prohibit all forms of forced or compulsory labour except for essential public works and services, and then only in return for adequate remuneration.

The Mandates for Ruanda-Urundi, the Cameroons and Togoland contained similar provisions.

The Temporary Slavery Commission (1924-1925).

In 1922 the League of Nations decided to hold an enquiry into the whole question of slavery and for that purpose established, two years later, a Temporary Slavery Commission.

This Commission held two sessions, in 1924 and in 1925; at its First Session, it agreed that the scope of its enquiry should include "Systems of compulsory labour, public or private, paid or unpaid".

In its first report to the Council of the League[1], the Commission stated that the question of slavery must be regarded from a comprehensive standpoint, and that it would endeavour to indicate some practical measures for the gradual suppression not only of slavery but also of analogous forms of servitude.

Its second and final report[2], submitted to the Council on 25 July 1925, was divided into eight chapters, one of which was headed "Compulsory Labour, Public, or Private, Paid or Unpaid".

In the introductory paragraphs to this chapter of its report the Commission made the two following statements:

Since the general regulation of labour conditions is not included in the programme of the Commission, it considers that it should confine itself to examining the question of compulsory labour and should in that connection suggest only general principles, capable of application by all States.

It should be clearly understood that this Chapter does not refer to compulsory labour awarded by sentence of a court.[3]

According to the report, compulsory labour in the public interest, as imposed in colonies and mandated territories, fell into three different categories.

In most colonies in which the native population constitutes the sole labour available for public works, it is usual to have recourse to some form or other of compulsory labour in the public interest. Sometimes this is imposed for occasional or periodical

[1] League of Nations document A.17.1924.VI.
[2] League of Nations document A.19.1925.VI.
[3] *Ibid.*, paragraphs 98 and 99.

local services *(corvées)*, in which case it is generally unremunerated; and sometimes for services of a rather more general character, in the form of levies according to regulations, in most cases remunerated.

Obligations of this kind appear to have been admitted in principle by every people and at every time. They are still imposed at the present day on the home population of several European States in which, however, the existing economic and social conditions make it possible to give to their fulfilment a purely theoretical form. . . .

. . . . . .

On the other hand, work of general interest ... such as the construction and up-keep of roads, rest-houses, markets and telegraph lines ... which may necessitate the removal of the labourers to a considerable distance from their homes for a longer or shorter period, is generally remunerated. . . .

In a third category of forced labour should be placed the labour levies sometimes made by requisitioning for exceptional tasks of public utility requiring a considerable amount of labour for a very long period, such as the construction of railways, ports and canals. Whenever social, economic or political circumstances oblige the colonial Governments to have recourse to action of this kind, the information furnished to the Commission is to the effect that the local authorities pay the workmen and provide for their food, lodgings, medical attendance, repatriation, etc. . . .[1]

As to compulsory labour for the benefit of private enterprises, including those in which Governments participate, the Commission's report noted that in some colonies the law contemplates " the possibility of private enterprise availing itself of part of the Native labour obtained by the application of the compulsory labour laws".

The case in point is that of Natives who are alleged to have insufficient means of support, and the law lays down that, both in their own and in the general interest, they should be compelled to work for specified periods and under specified conditions.

Subject to this exception, no trace has been found of legislation authorising the principle of compulsory labour for the benefit of private persons or private enterprises. This principle has, on the contrary, been categorically condemned in almost all the European colonies and in the mandated territories.

When, however, the authorities intervene in the recruiting of Native labour for private enterprises, they do so in most cases only to assist by the introduction of an element of moral pressure in order to provide labour when circumstances require it.

Practices, however, apparently based on the principle of forced labour for private employers but not sanctioned by law have actually existed in some countries. The Portuguese Government's memorandum mentions that such practices existed in Mozambique ... but they were forbidden by a decision of December 7th, 1906, which was rendered applicable to all Portuguese possessions in 1921.[2]

After this review of the situation, the Temporary Slavery Commission formulated its suggestions as follows:

While recognising that in certain circumstances compulsory labour may be admissible, subject to certain guarantees, and that the Governments may be obliged in certain definite conditions to have recourse to it, the Commission, realising the necessity of putting an end to the abuses still occasionally involved by this practice which tend, where found, to make forced labour a more or less disguised form of slavery, recommends that, by analogy with the clauses inserted in B and C Mandates, " all forms of compulsory or forced labour should be prohibited except for essential public works and services, and" (unless this proves utterly impossible) " then only in return for adequate remuneration ". The Commission recognised, further, that the States remain free to define what they understand by " compulsory labour " and by the term " essential public works and

[1] League of Nations document A.19.1925.VI, paragraphs 100, 101, 106, 107.
[2] *Ibid.*, paragraphs 108-111.

services " and to issue such regulations as may appear to them equitable and suit having regard to circumstances of time and place, concerning the recruiting treatment of workers.

.....

The obligation placed on the Native to work on his own land, for his own benefit, may be permissible so long as it is primarily an educative measure, or can justified as an economic necessity if there is danger of a deficiency of food. In opinion of the Commission, this is a matter in which each State would exercise its discretion....[1]

In submitting its report to the League Council, the Temporary Slavery Commission stated that in the opinion of the majority of its Members " an internation convention on slavery was desirable ". Such a convention, it was suggested, might embody ten subject-matters (thereafter specified by the Commission) one of them being " prohibition of forced or compulsory labour, except for essential public work and services and in return for adequate remuneration ".[2]

With this report the Temporary Slavery Commission concluded its work.

The International Slavery Convention (1926).

On 26 September 1925, on the recommendation of its Sixth Committee, the Assembly decided that an international convention would be the best means of giving effect to the suggestions made by the Temporary Slavery Commission.

A year later, on 25 September 1926, four resolutions were adopted by the Assembly.[3]

By the first of those resolutions the Assembly approved the text of a Slavery Convention drafted by its Sixth Committee.

In the second the Assembly expressed the desire that the League of Nations should continue to interest itself in securing the progressive abolition of slavery and " conditions analogous thereto " and laid down for the Council the procedure to be undertaken in this respect.

The third and fourth resolutions were devoted specifically to forced labour. They were worded as follows :

III. The Assembly,

While recognising that forced labour for public purposes is sometimes necessary,

Is of opinion that, as a general rule, it should not be resorted to unless it is impossible to obtain voluntary labour and that it should receive adequate remuneration.

IV. The Assembly,

Taking note of the work undertaken by the International Labour Office in conformity with the mission entrusted to it and within the limits of its Constitution ;

Considering that these studies naturally include the problem of forced labour,

Requests the Council to inform the Governing Body of the International Labour Office of the adoption of the Slavery Convention, and to draw its attention to the importance of the work undertaken by the Office with a view to studying the best means of preventing forced or compulsory labour from developing into conditions analogous to slavery.

Signed in Geneva on 25 September 1926 by the representatives of 36 States, the Slavery Convention[4] was ultimately ratified or acceded to by 41 States.

[1] League of Nations document A.19.1925.VI, paragraphs 112 and 114.
[2] *Ibid.*, p. 2.
[3] League of Nations document A.123.1926.VI.
[4] League of Nations document C.586.M.223.1926.VI.

In this Convention a special paragraph in its Preamble and one Article (Article 5) are dedicated to the question of forced labour.

The paragraph of the Preamble concerned reads:

Considering, moreover, that it is necessary to prevent forced labour from developing into conditions analogous to slavery....

Article 5 is as follows:

The High Contracting Parties recognise that recourse to compulsory or forced labour may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty or tutelage, to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery.

It is agreed that:

(1) Subject to the transitional provisions laid down in paragraph 2 below, compulsory or forced labour may only be exacted for public purposes.

(2) In territories in which compulsory or forced labour for other than public purposes still survives, the High Contracting Parties shall endeavour progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labour exists, this labour shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the labourers from their usual place of residence.

(3) In all cases, the responsibility for any recourse to compulsory or forced labour shall rest with the competent central authorities of the territory concerned.

In his report to the Assembly, the Rapporteur of the Sixth Committee pointed out that in drafting this article "the Committee confronted perhaps the most difficult task of the problems before it":

...the present drafting (of Article 5) ... represents a definite attempt to deal with the question of forced labour in a general international agreement. This alone marks progress of considerable importance.

The Committee was very anxious to put into the Convention all the provisions necessary to prevent forced labour giving rise to conditions analogous to slavery. With this object in view, it has agreed that forced labour should only be resorted to for public purposes, apart from purely transitory arrangements designed to make the progressive abolition of forced labour for private purposes both just and practicable. In this connection it will be observed that stringent conditions are imposed on forced labour for private purposes even during the transitory period. Among these conditions is the requirement that adequate remuneration should be paid to those subjected to forced labour. In the case of forced labour for public purposes, this condition is not repeated. This omission has been made because there are cases where forced labour for public purposes is not remunerated in the ordinary sense of that word. For instance, in certain countries labour for public purposes is accepted instead of taxes. There are also other exceptional cases in which it could scarcely be said that compulsory labour for public purposes is, strictly speaking, remunerated. But though the requirement that adequate remuneration should be paid for forced labour for public purposes is not included in the Convention, the Committee is strongly of opinion that such remuneration should as a general rule be paid. It is also of opinion that forced labour, even for public purposes, should not as a general rule be resorted to unless voluntary labour is unobtainable. It therefore suggests that the Assembly should pass a resolution to this effect, which I shall subsequently propose and which is based on a proposal by the German delegation.[1]

[1] League of Nations document A.104.1926.VI, p. 2.

The Commission of Enquiry in Liberia (1930).

In 1929 a special international Commission was set up under the authority the Government of Liberia with the co-operation and participation of the Lea of Nations, to enquire into certain allegations which had been made as to " co tions of slavery and forced labour existing in that country ".

This Commission undertook its work in April 1930 ; its report [1] was transmitt by the Liberian Government to the Secretary-General of the League in Decem 1930.

By its terms of reference [2] the Commission was empowered, *inter alia,* ascertain—

.....

(d) To what extent compulsory labour exists as a factor in the social and indust economy of the State, either for public or private purposes, and, if it does exist, in wh manner it has been recruited and employed whether for public or private purposes.

.....

(f) Whether the labour employed for private purposes on privately owned or leas plantations is recruited by voluntary enlistments or is forcibly impressed for this serv by the Liberian Government or by its authority.

(g) Whether the Liberian Government has at any time given sanction or appro to the recruiting of labour with the aid and assistance of the Liberian Frontier Force, other persons holding official positions or in Government employ, or private individu have been implicated in such recruiting with or without Government's approval.

The report also contained the following statements :

The Anti-Slavery Convention, while regarding forced or compulsory labour fully within its purview, did less in defining than in describing the field ... it appe that the problem has not been so much one of what shall be considered a prohibi status, as of the conditions which make measures of forced labour necessary ; how mu of it can be allowed ; and how rapidly the necessity for it can be diminished. ...

.....

Throughout recent discussions on forced labour in the more advanced admin trations in tropical Africa, certain principles are outstanding, based upon the view th an important ultimate effect of forced labour is to discourage voluntary effort... an quite apart from the rights of Natives to freedom from external and arbitrary exacti in which their own welfare is secondary, administrations are now giving attention to t nature of the work itself for which compulsion seems to be required, the question when compulsion is justified, and the measure of it which is justifiable.

... While it is realized that in tropical African States and Dependencies wh advanced and backward cultures are in contact there is a certain educative advanta in compulsory labour ; it is, at the same time, recognised that these ends are defeat and may degenerate into conditions analogous to slavery, if unguided by strict polic of just and considerate treatment. ...[2]

The Commission's findings in regard to the above quoted terms of refere were the following :

1. The Commission finds that forced labour has been made use of in Libe chiefly for motor road construction, for building civil compounds and military barrac etc., and for porterage. That this labour has been wastefully recruited and us frequently under conditions involving systematic intimidation and ill-treatment the part of Government officials, messengers and Frontier Force Soldiers. ... T none of this labour has been paid. ...

[1] League of Nations document C.658.M.272.1930.VI.
[2] *Ibid.*, p. 47.

2. The Commission finds that labour employed for private purposes on privately owned plantations has been impressed for this service on the authority of high Government officials. ...

3. The Commission finds that ... high officials of the Liberian Government ... have given their sanction for the compulsory recruitment of labour for road construction... and have condoned the utilisation of this force for purposes of physical compulsion on road construction, for the intimidation of villagers, for the humiliation and degradation of chiefs, for the imprisonment of inhabitants, and for the convoying of gangs of captured natives to the coast, there guarding them till the time of shipment.[1]

After the presentation of this report by the Commission of Enquiry in Liberia, practically no other work in the field of forced labour was undertaken by the League of Nations. A new body—the Advisory Committee of Experts on Slavery—was established by the League Assembly in 1932. The Committee, however, did not deal with forced labour, since this question had been expressly excluded [2] from the list of tasks assigned to it.

The Work of the International Labour Organisation

As has been mentioned in the preceding section[3], the Assembly of the League of Nations, when adopting the Slavery Convention in 1926, also adopted two resolutions supplementing the Convention, one of which drew the attention of the International Labour Office to the importance of the work on which it was engaged in preventing forced or compulsory labour from developing into conditions analogous to slavery.

The International Labour Office had, in fact, been studying the problem for some time. As long ago as 1922 it had been interested in labour problems in the colonies and mandated territories. A Committee of Experts on Native Labour was set up by the Governing Body in May 1926 and this Committee classed the questions of forced and long-term contract labour among the first on which some international action might be taken.

The Office then drew up a report dealing with forced labour, which the Committee of Experts studied and revised in July 1927. It was subsequently submitted to the 12th Session of the International Labour Conference in 1929, together with a draft questionnaire for submission to Governments preparatory to an international Convention.[4]

The following year, a second report was placed before the 14th Session of the Conference, analysing the replies from Governments to the questionnaire adopted in 1929 and containing the first draft of a Convention. On 28 June 1930, the Conference approved the final text of Convention No. 29 concerning forced or compulsory labour, Recommendation No. 35 concerning indirect compulsion to labour and Recommendation No. 36 concerning the regulation of forced or compulsory labour.

The Forced Labour Problem in 1929

When Convention No. 29 was drawn up by the I.L.O., it was virtually in dependent territories alone (in colonies and mandated territories) that the problem of

[1] League of Nations document C.658.M.272.1930.VI, p. 84.
[2] See Annex to Resolution of 12 October 1932, *League of Nations Official Journal* for Nov. 1932.
[3] See above, p. 134.
[4] International Labour Conference, 12th Sesssion, Geneva, 1929 : *Forced Labour, Report and Draft Questionnaire* (Geneva, I.L.O., 1929).

forced labour had caught the public eye. As a result, these were the territo mainly covered in the 1929 report just mentioned. Compulsory military serv and convict labour proper were ignored; from other fields the report simply qu some specific instances of compulsory labour in various independent countri

In its very detailed survey of the law and practice in matters of forced labo the report distinguished[2] between three "purposes for which compulsion employed"; these were forced labour for general public purposes, forced labo for local public purposes and forced labour for private employers.

Forced Labour for General Public Purposes.

Under this heading, the report included the requisitioning of labour for pub works, compulsory porterage, the use of forced labour in emergencies, compuls cultivation and forced labour in various other more specific forms.

The report showed that in a number of dependent territories forcible recru ment was a customary or subsidiary means of obtaining labour for public wo such as the construction and maintenance of railways, roads, bridges, dams, harbo facilities, telegraph and telephone lines and other installations needed for the adm nistration of the country or for use in its development. It was in this form, accordi to the report[3], that forced labour gave rise to the greatest evils and lent itself the most serious abuses, particularly if workers were recruited far away and f long periods.

Compulsory porterage made up for inadequate communications. It was mai used for the transport of Government officers and their baggage, Governm stores and essential material, but it was also used at times for transporting ma rials to construction sites or carrying produce to ports or railway stations. T report quoted[4] a number of accounts showing the unpopularity and economic was fulness of forced labour of this kind.

Forced labour "in emergencies" was taken by the report to mean statu labour required of the population to prevent or combat famine, infectious or co tagious diseases, both in human beings and animals, the spread or invasion of anim or insect pests, fires, floods or other disasters.

Several territories had a system of compulsory cultivation in the form of a obligation "to till, sow and reap the crop on a certain area of land, or to plant a tend certain trees or certain specified crops".[5] This system was variously us as a means of fighting or preventing famine, of expanding the economy of the ter tory, and hence of promoting its general welfare, and of imparting agricultu training.

Forced Labour for Local Public Purposes.

In the 1929 report, this heading mainly covered various types of services c statute labour required of the local population to protect their health (cleani of village streets, disposal of refuse and so on), to prepare and maintain co munications (footpaths, tracks and secondary roads) or to meet other local nee (construction and maintenance of local Government buildings, resthouses, schoo etc.). This heading also included the fairly frequent case of compulsory labo

[1] International Labour Conference, 12th Session, Geneva, 1929: *Forced Labour, Report and Qu Questionnaire* (Geneva, I.L.O., 1929), pp. 135-138, 188-189 and 224-229 (Abyssinia, Bolivia, Guatem Liberia, Paraguay, Peru and the United States).

[2] *Ibid.*, p. 21.

[3] *Ibid.*, pp. 246-251 and 260-262.

[4] *Ibid.*, pp. 251-252.

[5] *Ibid.*, pp. 276-277.

for the local chief as head of the community, either for the benefit of the community or for the personal profit of the chief himself.

While admitting that in certain cases forced labour for local public purposes may place a very heavy burden on indigenous populations, the report observed that forced labour of this type has fewer disadvantages, both psychologically and socially, in that it does not involve protracted absence far from home, it does not raise any food or housing problem and the population realise more fully what they stand to gain from their activities.

Forced Labour for Private Employers.

Under this heading, the 1929 report considered various methods of direct or indirect compulsion used or countenanced by the authorities to overcome " the difficulties of an inadequate labour supply ".[1] Among them, the report mentioned more particularly—

(i) the compulsory labour which big landowners can exact by law or custom from the population on their lands [2];

(ii) a general legal obligation to work, every inhabitant being required to take up work if he is not already working on his own account or in another's service [3];

(iii) the system of colonial concessions, either tacitly or expressly according a concessionaire the right to requisition labour or require the indigenous population to deliver certain products [4];

(iv) recruitment by officials of the Administration [5]—a method which, it is generally agreed, " easily degenerates into forced labour " [6], since it is difficult to draw a dividing line between an encouragement and a command;

(v) prison labour for private employers [7];

(vi) taxes levied on indigenous populations with the object of inducing them to enter an employer's service and so obtain the money needed for the taxes [8];

(vii) vagrancy and pass laws so devised and implemented that they indirectly force an individual to work by handicapping those not in another's service as compared with those who are.[9]

Law and Practice.

The 1929 report made the following general observations on the progress made in legislation [10]:

Forced labour has thus led to a large amount of national legislation, ranging from its total prohibition in certain forms to the more or less strict regulation of other forms. The early legislation in each area usually takes the form of an authorisation permitting the Administration or its officials, sometimes also private persons or companies, to have recourse to it. Legislation of a second stage has been motived not only by concern for order and for the practical efficiency of this form of labour, but also,

[1] International Labour Conference, 12th Session, Geneva, 1929 : *Forced Labour, Report and Draft Questionnaire* (Geneva, I.L.O., 1929), p. 190.
[2] *Ibid.*, pp. 203-205 and 286.
[3] *Ibid.*, pp. 206-209, 212-213, 221-222, 223 and 286.
[4] *Ibid.*, pp. 198-199, 201-202, 226-227 and 289-290.
[5] *Ibid.*, pp. 190-193, 197-198, 210-211, 213, 218-220, 223-224 and 287-289.
[6] *Ibid.*, p. 190.
[7] *Ibid.*, pp. 227-229.
[8] *Ibid.*, pp. 211-212, 213-214, 221, 223 and 290.
[9] *Ibid.*, pp. 194, 199-200 and 290-291.
[10] *Ibid.*, p. 256.

and probably principally, by the desire to avert as far as may be possible the abu which have arisen in the past and the evils which have been associated with it.

On the other hand, the report observed elsewhere[1] that—

Since forced labour exists for the most part in areas where administration as yet admittedly incomplete and where public opinion is negligible, there tend be—in fact it can be said that there are—greater discrepancies between the *inten legislation* on the matter and the *methods or effects of its application* than is the ca in general.

This vast enquiry nevertheless revealed that, over a period of years, the had been a tendency in both law and practice to eliminate the most marked an brutal forms of forced labour in dependent territories. Public opinion had be a moving force ; the majority of the general public realised the serious drawbac of these practices from both the social and the human standpoint and recognise that they were more a demoralising element than an educative influence and th the economic value of forced labour was, on balance, most debatable.[2] The step was therefore set, if not for the immediate and total abolition of compulsory labo in every form, whether direct or indirect, at least for international regulation banning the most reprehensible methods and paving the way for a gradual elim nation of tolerable practices, while making them subject to restrictive regulation in order to avoid abuses.

This was the purpose of Convention No. 29 adopted by the International Labour Conference on 28 June 1930.

Convention No. 29 concerning Forced or Compulsory Labour, Recommendation No. concerning Indirect Compulsion to Labour and Recommendation No. 36 concerni the Regulation of Forced or Compulsory Labour

For the purposes of the Convention, the term " forced or compulsory labour " was taken to mean " all work or service which is exacted from any person unde the menace of any penalty and for which the said person has not offered himself voluntarily ".

The Convention draws distinctions between the various forms of forced labou covered by this general definition. Some practices are authorised without reserv by being excluded from the general definition, others are immediately prohibited once the Convention has been ratified, while others, again, are countenanced as a transitional measure, but are subject to restrictive regulations.

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[1] International Labour Conference, 12th Session, Geneva, 1929 : *Forced Labour, Report and Dr Questionnaire* (Geneva, I.L.O., 1929), p. 230.

[2] See Chapter VI (pp. 232-255) of the 1929 report : " Opinions on the Value and Effects of Forc Labour and on the Necessity for its Regulation ".

[3] This compound expression was the product of a compromise. To avoid any possible confusi with the general concept of *travaux forcés* (penal servitude), the French Government wanted the expr sion to be *travail public obligatoire* (compulsory public labour). Others, however, wished to distingu between compulsory labour based on a moral obligation, and hence legitimate, and forced labour. T United Kingdom Government also wanted to allow for the fact that, in certain territories, the ter " forced labour " referred to labour levied by the European authorities for important public work whereas the term " compulsory labour " was reserved for more customary services for local pub purposes. To overcome the difficulty of finding distinct and generally accepted definitions for the ter " forced labour " and " compulsory labour " or of agreeing on the general use of one of them, was finally decided to use them simultaneously and synonymously. International Labour Confere 14th Session, Geneva, 1930 : *Report on Forced Labour* (Geneva, I.L.O., 1930), pp. 133-134). This follow the terminology already used by the League of Nations in the mandates of types " B " and " C " an in Article 5 of the 1926 Slavery Convention.

Exceptions to the General Definition.

Article 2, paragraph 2, lists and defines the forms of compulsory labour which are excluded from the general definition and are consequently not banned or regulated by the Convention—

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;

(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Immediate Prohibition of Forced Labour.

The aim of the Convention is the immediate abolition of forced or compulsory labour "for the benefit of private individuals, companies or associations" (Article 4).[1] More specifically, it states that "no concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade" (Article 5). Article 6 also forbids officials of the administration to oblige a population or any of its individual members to work for private individuals, companies or associations. Furthermore, local chiefs are not allowed to use compulsory labour or enjoy personal services except in the cases and subject to the conditions specified in Articles 7 and 10.

Further weight to this ban on forced labour for the benefit of private persons or companies is lent by Recommendation No. 35 concerning indirect compulsion to labour. Paragraph I suggests that, in their projects for the economic development of primitive territories, States Members should bear in mind the amount of labour available, the capacities for labour of the population and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the population. Paragraph II points to—

The desirability of avoiding indirect means of artificially increasing the economic pressure upon populations to seek wage-earning employment, and particularly such means as—

(a) imposing such taxation upon populations as would have the effect of compelling them to seek wage-earning employment with private undertakings;

[1] See also the reservation at the end of Article 2, paragraph 2 *(c)*, quoted above.

(b) imposing such restrictions on the possession, occupation, or use of land as would have the effect of rendering difficult the gaining of a living by independent cultivation;

(c) extending abusively the generally accepted meaning of vagrancy;

(d) adopting such pass laws as would have the effect of placing workers in the service of others in a position of advantage as compared with that of other workers.

Paragraph III stresses—

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.

Apart from forced labour for the benefit of private individuals or companies the Convention also prohibits forced or compulsory labour imposed as a collective punishment on a community for crimes committed by any of its members (Article 20) and also forced or compulsory labour for work underground in mines (Article 21).

Forced Labour Countenanced as a Transitional Measure.

Under Article 1, States ratifying the Convention undertake "to suppress the use of forced or compulsory labour in all its forms within the shortest possible period". Paragraph 2 of this Article lays down that, pending this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees laid down in the Convention. Paragraph 3 provides that after five years, the Governing Body of the International Labour Office "shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing the question on the agenda of the Conference".

The conditions and guarantees to which the Convention subjects the use of forced labour during the transitional period[1] appear in Articles 8 to 21. Some are general and cover all the forms of forced labour provisionally countenanced; others concern certain special practices.

General Rules.

According to Article 8, the power to exact forced or compulsory labour is vested in the highest civil authority of the territory concerned, though it may, in certain cases, delegate that power to the highest local authorities.

Article 9 lays down that, before deciding to have recourse to forced or compulsory labour, the competent authority must satisfy itself—

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or service is of present or imminent necessity;

(c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

[1] This transitional period has not yet ended, as will be seen from a later section.

(d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 11 lays down various conditions limiting the persons or types of persons who may be called upon for forced or compulsory labour. Article 12 limits the period for which any person may be taken for forced or compulsory labour of any kind to 60 days in any one period of 12 months.

The succeeding Articles govern working hours and weekly rests (Article 13), remuneration (Article 14), compensation for accidents or sickness arising out of the employment of the worker (Article 15) and the transfer of persons subjected to forced labour (Articles 16 and 17).

To give effect to the Convention, the competent authority is required to issue complete and precise regulations[1] governing the use of forced or compulsory labour (Article 23).

Special Rules.

The Convention lays down special rules for—

(i) forced or compulsory labour exacted as a tax or used for the execution of public works by chiefs who exercise administrative functions (Article 10);

(ii) forced or compulsory labour for the transport of persons or goods, *e.g.*, the labour of porters or boatmen (Article 18);

(iii) compulsory cultivation (Article 19).

Convention No. 50 concerning the Regulation of Certain Special Systems of Recruiting Workers and Recommendation No. 46 concerning the Progressive Elimination of Recruiting

The problem of recruitment held the attention of the I.L.O. Committee of Experts on Native Labour even during the preparatory work on the Forced Labour Convention. The report on forced labour submitted in 1929 to the 12th Session of the International Labour Conference pointed to the various methods used to overcome a lack of manpower, noting that it is not always possible to indicate "whether the methods employed are in fact tantamount to compulsion. This is especially the case, for example, where recruiting is carried out by officials of the Administration."[2] Elsewhere[3], the same report observes that in such matters "the line between encouragement and command is a narrow one", one reason being that "it is clearly difficult for people at a low stage of social development to perceive the exact difference between encouragement and command, when they come from the mouth of those entitled to command".[4]

No attempt was made, however, to extend the Forced Labour Convention to recruiting, only Article 6 having any bearing on the problem.[5]

The Committee of Experts on Native Labour took up the question in 1930 and it was discussed in 1935 at the 19th Session of the International Labour Conference

[1] Recommendation No. 36 suggests a number of ways in which such regulations might be widely circulated among the indigenous population.
[2] *Op. cit.*, p. 190.
[3] *Ibid.*, p. 289.
[4] *Ibid.*, p. 288.
[5] See above, p. 141.

on the basis of a report entitled *The Recruiting of Labour in Colonies and in C Territories with Analogous Labour Conditions.*

This was the origin of Convention No. 50 concerning the regulation of cer special systems of recruiting workers, adopted by the Conference on 20 June 1

Unlike the Convention concerning forced or compulsory labour, whose appl tion is not limited to certain types of territories or workers, Convention N relates only to the recruiting of indigenous workers (Article 1), who are define " workers belonging to or assimilated to the indigenous populations of the dep dent territories of Members of the Organisation and workers belonging t assimilated to the dependent indigenous populations of the home territorie Members of the Organisation " (Article 2 *(b)*).

In the Convention, the term " recruiting " includes " all operations undertak with the object of obtaining or supplying the labour of persons who do not spon neously offer their services at the place of employment or at a public emigratio employment office or at an office conducted by an employers' organisation a supervised by the competent authority " (Article 2 *(a)*).

Recruiting so defined is neither prohibited nor condemned in principle the Convention, which simply regulates it so as to prevent abuses and protect community concerned as well as those who are recruited. One of the aims of m of the clauses is to prevent recruiting from being associated with compulsion and degenerating into forced labour. As an instance, Article 4 requires the compet authority to take such measures as may be practicable and necessary " to av the risk of pressure being brought to bear on the populations concerned by or behalf of the employers in order to obtain the labour required ". According Article 7, " the recruiting of the head of a family shall not be deemed to invo the recruiting of any member of his family ". Since any participation in recruit operations by Government officials in fact involves some risk of compul Article 9 prohibits public officials from recruiting " for private undertakings eit directly or indirectly, except when the recruited workers are to be employed works of public utility for the execution of which private undertakings are act as contractors for a public authority ". For similar reasons, Article 10 for chiefs and other indigenous authorities to " act as recruiting agents, exercise pressu upon possible recruits or receive from any source whatsoever any special remu ration or other special inducement for assistance in recruiting ". The recruit activities of professional recruiters, employers or those acting on their behalf limited by licences and subject to administrative supervision (Articles 11-16).

Recommendation No. 46 concerning the progressive elimination of recruit adopted at the same time as this Convention, also suggests a number of ways hastening such elimination and of developing the spontaneous offer of labour.

Convention No. 64 concerning the Regulation of Written Contracts of Employ of Indigenous Workers and Convention No. 65 concerning Penal Sanc for Breaches of Contracts of Employment by Indigenous Workers

The Committee set up by the 12th Session of the International Labour Co rence to investigate the problem of forced labour realised as long ago as 1929 the decisions on forced labour whose adoption it suggested would be inadequat eliminate every type of compulsion in the employment of indigenous labour. consequently produced a resolution, which the Conference endorsed, inviting International Labour Office " to undertake all necessary studies on all the ca cases of compulsion to labour with a view to the question of their complete a tion being placed on the agenda of one of the next sessions of the Internati

Labour Conference with the shortest possible delay ".[1] This resolution was particularly concerned with long-term contracts.

In 1932 the Conference adopted a similar resolution in which specific reference was made to the problems of recruiting and of " long-term labour contracts, the breaking of which involves penal sanctions ".[1]

After the question of recruiting had been settled in 1936 by the adoption of Convention No. 50, the I.L.O. Committee of Experts on Native Labour turned its attention to the problem of contracts of employment, with the idea in mind that indigenous workers should be given as great a degree of liberty as possible, both in law and practice. Two questions were the subject of particular attention—the length of long-term contracts and the penalties for breach of contract.

As the I.L.O. observed in the report it published in 1937 on the regulation of contracts of employment of indigenous workers[2], long-term contracts may have their advantages for the worker as well as the employer, who can recover his recruiting outlay while being assured of stable labour. On the other hand, apart from the social drawbacks inherent in such contracts when the worker leaves his family behind him, this method of recruiting may result in serious limitations on the freedom of employment, particularly if the worker was unable to appreciate the implications of his undertaking when the contract was concluded or if there was a certain amount of actual compulsion in the recruiting operation. Liberties are even more endangered if the worker cannot terminate his contract, or has very little chance of doing so, before the period actually expires or if, by breaking it, he runs the risk of heavy penalties, such as may be found in much colonial legislation. " There can be no doubt ", it was stated in the I.L.O. report[3], " that the impossibility for the worker to liberate himself from his obligations under a long-term contract gives to the contract, almost as much as do the penal sanctions, the character of an instrument restrictive of personal liberty ".

Like the problem of recruiting, the double question of penalties and long-term contracts was therefore not entirely unrelated to the problem of forced labour properly so-called.

One of the objectives of the regulations in Convention No. 64 concerning the regulation of written contracts of employment of indigenous workers[4] was therefore to eliminate any element of compulsion from such contracts. Hence, when a contract is concluded for six months or more, or when it stipulates conditions of employment materially different from customary conditions, the contract must be made in writing (Article 3). Article 5 provides that the written contract has to settle several points of particular importance to the worker (such as the name of the employer, the undertaking and the worker, the place and duration of the employment, the place of engagement and place of origin of the worker, the wage rate and manner of payment and the conditions of repatriation). Under Article 6, the validity of the contract is made conditional upon the attestation of a public officer, one of whose duties is to " ascertain that the worker has freely consented to the contract and that his consent has not been obtained by coercion or undue influence or as the result of misrepresentation or mistake ". The officer must also satisfy himself that " the worker has fully understood the terms of the contract before signing it or otherwise indicating his assent ". Under Article 10,

[1] International Labour Conference, 19th Session, Geneva, 1935 : *The Recruiting of Labour in Colonies and in Other Territories with Analogous Labour Conditions* (Geneva, I.L.O., 1935), p. 2.

[1] International Labour Conference, 24th Session, Geneva, 1938 : *Regulation of Contracts of Employment of Indigenous Workers* (Geneva, I.L.O., 1937), pp. 10-11, 128-131, 149-150 and 197-198.

[3] *Ibid.*, pp. 149-150.

[4] Article 1 defines an indigenous worker in the same terms as the Convention on recruiting (see above p. 144).

similar rules apply to the transfer of any contract from one employer to another, the consent of the worker being necessary for the transfer. Article 4 lays down that "no contract shall be deemed to be binding on the family or dependants of the worker unless it contains an express provision to that effect". Article 5 makes provision for the premature termination of contracts, and Articles 13 and 14 cover the repatriation of workers on the expiry of their contracts.

Convention No. 64 does not itself fix any maximum length for long-term contracts. Article 9, however, requires the maximum period of service to be prescribed by each State in regulations, and certain maximum periods are advocated in Recommendation (No. 58) adopted at the same time as the Convention.

Later on, however, this point was taken up again and is now covered by Convention No. 86 concerning the maximum length of contracts of employment of indigenous workers[1], adopted by the International Labour Conference on 11 July 1947. Article 3 of this additional instrument lays down a maximum period of service of one, two or three years, depending on whether the employment involves a long and expensive journey and whether the worker is accompanied by his family. When the worker is to be employed in a territory other than that in which the contract is concluded, the period of service must not exceed the maxima prescribed by the regulations of both territories (Article 4).

Convention No. 65 concerning penal sanctions for breaches of contracts of employment by indigenous workers calls for the progressive and speediest possible abolition of all such penal sanctions.[1] It further provides for the immediate abolition of all such penal sanctions for non-adult persons under a minimum age to be prescribed by law or regulations.

The Convention defines the expression "breach of contract", in Article 1 paragraph 2, as—

(a) any refusal or failure of the worker to commence or perform the service stipulated in the contract;

(b) any neglect of duty or lack of diligence on the part of the worker;

(c) the absence of the worker without permission or valid reason; and

(d) the desertion of the worker.

Entry into Force and Application of Conventions Nos. 29, 50, 64 and 65

As is laid down in Article 28, Convention No. 29 concerning forced or compulsory labour entered into force 12 months after the ratifications of two Members (Ireland and Liberia) had been registered, *i.e.*, on 1 May 1932. The ratifications of these two countries were followed by those of Sweden and the United Kingdom (1931), Australia, Bulgaria, Denmark, Japan, Norway and Spain (1932), Chile, the Netherlands (and Indonesia) and Yugoslavia (1933), Italy, Mexico and Nicaragua (1934), Finland (1936), France (1937), New Zealand (1938), Switzerland (1940), Belgium and Venezuela (1944), Argentina and Ceylon (1950), Greece (1952).

Three of these ratifications—by Belgium, France and the Netherlands—were accompanied by declarations stating, in accordance with Article 35 of the Constitution of the I.L.O., that the Convention would apply with certain modifications.

Convention No. 50 on recruiting was ratified by Norway in 1937 and by Japan in 1938 and entered into force on 8 September 1939. It has also been ratified by

[1] For the origin and the factors motivating this additional Convention, see the report submitted by the International Labour Office to the International Labour Conference, 29th Session, Montreal, 1946: *Proposed International Labour Obligations in respect of Non-Self-Governing Territories*, pp. 133-137. See also Report III (1) submitted to the Conference at its 30th Session, Montreal, 1947: *Non-Metropolitan Territories—Proposed Conventions.*

the United Kingdom (1939), New Zealand (1947), Belgium (1948) and Argentina (1950).

Convention No. 64 on contracts of employment[1] and Convention No. 65 on penal sanctions were ratified by the United Kingdom in 1943 and by New Zealand in 1947 and consequently entered into force on 8 July 1948. The same year Belgium ratified Convention No. 64. More recently, a declaration registered on 12 March 1952 announced that Italy was arranging for the provisions of Convention No. 65 to be applied in the territory of Somaliland which Italy administers.

These four Conventions were therefore formally accepted less rapidly than was expected. However, as the International Labour Office noted in a report it published in Montreal in 1944 : *Minimum Standards of Social Policy in Dependent Territories*, these international instruments have had a marked effect on colonial thought and legislation and have fostered the movement in favour of freedom of employment which had already started before 1930. This is true even outside the territories formally covered by the regulations, for Conventions of this kind exert an influence even when their ratification is still pending or has even been rejected. Some States may furthermore have failed to ratify because they have abolished the practices in question and their domestic legislation is already in advance of international provisions.[2]

Two general factors in their turn have had an influence on the application of these regulations, although in opposite directions. First of all, there was the general economic crisis of the thirties which reduced the call for labour in colonial territories, as elsewhere. For many years there was less occasion to employ forced labour, and this made the transition to a free employment system easier. Later on, however, there was a revival of compulsory labour owing to the circumstances created by the war. This occurred not only in non-metropolitan territories but also in a number of independent countries. While the majority of these emergency measures were abolished later, they hampered the development which had begun before the war.[3]

Until now, the I.L.O. has not felt that this development has made sufficient progress to consider placing any total ban on every aspect of forced labour and revising Convention No. 29 to end the period of transition mentioned in Article 1, paragraph 3. The question has, however, been examined several times, particularly in 1937 and 1949, when a general report by the Governing Body was issued on the application of Convention No. 29.[4] Each time, however, the conclusion was that any revision would be premature and that the first call was for a fuller and more extensive application of the present regulations.

It has been with this in mind that the I.L.O. and the Committee of Experts on the Application of Conventions and Recommendations have repeatedly drawn the attention of Governments in recent years to the fact that, despite its origin and the wording of certain of its clauses, Convention No. 29 was not confined to non-metropolitan territories alone but also applied to the forms of compulsory labour to be found in independent countries. Better supervision and, ultimately, fuller application were also the objectives of the Governing Body when, in 1948, it decided on a new layout for the annual reports from Governments having ratified Convention.

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[1] The additional Convention No. 86 (see above, p. 146) was ratified by the United Kingdom in 1950 and by Guatemala in 1952. It entered into force on 13 February 1953.

[2] As an example, the French Government informed the I.L.O. in a communication dated 12 March 1951 that Convention No. 65 had not been ratified because the penal sanctions it defined did not exist in the French overseas territories, and also " because the French Constitution and French law were more advanced in matters of political and social evolution and made no provision for any system of discrimination against indigenous workers ".

[3] See International Labour Conference, 29th Session, Montreal, 1946 : *Proposed International Labour Obligations in respect of Non-Self-Governing Territories*, pp. 15-22 and 38-39.

[4] A third general report on the application of Convention No. 29 is in course of preparation.

No. 29. The same year, the Governing Body also decided to include the Forced Labour Convention in the first list of Conventions for which, under Article 19 of the Constitution, reports would be required from States Members not having ratified the Conventions.[1]

Since the end of the war, as part of a vast programme devoted to social policy in dependent territories[2], the International Labour Organisation has also made repeated efforts to obtain further accessions not only to the Convention on forced or compulsory labour but also to the Conventions on recruiting, the contracts of employment of indigenous workers and the penal sanctions for breaches of such contracts. Recommendation No. 70 concerning minimum standards of social policy in dependent territories, adopted by the Conference at Philadelphia on 12 May 1944, recalls the essential principles of these four Conventions and their related Recommendations in Articles 7-16, and invites the States concerned to follow them. Two years later, at its 29th Session, the Conference passed the following resolution concerning freedom of labour[3]:

The Conference,

Considering that systems of forced labour and of labour compulsion are contrary to human dignity, and to the sacred trust and the principle accepted by States responsible for the administration of non-self-governing territories that the interests of the inhabitants of these territories are paramount,

Considering, nevertheless, that there would be no purpose in duplicating the Conventions which it has already adopted for the establishment of freedom of labour

Draws attention to the urgent importance of the general ratification and application by the States responsible for non-self-governing territories, and by other States where the conditions covered by the Conventions may occur, of the Forced Labour Convention, 1930, the Recruiting of Indigenous Workers Convention, 1936, the Contracts of Employment (Indigenous Workers) Convention, 1939, and the Penal Sanctions (Indigenous Workers) Convention, 1939.[4]

Even more recently, the International Labour Office has taken further action along similar lines. At its session in November-December 1951, the Committee of Experts on Social Policy in Non-Metropolitan Territories recommended that the Governing Body should suggest to all Governments concerned that they "should review the subjects covered by I.L.O. Conventions as regards the territories within their respective jurisdictions with a view to seeing whether further advances in the position in law and practice can be made, whether further ratifications can be effected and whether any existing modifications can be withdrawn". The Governing Body communicated these suggestions to the Governments concerned.

At the same time, the Committee also proposed that the Governing Body should examine whether Convention No. 65 on penal sanctions might be supplemented by a Recommendation providing for—

(a) the immediate abolition of sanctions of a penal nature in connection with women workers and certain other categories and in respect of certain types of breaches of contract;

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[1] The information on forced labour thus obtained from States not having ratified Convention No. 29 appears in the *Summary of Reports on Unratified Conventions and on Recommendations* submitted in 1951 to the 33rd Session of the International Labour Conference.

[2] In application of this programme, Convention No. 86 was adopted in 1947 to supplement Convention No. 64 (see above, p. 146).

[3] When this resolution was examined by the Conference Committee, a member enquired why the expression "freedom of labour" should be used in connection with four Conventions, only one of which concerned forced labour. In reply, it was explained that the object of these four Conventions was to reform labour systems which might contain an element of compulsion.

[4] International Labour Conference, 29th Session, Montreal, 1946: *Record of Proceedings* (Montreal, I.L.O., 1948), p. 539. In the same resolution, the Conference also noted statements made on behalf of several States in connection with unratified Conventions.

(b) the abolition of all penal sanctions not later than 31 December 1955 ;

(c) the communication of periodic reports and statistics to the International Labour Office on the progress being made towards abolition of all penal sanctions.

As a result of this proposal, the Governing Body decided, at a meeting held on 25 November 1952, to enter the question of penal sanctions for breach of contract on the agenda of the 37th International Labour Conference, to be held in Geneva in June 1954.

The Work of the United Nations

The Charter and the Universal Declaration of Human Rights

The Economic and Social Council's resolution establishing the *Ad Hoc* Committee on Forced Labour refers to the principles of the Charter and to the principles contained in the Universal Declaration of Human Rights. The Committee is instructed to study the nature and extent of the problem raised by the existence in the world of systems of forced or corrective labour by examining the texts of laws and regulations and their application in the light of these principles. It might therefore be appropriate to recall briefly the relevant provisions of the two instruments in question.

The Charter.

The provisions in the Charter dealing with respect for human rights and fundamental freedoms are contained in Articles 1 (3), 13 (1-b), 55, 56 and 76 (c).

Article 55 states that the United Nations shall promote " conditions of economic and social progress and development ... universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion".

Under Article 56 "All Members pledge themselves to take joint and separate action in co-operation with the Organisation for the achievement of the purposes set forth in Article 55 ".

The Universal Declaration of Human Rights.

The Universal Declaration, as adopted by the General Assembly on 10 December 1948, lays down in Article 4 that "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms", and that every person has the right to "free choice of employment" and to "just and favourable conditions of work" (Article 23).

During the discussion on the Draft Universal Declaration in the Commission on Human Rights, two texts containing express reference to compulsory labour were proposed by the United States of America and France respectively.

The text suggested by the United States of America stated that " no one shall be held in slavery, nor be required to perform compulsory labour in any form other than as part of a punishment pronounced by a competent judicial tribunal ". The French text included a sentence declaring that " no public authority may exact personal service or work except by virtue of the law and for the common interest ".

However, neither of these drafts was retained. The text of the Universal Declaration as finally adopted by the General Assembly confined itself to the prohibition of slavery in all its forms and to affirming the universal right to " free choice of employment ", without referring specifically to forced or compulsory labour.

Obligations under the Trusteeship Agreements

Some of the Trusteeship Agreements contain specific provisions dealing with forced labour.

Article 6 of the Trusteeship Agreement for the Territory of Western Samoa, for example, specifies that the Administrative Authority shall prohibit all forms of forced or compulsory labour except for essential public works and services and then only in times of public emergency, with adequate remuneration and adequate protection of the welfare of the workers.

Identical provisions are included in the Trusteeship Agreement for the Territory of Somaliland under Italian Administration.

Draft Covenant on Human Rights

Specific provisions on forced or compulsory labour have been included in all the drafts of a Covenant which have been discussed by the Human Rights Commission, notably at its Second, Fifth, Sixth and Eighth Sessions. Agreement has not yet been reached, however, on the final version of this Covenant.

Origin and Establishment of the *Ad Hoc* Committee on Forced Labour

The following paragraphs give a brief description of the action by the Economic and Social Council and the Governing Body of the International Labour Office which led to the establishment of the *Ad Hoc* Committee on Forced Labour.[1]

The item : " Survey of Forced Labour and Measures for its Abolition " was included in the agenda of the Economic and Social Council at its Sixth Session at the request of the American Federation of Labor, as formulated in its letter of 24 November 1947.[2] In this letter, the American Federation of Labor suggested that the Council should ask the International Labour Organisation to undertake a comprehensive survey on the extent of forced labour in all Member States of the United Nations and to suggest positive measures, including a revised Convention and measures for its implementation, for eliminating forced labour.

Consideration of this item was postponed, owing to pressure of business, at both the Sixth and Seventh Sessions of the Council.

In considering this question at its Eighth Session, the Economic and Social Council had before it two draft resolutions: one proposed by the United States of America, and the other proposed by the Union of Soviet Socialist Republics.[4] The Council adopted the United States of America draft resolution as amended by Australia, and rejected the U.S.S.R. proposal. The resolution as adopted on 7 March 1949 (195 (VIII)) requested the Secretary-General to co-operate closely with the International Labour Organisation in its work on forced labour questions, to approach all Governments and to enquire in what manner and to what extent they would be prepared to co-operate in an impartial investigation into the extent of forced

[1] A complete record of the discussions in and the action taken by these two bodies may be found in their official documentation. This documentation is indexed in Committee documents E/AC.36/4 and E/AC.36/5.

[2] See United Nations document E/596.

[3] See United Nations document E/1150/Rev. 1.

[4] See United Nations document E/1194.

[5] See United Nations document E/1173/Rev. 1.

labour in their countries, including the reasons for which persons were made to perform forced labour and the treatment accorded them, to inform and consult the I.L.O. regarding the progress being made on this question and to report to the Ninth Session of the Council on the result of his approaches to Governments and consultations with the I.L.O.

The Secretary-General informed the Director-General of the International Labour Office of the Council's resolution by a letter dated 9 March 1949. The Director-General in a letter dated 11 June 1949 communicated to the Secretary-General the conclusions arrived at by the Governing Body of the I.L.O. at its 109th Session. The Governing Body concluded that the alleged existence of forced labour in many countries was a matter of grave and widespread concern and that there should be an impartial enquiry into the nature and extent of forced labour, including the reasons for which persons were made to perform forced labour and the treatment accorded to such persons. The Governing Body considered that the question was of direct concern to, and within the competence of, the I.L.O. and that since it was also of concern to the United Nations, there should be the closest collaboration between that body and the I.L.O. in carrying out the proposed impartial enquiry, particularly in view of the desirability of including within its scope those Members of the United Nations which were not Members of the I.L.O. Finally, the Governing Body recommended that the Director-General of the I.L.O. should establish close contact with the Secretary-General with a view to the establishment of an impartial commission of enquiry into the whole question at the earliest possible moment.

At its Ninth Session the Economic and Social Council considered a report by the Secretary-General[1] concerning the replies received from Governments[2] as well as the communication from the Director-General of the International Labour Office mentioned above. It also had before it a United States of America draft resolution[3] and a draft resolution proposed by the U.S.S.R.[4] It adopted the United States of America draft resolution as amended by Brazil, Denmark and India[3], and rejected the draft submitted by the U.S.S.R. In the resolution which it adopted (237 (IX)), the Council took note of the communication from the Director-General of the International Labour Office. At the same time the Council considered that the replies received from Governments up to its Ninth Session did not provide the conditions under which a commission of enquiry could operate effectively, and it requested the Secretary-General to ask Governments which had not as yet stated that they would be prepared to co-operate in an enquiry to consider whether they could give a reply to that effect before the Tenth Session of the Council.

At its Tenth Session the Economic and Social Council had before it three further reports from the Secretary-General[5] concerning the replies received from Governments.[6] The Council decided, however, to defer consideration of this item until its Twelfth Session.

At the request of the International Labour Organisation, the Council at its Eleventh Session considered a communication from the Director-General of the International Labour Office drawing the attention of the Council to the discussions of the Governing Body of the International Labour Office on the subject of forced labour.[7] The Governing Body had considered the report of its International Organi-

[1] See United Nations document E/1419.
[2] See United Nations document E/1337 and addenda.
[3] See United Nations document E/1484.
[4] See United Nations document E/1485.
[5] See United Nations documents E/1587, E/1588 and E/1636.
[6] See United Nations document E/1337 and addenda.
[7] See United Nations document E/1671.

sations Committee, which had proposed that the Governing Body, without wai... for further discussion by the Economic and Social Council, should itself establi... Commission to carry out an impartial enquiry into the nature and extent of for... labour, but that the establishment of such an I.L.O. Commission should not pr... dice the possibility of setting up joint machinery with the United Nations sho... the Economic and Social Council subsequently decide to establish a joint comm... sion of enquiry. The Governing Body, however, instructed the Director-General... bring the discussions which had taken place at its session both in the Internati... Organisations Committee and in the Governing Body itself to the attention of t... Council.

At its Eleventh Session, the Council also had before it a note from the Secreta... General concerning further replies and information which had been received fro... number of Governments in response to resolutions 195 (VIII) and 237 (XI) of t... Council[1], and a joint draft resolution submitted by the United Kingdom and t... United States of America.[2]

This draft resolution proposed that the Economic and Social Council sho... invite the International Labour Organisation to co-operate with the Council in t... earliest possible establishment of an *ad hoc* committee on forced labour of n... more than five independent members to be appointed jointly by the Secreta... General of the United Nations and the Director-General of the Internatio... Labour Office. This Committee would be charged with surveying the field of for... labour, taking into account the provisions of international labour Conventi... No. 29, and would enquire particularly into the existence of systems of for... labour which are employed as a means of political coercion or which constitute a... important element in the economy of a given country. After assessing the natu... and extent of the problem at the present time, it would report the results of i... studies and progress to the Council and to the Governing Body of the Internatio... Labour Office. The draft further proposed that the Economic and Social Cou... should request the Secretary-General and the Director-General to supply the pro... sional and clerical assistance necessary to ensure the earliest initiation and effect... discharge of the *ad hoc* committee's work. The Council decided to adjourn t... debate on this proposal until its Twelfth Session.

The Governing Body of the International Labour Office at its 113th Sessi... (Brussels, November 1950) again considered the question of forced labour i... accordance with its decision mentioned above. The Director-General of the Inter... tional Labour Office in a letter dated 14 December 1950 communicated to t... Secretary-General the decision of the Governing Body.[3] The latter, after rejecting... 23 votes to three, with two abstentions, a proposal that it should postpone a decis... on the matter pending further consideration of the question by the Economic a... Social Council, decided to take note of the joint draft resolution submitted by t... United Kingdom and the United States of America to the Eleventh Session of t... Economic and Social Council. The Governing Body expressed its willingness t... co-operate in the manner suggested in the joint proposal, and authorised t... Director-General to collaborate with the Secretary-General of the United Natio... in implementing the proposal in the event of its approval by the Econom... and Social Council.

At its Twelfth Session, the Economic and Social Council had before it a repo... by the Secretary-General[4] concerning the replies received from Governments on t...

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[1] See United Nations document E/1636/Rev. 1.
[2] See United Nations document E/L.104.
[3] The full text of this decision may be found in United Nations document E/1884.
[4] United Nations document E/1885.

questions of co-operation in an impartial enquiry and the existence or non-existence of forced labour, the joint draft resolution of the United Kingdom and the United States of America[1] (summarised on page 149), a French amendment[2] to the joint proposal, and a draft resolution submitted by the Union of Soviet Socialist Republics.[3]

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[1] United Nations document E/L.104.

[2] United Nations document E/L.167/Rev. 1.

[3] The text of the U.S.S.R. draft resolution (United Nations document E/L.165) is as follows :

The Economic and Social Council recognizes the great importance of the question of Forced Labour under discussion by the Council and considers the material so far submitted by the originators of this question to be wholly inadequate, in many respects lacking in objectivity and truth, and grossly libellous and defamatory of the Soviet Union.

The Council notes, on the one hand, that the discussion on this question has revealed a divergence of views on whether labour is free or forced in those countries where there is ownership of the land by rich landowners, where there is private capitalist ownership of factories, plants, mines, banks, railways and all other means of production, and where the fruits of the labour of workers and employees are thereby appropriated by the rich—the great capitalists, millionaires and multi-millionaires who control the capitalist monopolies while the workers and employees are in complete economic dependence upon them.

In these conditions workers and employees are compelled to work not for themselves but for others, are compelled to do work which is not of their choosing but which they have been obliged to accept in order to avoid starvation. Because of these circumstances workers and employees in these countries are constantly threatened with losing their work and, in order to retain the means of existence, are frequently compelled to agree to lower wages, bad working conditions and cruel exploitation. In present-day conditions, moreover, workers and employees are in many cases compelled to take into account the fact that their material standard of living is being reduced by increases in the price of prime necessaries, in taxation, rent, and the like. Particular attention has been given to the fact that even at the present time, when there is no economic crisis, millions of unemployed and semi-employed persons in these countries are unable to work and provide themselves and their families with even the most essential means of existence, while latterly the number of unemployed and semi-employed persons has been steadily increasing. Thrown out of employment and brought face to face with death by starvation, unemployed workers and employees are compelled to seek any kind of work : this is being exploited by the capitalists in order to make still worse the position of workers and employees in employment.

Attention has also been drawn to the fact that at the present stage of the development of civilisation it is inadmissible to retain slave and semi-slave working conditions and a beggarly existence for workers in colonies and dependent territories, and also to the disfranchised conditions of the workers and the whole local population in those territories. It has been pointed out, moreover, that in many countries where private capitalist ownership prevails, not to mention colonies and dependent territories, there is no system of State unemployment insurance, and no insurance and material assistance against sickness, disablement and old age ; the result is that many millions of workers are ever deprived of the necessary means of existence and must constantly be haunted by the fear of unemployment, poverty and hunger.

The Council notes, on the other hand, that the discussion has revealed a divergence of views on whether labour is free in a country such as the Union of Soviet Socialist Republics, where the land has been taken away from the landowners and given to the peasants, where the factories, plants, mines, banks and railways belong to the people as a whole, where the fruits of their labour belong to the workers themselves and are not appropriated by capitalist owners, as there are no capitalists in the Soviet Union and consequently no exploitation of man by man.

It has been pointed out that the Constitution of the U.S.S.R. guarantees the right of work for all workers without distinction of sex, race or language, and that this right is secured in practice by the socialist organisation of the national economy, by the steady growth of the productive forces of society with the active participation of the workers, peasants and intelligentsia themselves, and also by the fact that in this country there are no economic crises and unemployment has long been eliminated, so that each year the material living conditions of workers and employees have steadily improved. The effect of this can be seen in higher wages, in lower prices of consumer goods, in the development of a system of rest homes and sanatoria for workers, in the improvement of housing conditions, in the ever greater satisfaction of the growing cultural requirements of workers and employees, and in the like. Workers and employees in the U.S.S.R. do not know what it is to be afraid of losing their work. They have no fear of want, nor are they uncertain of the morrow. It has also been pointed out that in the U.S.S.R. there is State insurance against sickness, disablement and old age, guaranteeing free assistance to all workers male and female in such cases, and there are also regular holidays at State expense and free education for children. It has been pointed out, furthermore, that the People's Democracies which have set foot on the path of socialist development are also successfully carrying out measures in the interests of the workers.

In view of the divergencies in the view expressed on these questions,

The Economic and Social Council,

Acting in virtue of Articles 55 and 68 of the Charter,

Resolves :

1. For the purpose of a comprehensive and objective investigation of the real working conditions of workers and employees in the countries where private capitalist ownership prevails, and also in the U.S.S.R. and in the People's Democracies, to set up a comprehensive International Commission consisting

(Footnote continued overleaf.)

The sponsors of the joint draft resolution (United Kingdom and United States of America) accepted the French amendment, which they incorporated in their proposal.[1] In response to a request by the representative of Uruguay, the Chairman put to a separate vote the sixth paragraph of the joint draft resolution as amended. This paragraph was adopted by 13 votes to three with two abstentions. The remainder of the text was adopted by 15 votes to three. The Council rejected the U.S.S.R. draft resolution by 15 votes to three.

The text of the resolution as adopted on 19 March 1951 (Economic and Social Council resolution 350 (XII)) is as follows:

The Economic and Social Council,

Recalling its previous resolutions on the subject of forced labour and measures for its abolition,

Considering the replies furnished by Member States to the communications addressed to them by the Secretary-General in accordance with resolutions 195 (VI) and 237 (IX),

Taking note of the communications from the International Labour Organisation setting forth the discussions on the question of forced labour at the 111th and 113th sessions of the Governing Body,

Considering the rules and principles laid down in International Labour Convention 29,

Recalling the principles of the Charter relating to respect for human rights and fundamental freedoms, and the principles of the Universal Declaration of Human Rights,

Deeply moved by the documents and evidence brought to its knowledge revealing in law and in fact the existence in the world of systems of forced labour under which a large proportion of the populations of certain States are subjected to a penitentiary régime,

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of representatives of the manual and intellectual workers united in all existing trade unions, without distinction as to the political trend and religious convictions of their members, to include: representatives of the All-Union Central Council of Trade Unions of the U.S.S.R., the American Federation of Labor of the United States of America, the American Congress of Industrial Organizations of the U.S.A., the Trades Union Congress of Great Britain, the trade unions of France, Italy, the People's Republic of China, Germany, India and Japan, and other national trade union federations.

On the basis of one representative for every million trade union members, a total of 120-125 representatives.

National trade union federations with less than one million members, suitably grouped by countries, shall appoint representatives on the same basis.

The Commission shall also include representatives of existing international trade union federations—the World Federation of Trade Unions, the Latin American Federation of Labour, the International Federation of Christian Trade Unions, and others.

2. The Commission shall pay particular attention to a study of the situation of unemployed and semi-employed persons in all countries where unemployment has not been eliminated, in respect of their real living conditions and legal status, including housing and other conditions of life, social insurance and medical services.

3. The Commission shall take steps to investigate the actual working conditions of male and female workers and their children in the colonies and dependent territories, in order to determine how far States responsible for the administration of such territories are fulfilling the obligations in this respect imposed on them by the Charter.

4. The Commission shall be instructed to collect as complete and objective information as possible on the above-mentioned questions, and to make use for this purpose of material and data submitted by governmental institutions and by trade unions and other workers' organisations, including the organisations of any plant, factory, mine, agricultural plantation and the like.

5. On the basis of the information received the Commission shall draw up reports and recommendations and submit them to the Economic and Social Council, and wide publicity shall be given to the results of the Commission's work.

In view of the importance of the question,

The Economic and Social Council

Resolves to submit this resolution to the General Assembly for ratification.

[1] See United Nations document E/L.172/Rev. 1 which, as finally revised was issued as United Nations document E/L.172/Rev. 2.

1. *Decides* 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 with the following terms of reference :

(a) 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 ;

(b) To report the results of its studies and progress thereon to the Council and to the Governing Body of the International Labour Office ; and

2. *Requests* the Secretary-General and the Director-General to supply the professional and clerical assistance necessary to ensure the earliest initiation and effective discharge of the *ad hoc* committee's work.

APPENDIX II

TEXT OF THE COMMITTEE'S QUESTIONNAIRE AND SUMMARY OF THE REPLIES FROM GOVERNMENTS

Introduction

In its Resolution No. III adopted on 24 October 1951 [1], the *Ad Hoc* Committee on Forced Labour decided to transmit a questionnaire to all Governments, whether Members or not of the United Nations and the International Labour Organisation.

The Secretary-General of the United Nations addressed this questionnaire to all Member States of the United Nations and to those States which are Members neither of the United Nations nor of the International Labour Organisation. The Director-General of the International Labour Office addressed it to those States which are not Members of the United Nations but are Members of the International Labour Organisation.

In accordance with the Resolution, Governments were requested to reply as soon as possible, and in any case not later than 1 April 1952.

Early in May 1952, the Secretary-General of the United Nations and the Director-General of the International Labour Office sent a reminder to the Governments which had not yet answered.

Replies have been received from the Governments of Afghanistan, Australia, Austria, Belgium, Brazil, Burma, Cambodia, Canada, Ceylon, Chile, China, Cuba, Czechoslovakia, Denmark, El Salvador, Finland, France, the Federal Republic of Germany, Greece, Guatemala, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, the Hashemite Kingdom of Jordan, Laos, Liechtenstein, Luxembourg, Nepal, the Netherlands, New Zealand, Norway, Peru, the Philippines, Sweden, Switzerland, Syria, Turkey, the Union of South Africa, the United Kingdom, the United States of America, Uruguay, Viet-Nam and Yugoslavia.[2]

The text of the questionnaire and a summary of the replies received from Governments follow.

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[1] United Nations document E/AC. 36/10, paragraphs 22-23.

[2] These replies were published in United Nations document E/AC. 36/11 and addenda 1-22. In addition, Colombia, Egypt, Ethiopia, Iran, the Lebanese Republic, Saudi Arabia and Thailand gave some information on whether or not forced labour existed in their countries when they replied to notes sent by the Secretary-General of the United Nations on 18 March and 3 May 1949 to the Governments of Member and non-Member States of the United Nations in accordance with Economic and Social Council Resolution 195 (VIII). This Resolution requested the Secretary-General " to approach all Governments and to enquire in what manner and to what extent they would be prepared to co-operate in an impartial enquiry into the extent of forced labour in their countries, including the reasons for which persons are made to perform forced labour and the treatment accorded them ". The replies from these countries were published in United Nations document E/1337 and its addenda.

Text of the Questionnaire

In agreement with the Governing Body of the International Labour Office, the Economic and Social Council of the United Nations adopted on 19 March 1951, at its Twelfth Session, Resolution 350 (XII), setting up an *Ad Hoc* Committee on Forced Labour, to be appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office.

The Committee appointed in accordance with the above Resolution, at its First Session, held in Geneva from 8 to 27 October 1951, interpreted its terms of reference as follows :

> It interpreted its terms of reference (Resolution 350 (XII) of the Economic and Social Council) as including a survey and, thereafter, a study of systems of forced labour. Such systems of forced labour were alleged to take two forms. The first form was forced labour for corrective purposes, in other words, in order to correct the political opinions of those who differed from the ideology of the Government of the State for the time being, those persons being sent to prison camps for varying periods in order to enable the authorities to correct their political opinions and, during detention, being obliged to perform certain services. The second form of forced labour was exemplified when persons were obliged involuntarily to work for the fulfilment of the economic plans of a State, their work being of such a nature as to lend a large degree of economic assistance to the State in the carrying out of such economic plans. Both these forms of labour were prescribed as essential either by process of law or by administrative measures on the part of Governments.
>
> Accordingly, the Committee would have to investigate all the laws and regulations of the various States which might illustrate the different systems of forced labour employed in those States. The Committee might also have to investigate existing administrative practices which enable forced labour to be put into effect, whether prescribed by process of law or administrative measures.
>
> A further conclusion reached by the Committee was that, while it might take the definition of forced labour embodied in the international labour Convention (No. 29) concerning forced or compulsory labour as a basis, it recognised that the whole perspective on the basis of which that Convention was drawn up had now changed, and that the Committee could define forced labour only if it had reviewed at least a portion of the material before it. The Committee could reach a final conclusion regarding a definition of forced labour only when it approached the end of its study. It should, for the time being, concentrate on considering the meaning of forced labour which was implied by its terms of reference.

The Committee proposes to discharge its task, within the limits of its terms of reference, without prejudice of any kind and with complete impartiality and objectivity, on a universal basis, with the sole aim of safeguarding human rights and improving the situation of workers.

The *Ad Hoc* Committee considered that one of its primary tasks was to study all laws and regulations, and also ordinary administrative practices, whereby the judicial or administrative authorities can compel a person to perform certain labour, either for economic or for corrective or educational purposes, for the protection of the established political order, whether such work has to be done in camps, in

reformatories, in public or private undertakings, in labour colonies or in the person's own enterprise.

The purpose of this questionnaire, which is being transmitted to all States Members or non-Members of the United Nations and of the International Labour Organisation, is to collect relevant official information for the use of the *Ad Hoc* Committee on Forced Labour. Governments are asked to reply to the questionnaire as regards their metropolitan, trust and non-self-governing territories, the central State administrations and the regional or local public authorities.

I. Punitive, Educational or Corrective Labour

Do your penal or administrative laws, your regulations or your administrative rules or practices as such provide that—

(a) a person convicted of an offence against the established constitutional or political order may be forced to perform certain labour ?

(b) a person who has not been alleged to have committed any offence may be detained in prisons or camps or otherwise restricted in movements and subjected to educational or reformatory labour ?

If so—

(i) please give the texts of such laws, regulations and rules ;

(ii) by what judicial or administrative authorities and in accordance with what procedure are they applied ?

(iii) how are they interpreted by these authorities ?

(iv) what was the number of persons subjected to forced labour under these laws, regulations and rules for each of the years from 1948 to 1950 inclusive ?

(v) how is such labour organised (hours of work, pay, accommodation, care and health arrangements) ?

II. Other Cases of Compulsion to Work

Do your laws, regulations or administrative rules or practices as such provide for any other kind of direct or indirect compulsion to work through the intervention of the Government or of the public authorities, and in particular for—

(a) any obligatory labour service, either temporary or permanent, general or confined to certain categories of persons, for the performance of any work either in nationalised undertakings or in those directly or indirectly controlled by the public authorities, or in private undertakings, and more specifically for the performance of any work towards the fulfilment of over-all plans laid down by the Government or public authorities, for public works or works in the public interest or the exploitation or production of any type of goods or resources ?

(b) any restrictions on freedom of residence or movement applied in such manner and in such circumstances that their effect would be to compel persons to work in a specific area ?

(c) any limitations on the freedom of workers to choose their place of work and the undertaking they work for (*e.g.*, compulsory recruitment or a ban on changing employment without the permission of some public authority) ?

In each of the above or in any similar cases, please give the legal provisions or regulations applicable, with details concerning their interpretation and implementation. In case *(a)* above, please also supply information on the number of persons affected, the nature, scope and conditions of work (hours of work, pay, accommodation, care and health arrangements).

General Survey of the Replies

1. All the Governments mentioned in the introduction have offered information in reply to the Committee's questionnaire, the one exception being the Government of Czechoslovakia, which criticises the very principle of the enquiry for which the Committee has been made responsible and rejects the questionnaire as illegal.

2. Several Governments state in general terms that their legislation neither makes provision for nor tolerates forced labour as envisaged in the questionnaire. These are the following :

(1) The Government of Burma, Section 19 of whose Constitution prohibits forced labour in any form, though the State is not thereby prevented from imposing compulsory service for public purposes.

(2) The Government of Canada.

(3) The Government of the Federal Republic of Germany, whose Fundamental Law (Article 12) prohibits any compulsion to work on principle and recognises the fundamental right to an unrestricted choice of workplace as a natural right.

(4) The Government of Indonesia.

(5) The Government of Italy, which replies both for the Republic itself and for the territory of Somaliland under Italian administration.

(6) The Government of the Hashemite Kingdom of Jordan.

(7) The Government of Luxembourg, which quotes and comments on articles from the Constitution in support of its negative reply. The passages concerned are Articles 11 (which grants equality before the law and guarantees the natural rights of the individual, including the right to work), 12 (which recognises the freedom of the individual) and 24 (freedom of speech and freedom of the press). According to the reply, Articles 11 and 12 exclude the institution of any obligatory labour service, either temporary or permanent, general or confined to certain categories of persons.

(8) The Government of the Netherlands, whose reply also covers New Guinea, the Netherlands Antilles and Surinam.

(9) The Government of Turkey, which quotes Articles 68, 70, 73 and 74 of the Constitution, guaranteeing individual liberties and prohibiting forced labour except in extraordinary circumstances, such as mobilisation and war.

(10) The Government of the Union of South Africa, which has replied in the

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[1] In their replies to the Secretary-General's note of 18 March 1949, the following countries declare the existence of forced labour in their territories :

(a) Ethiopia (see United Nations document E/1337/Add. 15), which understood forced labour " in the sense in which that term is generally used and would appear to be used in the enquiry under reference, that is, apart from compulsory labour in prisons and under court supervision ";

(b) Iran (see United Nations document E/1337/Add. 8) ;

(c) Saudi Arabia (see United Nations document E/1337/Add. 1).

negative, stating that it has considered the questions in the light of the interpretation which the Committee gave to its terms of reference.

(11) The Government of Uruguay.

3. Several Governments have also stated in general terms that forced labour as envisaged in the questionnaire is unknown in their countries, but have nevertheless provided information with a bearing on all or part of the specific questions asked.[1] These are the following :

(1) The Government of Afghanistan [2], which states that, according to the Constitution, there is no forced labour in the country.

(2) The Government of Brazil, which substantiates its negative reply with references to Article 141 of the Constitution, dealing with the freedom of opinion, thought and labour.

(3) The Government of El Salvador.

(4) The Government of Finland.

(5) The Government of Greece, which mentions in its answer that the freedom of employment has recently been reaffirmed in the new Constitution of the country.

(6) The Government of Guatemala.

(7) The Government of Iceland.

(8) The Government of Israel.

(9) The Government of Norway, whose reply refers to a letter dated 22 July 1949[3] in which the Norwegian Government submitted information to the Secretary-General at the stage when Governments were requested to announce whether they were ready to co-operate in an enquiry into foreed labour.

(10) The Government of Sweden.

(11) The Government of Switzerland.

(12) The Government of the United States of America, which has quoted in support of its negative reply a number of provisions in the Constitution ; these prohibit slavery and involuntary servitude and guarantee the freedom of the individual, the freedom of religion, speech, assembly and the press and the right to lodge petitions. It also quotes two judgments which refer to these provisions.

4. Without making any general statements, the Governments of the following countries have replied to the various questions separately[4] : Austria, Belgium, Cambodia, Ceylon, Chile, China, Cuba, Denmark, France, India, Iraq, Ireland, Japan, Laos, Liechtenstein, Nepal, New Zealand, the Philippines, Syria, the United Kingdom, Viet-Nam and Yugoslavia. The Government of Australia has done the same, and has answered separately for the Commonwealth, the Australian States (where enquiries are still being made) and the Australian territories.

5. The replies mentioned in paragraphs 3 and 4 are analysed below, in so far as they give information with a bearing on the various questions.

[1] In their replies to the Secretary-General's note of 18 March 1949 (see United Nations documents E/1337, E/1337/Add. 3 and E/1337/Add. 22), Colombia, Egypt and Thailand also denied the existence of forced labour in their territories in general terms, but added information with a bearing on specific questions in the questionnaire. In support of its reply, Colombia quoted a number of provisions from its Constitution abolishing slavery and all forms of servitude and guaranteeing that all persons are free to choose their occupations.

[2] In its first reply (United Nations document E/AC.36/11, p. 3).

[3] United Nations document E/1337/Add. 13.

[4] In its reply to the Secretary-General's note of 18 March 1949 (see United Nations document E/1337/Add. 2), the Lebanese Republic made no general statement as to the existence of forced labour in its territory, but added information with a bearing on specific questions in the questionnaire.

Summary of the Replies

Question I: Punitive, Educational or Corrective Labour

Do your penal or administrative laws, your regulations or your administra rules or practices as such provide that—

(a) *a person convicted of an offence against the established constitutional or polit order may be forced to perform certain labour?*

(b) *a person who has not been alleged to have committed any offence may be deta in prisons or camps or otherwise restricted in movements and subjected educational or reformatory labour?*

If so—

(i) *please give the texts of such laws, regulations and rules;*

(ii) *by what judicial or administrative authorities and in accordance with w procedure are they applied?*

(iii) *how are they interpreted by these authorities?*

(iv) *what was the number of persons subjected to forced labour under these l regulations and rules for each of the years from 1948 to 1950 inclusiv*

(v) *how is such labour organised (hours of work, pay, accommodation, c and health arrangements)?*

6. The Government of Australia has answered this question in the negati " on the assumption that 'forced labour' has no wider meaning than in Article of the international labour Convention (No. 29) concerning forced or compuls labour, 1930, and Article 5 of the Draft International Covenant on Human Righ in both of which Articles it is expressly provided that the prohibition agai 'forced labour' does not preclude, in countries where imprisonment with ha labour may be imposed as a punishment for a crime, the performance of su labour in pursuance of a sentence to such imprisonment by a competent court ".

Without giving any further information, the Government of Belgium[1] h replied that it has no laws or practices providing for forced labour as descri in paragraphs *(a)* and *(b)*.

The Government of Greece has not made any answer to this question.

The Government of Syria has stated that its legislation contains no provisi relating to this question.

Paragraph (a).

7. While answering this question in the negative, the following Governme have quoted from their legislation on the work of convicts.[2]

(1) The Government of Afghanistan[3], which describes the work of crimi convicts, specifying, however, that persons convicted of an offence against t established constitutional or political order may not be forced to perform certa labour.

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[1] In its second reply (United Nations document E/AC. 36/11/Add. 15).

[2] In its reply to the Secretary-General's note of 18 March 1949 (see United Nations docum E/1337), Colombia stated that " only persons who have been tried and condemned in the Repub Colombia to penal servitude carry out forced labour at the place of detention or imprisonment but in pursuance of the proper function assigned by penal law to the hard labour of prisoners, that is, a form of discipline and a stimulus to the dignity of human life ".

[3] In its second reply (United Nations document E/AC. 36/11/Add. 16).

(2) The Government of Brazil, which gives detailed information on the work of convicts and the penitentiary system, explaining that penalties which involve a loss of liberty, coupled with compulsory labour, may be imposed only by a competent judge after due legal process ; without going into detail, however, the reply mentions preventive detention in an agricultural camp, labour institute, or readaptation or vocational training centre.

(3) The Government of Cambodia, which has enclosed its regulations on the treatment of persons in detention, stating that they are rigidly enforced.

(4) The Government of Ceylon, which, speaking of ordinary criminals, points out that persons condemned to rigorous imprisonment are required to perform prison labour. It indicates that this rule also applies to persons convicted of offences against the State (Chapter VI of the Penal Code).

(5) The Government of El Salvador, whose reply includes the text of articles from the Code of Criminal Procedure and the Penal Code on the forced labour of prisoners. According to Article 78 of the Code of Criminal Procedure, no distinction is made between political and ordinary prisoners serving sentences prescribed by the Penal Code, so that prisoners of either class may be required to perform the work specified in the article.

(6) The Government of Guatemala, whose Penal Code authorises the performance of labour by persons sentenced to rigorous imprisonment, imprisonment or detention. The reply describes the conditions in which such labour is performed.

(7) The Government of Iceland, which encloses an extract from a lecture on prison organisation by a head of department in the Ministry of Justice.

(8) The Government of Ireland, which mentions prisoners convicted of ordinary crimes being obliged to work unless excused by the medical officer. It also encloses its rules for the employment of prisoners.

(9) The Government of Nepal, whose reply quotes several regulations on the labour of both political and ordinary criminals, adding, however, that since 1948 convicts have not, in practice, been subjected to forced labour of any kind.

(10) The Government of the Philippines, whose Revised Administrative Code lays down that all convicted, able-bodied, male prisoners not over 60 years of age may be compelled to work within the prison or on public works.

(11) The Government of the United States of America, which states in its reply that under the Constitution no person may be deprived of liberty without due process of law and that the commodities produced by prison industries are not for sale to the public in competition with private enterprise.

(12) The Government of Yugoslavia, which states that the penalty of forced labour no longer exists in its penal system, but that, as the purpose of punishment is not only retaliation but also re-education, convicted persons are obliged to work if they are capable of doing so.

8. Without giving any direct answer, some Governments speak of prison labour and refer to regulations which, they indicate, are equally applicable to both political and ordinary convicts. These are the following :

(1) The Government of Chile, whose legislation allows persons to be forced to work in penal establishments if they have been sentenced to hard labour *(presidio)* by the competent regular courts after equitable trial. The reply explains, however, that this is not " forced labour ", and is not intended to achieve the political re-education of the person sentenced. It is not even intended as a punishment ; it is simply a form of treatment through work.

(2) The Government of China, which affirms that, under Article 470 of the Chinese Code of Criminal Procedure, all persons sentenced to imprisonment or detention, regardless of the offence of which they have been convicted, are, in principle, required to perform labour when committed to prison to serve their sentences (the regulations governing this labour are attached to the reply).

(3) The Government of Denmark, which states in its reply that sentences for offences against the established constitutional or political order and the executive power are pronounced by ordinary courts and that, in this case, compulsion to work is an integral part of the prison term to the same extent as in the case of any other prison term for common offences.

(4) The Government of Israel, whose legislation provides for all imprisonment to be with labour, unless the court otherwise directs. This is true even in the case of convictions under Chapters VIII and IX of the Penal Code (" Treason and other offences against the authority of the Government " and " Offences against the Constitution and the existing social order "). The reply also gives some indication of the work performed by prisoners.

(5) The Government of Liechtenstein, which states in its reply that penal law is applied by the judiciary and that prison sentences always involve an obligation to work.

9. While replying in the negative, the following Governments have given details of how they deal with crimes against the State :

(1) The Government of India, which mentions the offence of sedition, punished with rigorous imprisonment combined with labour in the gaol. It is explained in the reply that since 26 January 1950 this offence has not been in any way related to the holding of any political opinion, and only acts which directly threaten the security of the State are regarded as constituting this offence.

(2) The Government of Laos, whose reply lists the various possible offences against the established constitutional or political order, as defined by the Penal Code (conspiracies and domestic disturbances), the only offences of this nature to be encountered in practice being acts prejudicial to public safety and order (of which there were no cases in 1948, six in 1949 and 13 in 1950). These are dealt with by the ordinary courts, the punishment being imprisonment with labour for a specified duration.

(3) The Government of New Zealand, whose criminal law provides for a number of offences against the established constitutional and political order. The reply explains that these offences are dealt with by the courts and the punishment prescribed for them cannot include any labour other than the work or service prescribed as punishment for other crimes.

(4) The Government of Switzerland, which mentions the provisions of the federal Penal Code governing crimes and offences against the State and the national system of defence. The Government indicates, however, that there is no question here of rectifying political opinions of persons who do not accept the ideology of the Government in power, the holding of an opinion not being an offence in Switzerland. Such offences are, moreover, examined by the criminal courts and the rights of the defence are guaranteed. Persons sentenced to rigorous or ordinary imprisonment are required to work. The reply also gives some details of the work of prisoners in general and mentions the rules laid down in criminal law for the detention of habitual offenders. In addition, it encloses the Swiss criminal statistics for the years 1948, 1949 and 1950.

(5) The Government of the United Kingdom. Here, there is no separate category of offences against the established constitutional or political order. The offences that could be so described are offences against the ordinary criminal law, tried under the same procedure and subject to the same range of penalties as any other criminal offences (except in the case of high treason, where the penalty is death). The type of labour imposed, if any, is the same for such offences as for any others against the criminal law. Offenders convicted of sedition, seditious libel or seditious conspiracy cannot be required to work. Prison labour, it is stated, is of no importance to the economy of the country. In the oversea territories, the position is broadly similar to that in the United Kingdom itself.

10. The following Governments point out in their replies that, in their countries, political prisoners are accorded preferential treatment and, unlike ordinary convicts, are not required to work [1]:

(1) The Government of France, whose answer quotes, as political penalties involving a deprivation of liberty for serious offences, deportation to a fortified area, simple deportation and detention, none of which involves compulsory labour. For minor offences, political offenders are punished with imprisonment but, under administrative practice, are not compelled to do hard labour. The reply does not give any indication as to what acts are regarded as political offences.

(2) The Government of Iraq, which affirms that all prisoners except those convicted of a political crime or one of unpaid debt are given work to do in conditions outlined in the answer.

(3) The Government of Japan, whose reply explains that political offences, *i.e.*, crimes relating to civil war and, if they are of a political nature, crimes relating to riot and the obstruction of official business are punished with imprisonment and not penal servitude, *i.e.*, with detention without compulsory labour.

(4) The Government of Viet-Nam, which states that the object of detaining political offenders is simply to safeguard law and order. Such political prisoners are not required to perform any kind of manual labour.

11. The Government of Cuba has replied in the affirmative, and states that persons convicted of offences against the security of the State are sent to the penitentiary establishments of the Republic, which have a system of compulsory labour. The answer quotes at length from the " Social Defence Code " but states that there are no statistics for the number of persons sentenced for political offences between 1948 and 1950.

12. Without indicating whether its reply refers to paragraph *(a)* or *(b)* of question I, the Government of Austria makes reference to compulsory labour imposed on " certain groups of persons closely connected with the National Socialist régime, including those convicted of National Socialist activities or on account of war crimes (' incriminated persons ') ". The reply does not give any indication as to the type of the work such persons are required to perform, its duration, or the conditions under which it is carried out.

Under legislation which has not yet entered into force and which, according to the Government of Austria, there is no reason to assume will enter into force,

[1] In its reply to the Secretary-General's note of 18 March 1949 (see United Nations document E/1337/Add. 2), the Lebanese Republic states that, under Book II, Articles 270 *et seq.* of the Penal Code, only persons convicted under the ordinary law are put to forced labour. It adds, however, that the provisions of the Penal Code governing such labour have not yet been applied in practice. It further quotes Article 198 of the Penal Code, which states that a judge passing sentence for a political offence is to order detention for life in lieu of forced labour for life and in lieu of a term of forced labour, a term of detention, banishment, criminal compulsory residence or civic degradation.

(2) The Government of China, which affirms that, under Article 479 of the Chinese Code of Criminal Procedure, all persons sentenced to imprisonment or detention, regardless of the offence of which they have been convicted, are, in principle, required to perform labour when committed to prison to serve their sentences (the regulations governing this labour are attached to the reply).

(3) The Government of Denmark, which states in its reply that sentences for offences against the established constitutional or political order and the exercise of power are pronounced by ordinary courts and that, in this case, compulsory work is an integral part of the prison term to the same extent as in the case of any other prison term for common offences.

(4) The Government of Israel, whose legislation provides for all imprisonment to be with labour, unless the court otherwise directs. This is true even in the case of convictions under Chapters VIII and IX of the Penal Code (" Treason and other offences against the authority of the Government " and " Offences against the Constitution and the existing social order "). The reply also gives some indications of the work performed by prisoners.

(5) The Government of Liechtenstein, which states in its reply that penal law is applied by the judiciary and that prison sentences always involve an obligation to work.

9. While replying in the negative, the following Governments have given details of how they deal with crimes against the State :

(1) The Government of India, which mentions the offence of sedition, punished with rigorous imprisonment combined with labour in the gaol. It is explained in the reply that since 26 January 1950 this offence has not been in any way related to the holding of any political opinion, and only acts which directly threaten the security of the State are regarded as constituting this offence.

(2) The Government of Laos, whose reply lists the various possible offences against the established constitutional or political order, as defined by the Penal Code (conspiracies and domestic disturbances), the only offences of this nature to be encountered in practice being acts prejudicial to public safety and order (of which there were no cases in 1948, six in 1949 and 13 in 1950). These are dealt with by the ordinary courts, the punishment being imprisonment with labour for a specified duration.

(3) The Government of New Zealand, whose criminal law provides for a number of offences against the established constitutional and political order. The reply explains that these offences are dealt with by the courts and the punishments prescribed for them cannot include any labour other than the work or service prescribed as punishment for other crimes.

(4) The Government of Switzerland, which mentions the provisions of the federal Penal Code governing crimes and offences against the State and the military system of defence. The Government indicates, however, that there is no question here of rectifying political opinions of persons who do not accept the ideology of the Government in power, the holding of an opinion not being an offence in Switzerland. Such offences are, moreover, examined by the criminal courts and the rights of the defence are guaranteed. Persons sentenced to rigorous or ordinary imprisonment are required to work. The reply also gives some details of the work of prisoners in general and mentions the rules laid down in criminal law for the detention of habitual offenders. In addition, it encloses the Swiss criminal statistics for the years 1948, 1949 and 1950.

(5) The Government of the United Kingdom. Here, there is no separate category of offences against the established constitutional or political order. The offences that could be so described are offences against the ordinary criminal law, tried under the same procedure and subject to the same range of penalties as any other criminal offences (except in the case of high treason, where the penalty is death). The type of labour imposed, if any, is the same for such offences as for any others against the criminal law. Offenders convicted of sedition, seditious libel or seditious conspiracy cannot be required to work. Prison labour, it is stated, is of no importance to the economy of the country. In the oversea territories, the position is broadly similar to that in the United Kingdom itself.

10. The following Governments point out in their replies that, in their countries, political prisoners are accorded preferential treatment and, unlike ordinary convicts, are not required to work [1]:

(1) The Government of France, whose answer quotes, as political penalties involving a deprivation of liberty for serious offences, deportation to a fortified area, simple deportation and detention, none of which involves compulsory labour. For minor offences, political offenders are punished with imprisonment but, under administrative practice, are not compelled to do hard labour. The reply does not give any indication as to what acts are regarded as political offences.

(2) The Government of Iraq, which affirms that all prisoners except those convicted of a political crime or one of unpaid debt are given work to do in conditions outlined in the answer.

(3) The Government of Japan, whose reply explains that political offences, *i.e.*, crimes relating to civil war and, if they are of a political nature, crimes relating to riot and the obstruction of official business are punished with imprisonment and not penal servitude, *i.e.*, with detention without compulsory labour.

(4) The Government of Viet-Nam, which states that the object of detaining political offenders is simply to safeguard law and order. Such political prisoners are not required to perform any kind of manual labour.

11. The Government of Cuba has replied in the affirmative, and states that persons convicted of offences against the security of the State are sent to the penitentiary establishments of the Republic, which have a system of compulsory labour. The answer quotes at length from the " Social Defence Code " but states that there are no statistics for the number of persons sentenced for political offences between 1948 and 1950.

12. Without indicating whether its reply refers to paragraph *(a)* or *(b)* of question I, the Government of Austria makes reference to compulsory labour imposed on " certain groups of persons closely connected with the National Socialist régime, including those convicted of National Socialist activities or on account of war crimes (' incriminated persons ') ". The reply does not give any indication as to the type of the work such persons are required to perform, its duration, or the conditions under which it is carried out.

Under legislation which has not yet entered into force and which, according to the Government of Austria, there is no reason to assume will enter into force,

[1] In its reply to the Secretary-General's note of 18 March 1949 (see United Nations document E 1337/Add. 2), the Lebanese Republic states that, under Book II, Articles 270 *et seq.* of the Penal Code, only persons convicted under the ordinary law are put to forced labour. It adds, however, that the provisions of the Penal Code governing such labour have not yet been applied in practice. It further quotes Article 198 of the Penal Code, which states that a judge passing sentence for a political offence is to order detention for life in lieu of forced labour for life and in lieu of a term of forced labour, a term of detention, banishment, criminal compulsory residence or civic degradation.

such persons can be detained in camps " if, apart from the circumstances wh justify their treatment as incriminated persons, other facts have been establi showing them to be extremely dangerous to the democratic form of governm of the Republic ". Detention in a camp may be ordered only by a people's co holding its sessions in accordance with its normal system of procedure. The per of detention may not exceed six months, but its prolongation may be ordered f further periods of six months each, up to a total of two years.

13. Similarly, the reply from the Government of Norway[1] mentions for labour imposed as a punishment for economic and political collaboration with t Germans under the occupation, but without giving any details.

Paragraph (b).

14. In addition to the States listed in paragraphs 2 and 6 above, the follow Governments have returned a negative answer to this question, some with giving any explanation and others with a reference to provisions in their laws Constitutions : the Governments of Afghanistan[2], Ceylon, Chile, Cuba (wh before any person can be subjected to educational or reformatory labour, a co petent court must first have pronounced sentence in the judicial proceedings), D mark, France (where a person may be arrested or detained only for the commiss of a penal offence and by virtue of a writ issued by the judicial authority), Guatem (where no person who has not been alleged to have committed any offence m be compelled to perform educational or reformatory labour), Ireland, Israel, Ja (where the Constitution prohibits servitude or bondage except as a punishment f crime), New Zealand, the Philippines (where the Constitution prohibits involunta servitude in any form except as a punishment for a crime of which the person co cerned has been duly convicted), the United Kingdom, the United States of Amer and Viet-Nam.

15. The Governments of China, Finland, Liechtenstein, Norway, Swe and Switzerland refer to their legislation on the forced or re-educative labour as signed to vagrants, drunkards and other persons leading an unsettled life. Wi the exception of China, however, these Governments stress the point that forc labour within the meaning of the questionnaire is not involved.

(1) In China, under an Act promulgated by the Chinese National Governme any person who habitually commits the minor offences of loitering or vagrancy ma after serving his sentence, be sent to an appropriate correctional institution or t a training school for vagrants to be taught a suitable trade, and so enable him t earn his living in the future without causing further disturbances to public orde and becoming a burden on society. The reply adds that, except in such cases, th personal freedom of all persons who have not committed an offence is guarantee by the Constitution.

(2) In Finland, a vagrant may be placed in a labour establishment or forc labour institution by the department administration (though he may appeal t the Supreme Administrative Court) if simple supervision is not enough to indu him to resume a regular and honourable existence, if he is a danger to himself o those around him or disturbs the peace and is morally offensive. Similar measures ma be taken in respect of drunkards or State-aided persons if they are undiscipline or recalcitrant while living in an institution, labour establishment or home f

[1] United Nations document E/1337/Add. 13.
[2] In its second reply (United Nations document E/AC./36/11/Add. 16).

drunkards. Similar action is sometimes taken in the case of persons failing in their duty to maintain a child for which they are responsible. The Finnish Government has given details of the number of persons so detained in labour establishments and forced labour institutions.

(3) In Liechtenstein, indolent and dissolute persons may be committed to compulsory labour and reformatory institutions by the administrative authorities on the proposal of the communes or the guardianship authorities.

(4) In Norway[1], forced labour may be imposed in accordance with the law on vagrancy, begging and drunkenness. In certain circumstances, persons who seek to evade their obligation to support their wives and children may be placed in forced labour institutions, as may persons who refuse to do civil work imposed on them by virtue of the law on compulsory military service. In all these cases, a decision by a court is required to make those concerned perform forced labour. On 1 May 1949 there were 315 men and 21 women in forced labour institutions, 59 in application of the Penal Code and the remainder in application of the law on vagrancy.

(5) In Sweden, where vagrancy is not a crime, administrative measures, which include forced labour, may be taken against vagrants. The Government of Sweden adds, however, that such persons have so slight a capacity for work that there is no question of their exploitation.

(6) In Switzerland, certain cantons have instituted a system of administrative detention for drunkards, pimps, prostitutes and other persons living a loose or idle life, the object being to re-educate them for useful work. The procedure under which such persons are detained does, however, guarantee that they have every possibility of arranging their defence, if necessary, up to the Federal Tribunal, by lodging an appeal. The reply received from the Swiss Government also mentions that persons under interdiction may be placed in homes or educational establishments.

16. The Government of India states that persons detained in prison without having been convicted by a court of law are not required to work while under detention. No indication is given in the reply as to the cases in which a person who has not been convicted may be so detained.

17. The reply from the United Kingdom Government mentions that among the emergency measures passed in the Federation of Malaya to assist the fight against militant communism and deal with a systematic campaign of murder and terrorism are regulations permitting the detention of persons against whom there is reasonable presumption of having aided, abetted or consorted with the terrorists. The regulations allow appeals against such detention to be heard by advisory committees under a judicial chairman. Detainees cannot be required to do work other than camp chores. Those under 17 years of age may be sent to approved schools, where they may be required to do useful work.

18. The Government of Yugoslavia cites a Croatian Law of December 1951 which empowers a Council for Offences within the Ministry of the Interior to order persons to be detained for a period of six months to two years in a given place if in the course of the penal procedure instituted for certain offences against public order and peace (such as endangering the territorial integrity and independence of the State, participating in hostile activities against the Federative People's Republic of Yugoslavia, association against the people and the State or hostile propaganda),

[1] United Nations document E/1337/Add. 13.

the investigating authorities find that the acts committed by such persons d possess all the features of a criminal offence, but are such as to make it nec to apply educational measures against the defendant and to prevent him having a detrimental influence on other persons. Appeals against decisio the Council for Offences may be lodged with the Ministry of the Interior. O the methods used in the detainees' re-education is the assignment of appro work. The Government of Yugoslavia explains that these temporary mea were called forth by the aggressive acts of the *Cominform* countries agains freedom and independence of Yugoslavia and by their attempts to recruit indivi there for the perpetration of enemy propaganda. It maintains, therefore, tha measures are dictated by the international situation and applied in the inte of preserving peace in the world.

Question II : Other Cases of Compulsion to Work

Do your laws, regulations or administrative rules or practices as such p for any other kind of direct or indirect compulsion to work through the interv of the Government or of the public authorities, and in particular for—

(a) *any obligatory labour service, either temporary or permanent, general or co to certain categories of persons, for the performance of any work either in nation undertakings or in those directly or indirectly controlled by the public auth or in private undertakings, and more specifically for the performance of any towards the fulfilment of over-all plans laid down by the Government or p authorities, for public works or works in the public interest or the exploit or production of any type of goods or resources ?*

(b) *any restrictions on freedom of residence or movement applied in such m and in such circumstances that their effect would be to compel persons to in a specific area ?*

(c) *any limitations on the freedom of workers to choose their place of work an undertaking they work for (e.g., compulsory recruitment or a ban on cha employment without the permission of some public authority) ?*

In each of the above or in any similar cases, please give the legal provisio regulations applicable, with details concerning their interpretation and implementa In case (a) *above, please also supply information on the number of persons affe the nature, scope and conditions of work (hours of work, pay, accommodation, and health arrangements).*

19. The Belgian Government[1] considers that this part of the question does not bear any relation to "the systems of forced or 'corrective' labour, w are employed as a means of political coercion or punishment for holding or expres political views", according to the Committee's terms of reference. With re more particularly to the situation in the Belgian Congo and Ruanda-Urundi, reply adds, the problem referred to in Resolution 350 (XII) does not arise a under the laws and practices in force in those territories.

20. The United Kingdom Government makes a similar comment as re forced or compulsory labour in the oversea territories of the United King Referring to its reports to the I.L.O. on the application of the international la

[1] In its second reply (United Nations document E/AC. 36/11/Add. 15).

Convention (No. 29) concerning forced or compulsory labour (1930), it states that "none of the practices in question come within the scope of the Committee's enquiry as stated in its terms of reference, or as understood from ... its interpretation of the terms of reference ... since they do not in any sense constitute an important element in the economy of the territories concerned or lend a large degree of assistance in carrying out their economic plans".

21. Similarly, after giving a certain amount of information in reply to question II, the Government of New Zealand adds "The Minister of External Affairs has supplied the above particulars in reply to specific items in the questionnaire, and in order that the *Ad Hoc* Committee may have all possibly relevant information at its disposal. If, however, it is the object of the questionnaire, as its introductory paragraphs might suggest, to elicit information concerning the use of forced labour for the purpose of ideological correction or the punishment of political dissidence on the one hand, or for the purpose of furnishing a labour reserve for the furtherance of State economic plans on the other, the Minister wishes to emphasise that forced labour of this kind is unknown in New Zealand or its dependent territories."

22. In addition to the countries mentioned in paragraph 2 above, the following Governments have replied with a brief negative : the Governments of Austria, Ceylon, Chile, Denmark, Finland, Guatemala, Ireland, Israel, Norway, Sweden and the United States of America.

23. The Governments of Afghanistan, Australia, Brazil, Cambodia, Cuba, El Salvador, France, Greece, Iraq, Japan, Laos, Liechtenstein, Nepal, New Zealand, the Philippines, Switzerland, Syria, the United Kingdom, Viet-Nam and Yugoslavia have, in principle, returned a negative reply but have either given fairly detailed information on the question or drawn attention to exceptions.

(1) The Government of Cuba refers to Article 61 of the Constitution, under which the right to work is recognised as an inalienable human right.

(2) The Government of El Salvador quotes several clauses governing labour in the Constitution, one being Article 155, which stipulates that, save in cases of public disaster or as otherwise provided by law, no one is to be compelled to do a given piece of work without his full consent.

(3) In support of its negative reply, the Government of France quotes the Preamble to the Constitution, which reads : "It is the duty of everyone to work and the right of everyone to obtain employment. No one may suffer in his work or his employment because of his origin, his opinions or his beliefs." Reference is also made in the reply to an Act of 11 April 1946 to prohibit forced labour and to a draft Labour Code for the oversea territories which restates the principle of absolute prohibition of forced labour. The reply goes on to state that these provisions are rigidly enforced and that no breach of them has been reported.

(4) The Government of Iraq quotes Article 10 (3) of the Constitution, under which unpaid forced labour is absolutely forbidden.

(5) The Government of Japan points to provisions in the Constitution guaranteeing that every person is at liberty to choose his place of residence and occupation. It states that any case of compulsion to work would entail the infliction of penalties and affirms that no law exists compelling persons to work in a specific area or permitting compulsory recruitment.

(6) The Government of Nepal substantiates its negative reply by quoting Article 19 of the interim Constitution, which prohibits traffic in human beings and other forms of forced labour ; the State is not thereby prevented from imposing

compulsory service for public purposes, though the Article adds that " in imposing such service this State shall not make any discrimination on grounds only of religion, race, caste or any of them ".

(7) The Government of the Philippines mentions provisions in the Constitution which prohibit involuntary servitude and guarantee the liberty of abode.

(8) The Government of Syria quotes Article 29 of the Constitution, prohibiting forced labour except in pursuance of some legislative provision in connection with education, health or national equipment, to counteract public disasters or during a state of war or alarm. No legislative provisions relating to these purposes have yet been promulgated.

24. In a very detailed answer, the Government of India mentions that the Indian Penal Code prohibits persons from being unlawfully compelled to work and that the Constitution bans forced labour ; it does, however, authorise the State to impose compulsory service for public purposes without discrimination as to religion, colour, race, caste or class. The reply goes on to quote enactments under which minor communal services may be imposed within the meaning of Article 2, paragraph 2 *(e)*, of the Forced Labour Convention (No. 29).

An enquiry ordered in 1948 by the Ministry for External Affairs revealed the existence of other legal texts which authorise forced labour ; most, though not all, the reply points out, are not covered by the definition given in Article 2 of the international labour Convention No. 29 (the texts concerned are summarised in an annex to the answer). This enquiry, like another concerning agricultural labour, furthermore revealed that in certain areas there were practices or customs resembling forced labour. In consequence, the Government considered abrogating or amending several legal texts to make them harmonise both with the Constitution of the country and with the Forced Labour Convention (especially Articles 11 and 15). The Ministry of Labour also sent a circular in December 1950 to State Governments inviting them to amend or supplement their legislation, using a set of model provisions as a guide. This circular and its enclosure have been annexed to the Indian Government's reply, which also contains the text of a report submitted to Parliament on 10 September 1951 dealing with the action taken or required in this regard. One of the Acts the provisions of which are contrary to those of the Forced Labour Convention (No. 29), the Criminal Tribes Act, 1924, has subsequently been abrogated.

25. The information on specific questions contained in these replies is summarised below.

Paragraph (a).

26. Some replies speak of compulsory labour for the construction and maintenance of roads and other public works.

(1) In some parts of Afghanistan[1], there are not enough volunteer workers to maintain the roads, and the Government may enlist the services of local tribespeople, subject to the agreement of the court chiefs and tribes concerned. Since such work is carried out to benefit the land through which these roads pass and is done with the agreement of the communities concerned, the Government considers that it cannot be regarded as forced labour and that the practice, which, incidentally, the State authorities are trying to abolish, is countenanced by the Forced Labour Convention.

[1] See the Government's first reply (United Nations document E/AC. 36/11, p. 3).

(2) In Cambodia, the provincial authorities occasionally resort to " the quasi-compulsory recruitment of labour " for work of benefit to the community, and especially " for the repair and maintenance of roads and forest tracks ". In addition, for the maintenance of motor roads, each resident is responsible for the proper upkeep of that portion of the road on which his property borders. Governors may also impose minor tasks required for the system of mutual protection, such as construction of barriers round self-defence towers.

(3) In China, an Act promulgated by the Chinese National Government with a view to strengthening local self-government and making full use of the unutilised efforts of the population, lays down that all men between 18 and 50 years of age are required to perform ten days' compulsory labour service every year on productive activities such as the reclamation of arid or abandoned land, the maintenance and construction of roads, the development of small-scale water-works, etc. The local authorities have to prepare the programmes for such work in the light of actual local needs and have them approved by the local representative bodies interested.

(4) The Government of France mentions that in French West Africa the labour of the " second military contingent " was used from 1926 for work of benefit to the community. In practice, this system ceased to function in 1948, and legally it was abrogated by the Decree of 6 February 1950.

(5) In India, some texts allow inhabitants to be called upon to help in irrigation and, occasionally, other public works.

(6) Similarly, in Nepal, various regulations allow the local population to be requisitioned for compulsory labour on the construction and maintenance of irrigation canals, roads and bridges. Such labour is remunerated.

(7) In Switzerland, some Alpine communes still retain a system of compulsory labour for the maintenance of pasture land. The reply received from the Swiss Government points out, however, that such labour plays no appreciable part in the economy of the country and that where such labour exists it usually consists of one or two days' work a year.

(8) The Government of the United Kingdom states in its reply that very little recourse is had to compulsory labour for public works in the oversea territories.

27. Several replies refer to emergency regulations applicable in wartime, periods of crisis or times of general disaster.[1]

(1) The Government of Australia mentions the provisions in the Defence Act, 1903-1951 and the National Service Acts, 1951 relating to the carrying out of certain military and emergency duties, but states that " in the view of the Commonwealth Government, having regard to clauses *(a)* and *(d)* of paragraph 2 of Article 2 of the international labour Convention No. 29 and Article 5 of the draft Covenant on Human Rights... these matters do not come within the scope of forced labour being investigated by the *Ad Hoc* Committee ".

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[1] In their replies to the Secretary-General's note of 18 March 1949, the following countries also mentioned the use of forced labour in emergencies :

(a) Egypt (see United Nations document E/1337/Add. 3), which stated that it had no legislation governing forced labour but that, in cases of floods or similar emergencies, sufficient labour would be pressed into service in order to cope with the emergency, such action being in accordance with the Forced Labour Convention (No. 29) ;

(b) Thailand (see United Nations document E/1337/Add. 22), which stated that under the Constitution of the Kingdom of Thailand of 1949, forced labour could be procured only under special laws in times of imminent public calamity, during a time or state of war or a state of emergency as declared by Royal Command, or when martial law had been declared.

(2) The Government of France makes reference to an Act of 11 July 1[illegible] on the general organisation of the nation in wartime, which allows persons to [illegible] requisitioned. These provisions are no longer applicable in oversea territori[illegible] but have been retained in force in France under an Act of 28 February 1951 "[illegible] ensure the functioning of essential public services".

(3) In Greece, the decision of a municipal council may call upon all ma[illegible] citizens of 18 years of age and over to do certain work in the interests of the li[illegible] and health of the inhabitants in the event of epidemics, fires, etc. In such cas[illegible] exemption from the service may be obtained by payment of a sum fixed by la[illegible]

(4) The reply received from the Government of India quotes local regulation[illegible] which allow the requisitioning of labour to forestall or counter dangers threatenin[illegible] property, irrigation channels and other public works.

(5) In Iraq, " in cases of unexpected and unforeseen emergencies such a[illegible] floods, fires and spreading of locusts and mice, wherefrom great public dama[illegible] may occur ", persons may be called upon by law for paid compulsory labour an[illegible] may be penalised for failing to respond.

(6) In Japan, the Local Autonomy Law allows labour to be requisitione[illegible] " when it is necessary for the recovery of emergency disasters and in other cas[illegible] of special necessity ". The Japanese Government does not consider that thi[illegible] constitutes an instance of forced labour within the meaning of the Forced Labou[illegible] Convention (No. 29), in view of the provision made for the appointment of a suitabl[illegible] proxy or for the substitution of money for such services.

(7) In Liechtenstein, during the Second World War, there was compulsor[illegible] auxiliary agricultural service for male citizens in certain age groups.

(8) In Switzerland, military units and cantonal or communal police force[illegible] may be sent in exceptional circumstances to counter natural disasters such as floods[illegible] landslides, avalanches, forest fires, etc.

(9) In Syria, the State is empowered under the Martial Law Act to requi[illegible] individuals to perform work which cannot be done otherwise, subjeet to fair remu[illegible] neration, when such work is necessary for national defence.

(10) The Government of the United Kingdom states in its reply that com[illegible] pulsory labour may be required in oversea territories " to deal with emergenc[illegible] situations endangering the life and well-being of the community (notably famin[illegible] threatened invasion by locusts and forest fires) ". As regards the United Kingdo[illegible] itself, the Government reply mentions a Regulation of 1939 empowering the Minist[illegible] of Labour and National Service to direct any person in Great Britain to perfor[illegible] such services as may be specified or to provide by order that " persons em[illegible] ployed in an undertaking engaged on essential work to continue to give the[illegible] services in that undertaking ". This Regulation may now be used only to secu[illegible] " certain vital requirements of the country during the period of post-war economi[illegible] adjustment ". The reply adds that the Regulation " remains in force until 3[illegible] December 1952. Any further extension of its currency will require the prio[illegible] approval of Parliament." The last time it was used in practice was in 1949.

(11) In Yugoslavia, the law on the protection of forests provides for th[illegible] mobilisation of all the inhabitants of the surrounding places in the event of a[illegible] forest fire.

28. Two replies quote examples of persons having to assume public functions[illegible]

(1) In India, several special regulations require private individuals to hel[illegible] the military or police in certain circumstances.

(2) In some Swiss cantons, various public offices have to be accepted, since they are regarded as a civic duty (*e.g.*, those of councillor in a commune, mayor, magistrate, juryman, trustee, etc.).

29. In several oversea territories of the United Kingdom, minor communal services may be required in the interests of the health, comfort and well-being of the local population. The law also permits certain personal services to recognised chiefs.

Similarly, the Government of India points to certain cases of compulsory labour for the local authorities.

Referring to Papua and New Guinea, the Government of Australia mentions work of a minor communal nature in the direct interests of the community.

30. The reply received from the Government of India also mentions cases of local taxes payable in labour.

31. Several replies point to cases of compulsory porterage—

(1) The Government of Australia states that, in the Territory of Papua, "in cases when the Natives have refused voluntarily to provide carriers for Administration officials, the Natives may be required to provide this service", the requirement being "only for the purpose of facilitating the movement of officials of the Administration when on duty".

(2) In Cambodia, porters are occasionally recruited for the army.

(3) In Laos, remunerated transport workers may be requisitioned in certain mountainous regions with difficult communications. The reply points out, however, that such requisitions are tending to decrease.

(4) The United Kingdom Government mentions that porterage may be exacted in Fiji, Borneo and several African territories in order to overcome the difficulties presented by inadequate communications. The service is regulated as to loads, distances and the number of days involved.

32. The Government of Australia mentions the compulsory planting of food plants or crops in Papua and New Guinea, in any area which the Administration may have declared to be an area liable to a famine or deficiency of food supplies. The reply adds that this "is an emergency measure only, to ensure that the Native people make adequate provision for their subsistence and welfare in special circumstances".

The Government of France states that no law or text in its oversea territories imposes compulsory cultivation.

It also mentions that national legislation makes it possible to require unemployed persons to do certain work in return for their unemployment benefits.

33. The reply received from the United Kingdom Government states that work of a civilian character may be required of conscientious objectors under the National Service Act, if a tribunal so decides. On an average, such work is required of approximately 300 conscientious objectors every year.

Paragraph (b).

34. The Government of France states that the principle of freedom of movement is fully applied in the oversea territories of the French Union. Administrative *laissez-passer* and travel permits have disappeared since 1946. Freedom of movement is restricted only in the interests of protecting health (*e.g.*, when steps are taken to combat widespread epidemics). In France itself the action taken to protect

domestic manpower and ensure the judicious distribution of workers amo... various economic sectors involves certain limitations on the employment of f... workers.

35. In Laos, an exceptional measure promulgated in a Royal Decree ... 21 July 1951 allows persons considered dangerous to national defence or p... safety to be assigned to a compulsory residence. This measure does not, how... involve the compulsory performance of work and has, moreover, been ap... very sparingly so far (seven persons have been affected by it between August ... and April 1952).

36. In several of the oversea territories of the United Kingdom, restri... may be placed on the freedom of residence or movement of individuals in t... terests of public peace or to prevent the spread of communicable diseases. ... persons affected are not obliged to work, however, and the employment f... does not enter into the limitation imposed.

37. In New Zealand, immigrants have their passage paid, provided ... contract to remain for at least two years in the employment which has been ass... them. Immigrants failing to observe this contract are required to repay ... passage money, and failure to do so renders them liable to a civil action for ... The New Zealand Government points out, however, that the obligation is p... contractual, and cannot be said to result in compulsion to work.

Paragraph (c).

38. In China, the National General Mobilisation Act promulgated by ... Chinese National Government stipulates : " After the entry into force of this ... the Government may, whenever necessary, restrict or control the acceptance ... resignation of employment and place limitations on employment and the cessa... of employment, and on salaries or wages ".

39. In the United Kingdom and most of its oversea territories, aliens adm... to the country to take up specified employment may not change their occupa... without prior permission. The reply states that these restrictions are imp... solely for the protection of the national labour market and do not constitute ... instance of forced labour, since the aliens affected are at liberty to leave the co... when they please and are not compelled to take up employment in the U... Kingdom.

40. The Government of Viet-Nam points out one case where a person's ri... to change his job is limited—that of " contractual " workers, mainly engaged ... rubber plantations, who are obliged to conclude fixed-term contracts and ... terminate them before the date of their expiry only if the labour inspector ... given his consent. The object of this system is to enable an employer to rec... the appreciable outlay he incurs in hiring workers of this kind, whose num... total roughly 14,000. The authorities have not received any request since ... for a contract to be terminated before the date of its expiry.

41. In Yugoslavia, immediately after the war, a law, made necessary by ... shortage of medical staff, laid down that physicians and medical staff might ... assigned to work in specified areas. In its reply, the Yugoslav Government s... that the law is no longer being applied and will probably be abrogated in the ... future.

APPENDIX III

SUMMARY OF ALLEGATIONS, OF REPLIES TO ALLEGATIONS AND OF THE MATERIAL AVAILABLE TO THE COMMITTEE COMMENTS BY GOVERNMENTS ADDITIONAL MATERIAL

Explanatory note

This appendix summarises the information at the disposal of the Committee relating to those countries concerning which allegations were made. For each of these countries there is an initial sections containing a summary of the allegations, the replies (if any) made in the Economic and Social Council to those allegations, and the replies (if any) to the Committee's questionnaire and the material available to the Committe on 22 November 1952. These initial sections are substantially the same as the informal documents transmitted by the Chairman of the Committee on 22 November 1952 to the Governments concerned, for comment.

The Chairman's accompanying letter read as follows :

Sir,

I have the honour to address you on behalf of the *Ad Hoc* Committee on Forced Labour established by the Economic and Social Council in co-operation with the International Labour Organisation and appointed jointly by the Secretary-General of the United Nations and the Director-General of the International Labour Office, in accordance with Resolution 350 (XII) of the Economic and Social Council.

The terms of reference of the *Ad Hoc* Committee were laid down in Resolution 350 (XII) as follows[1] :

.....

During its First Session the Committee adopted the following interpretation of its terms of reference[2] :

.....

The *Ad Hoc* Committee on Forced Labour has now held three sessions : the first in October 1951 in Geneva, the second in June-July 1952 in New York and the third in October-November 1952 in Geneva. It has submitted Progress Reports on the work of these three sessions in documents E/2153, E/2276 and E/2341, respectively, which documents are attached for Your Excellency's convenience.

In the course of its First Session the Committee addressed a questionnaire based

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[1] The letter reproduces the terms of reference given on p. 4.

[2] The letter reproduces the interpretation of the terms of reference given on pp. 5-6.

upon its interpretation of its terms of reference to all governments (Committee Resolution No. III, E/2153, paragraph 22); it invited all non-governmental organisations in consultative status with the Economic and Social Council or with the International Labour Organisation to notify the Committee if they wished to be heard and questioned or to submit any documentary material and information in their possession relating to the terms of reference of the Committee as it had interpreted them (Committee Resolution No. II, E/2153, paragraph 15); this privilege was also extended to organisations other than those in consultative status and to individuals who submitted requests in conformity with the provisions laid down in Resolution II (E/2153, paragraph 21).

In the course of its Second and Third Sessions the Committee studied the replies of governments to its questionnaire (E/AC. 36/11 and E/AC. 36/11. Adds. 1—21 including the legal texts cited in those replies, allegations and replies to allegations made during the debates on forced labour in the Economic and Social Council (Official Records of the Eighth to Twelfth Sessions), documentation transmitted by governments and non-governmental organisations relating to these allegations (E/AC. 36/4 and addenda 1 and 2), documentary material and information submitted to the Committee by non-governmental organisations and individuals, and additional documentation assembled by the Committee itself based upon the above-mentioned sources of information.

During the Second and Third Sessions the Committee also heard a number of non-governmental organisations and individuals invited by the Committee in accordance with the procedure outlined in Resolution No. II. These hearings were intended to supplement the main documentary material already before the Committee.

At its Second Session the Committee expressed the opinion that governments should be informed of allegations regarding the existence of forced labour and that letters transmitting these allegations should indicate the supporting evidence and documentation, particularly the laws and regulations involved, and should be despatched to governments for comments. The Committee furthermore requested me to prepare such letters for its approval at The third Session (E/2276, paragraph 35).

The allegations, as well as the documentary and other material concerning Your Excellency's Government have therefore been summarised by the Committee in the annexed informal document. The Committee will take this material into consideration when drafting its final report to the Economic and Social Council and to the Governing Body of the International Labour Office. It wishes to emphasise that at the present stage of its work it has come to no conclusions either on the relevancy of the allegations or on the evidential value of the information and documentary material summarised in the attached document.

The Committee feels that the comments and observations of Your Excellency's Government would be of great value for the accomplishment of its task. It has approved this letter and requested me, in my capacity as Chairman, by a decision adopted at its forty-first meeting on 20 November 1952, to forward the said document to Your Excellency's Government and respectfully to invite Your Excellency's Government to transmit any comments or observations it may wish to make regarding the attached material. The Committee would be grateful to receive these comments and observations by 20 February 1953. It is respectfully requested that replies be sent to the Chairman of the *Ad Hoc* Committee on Forced Labour, c/o the United Nations, New York or the International Labour Office, Geneva.

Please accept, Sir, the assurance of my high consideration.

A. Ramaswami MUDALIAR,
Chairman,
Ad Hoc *Committee on Forced Labour.*

In addition, the appendix reproduces such comments and observations on the informal documents as had been received from Governments by 10 May 1953, as well as any other relevant communications.

Lastly, for a number of countries, a section headed "Additional Material" contains such information as the Committee, in a desire to present as complete and up-to-date a survey as possible, was able to assemble after 22 November 1952. None of this information has, however, been transmitted to the Governments concerned, and they have consequently had no opportunity to comment on it. Where any additional material has been included, the fact is indicated in the initial section by an asterisk placed before the number of the appropriate paragraph.

TERRITORIES ADMINISTERED BY AUSTRALIA

Summary of Allegations and of the Material Available to the Committee

NAURU

I. Allegation

1. In the course of the debates in the Economic and Social Council, the following allegation was made with regard to this territory by the representative of the *U.S.S.R.*—

In the Territory of Nauru under Australian administration, the Chinese workers recruited to work in the phosphate mines were subjected to a disguised form of forced labour. They lived in an isolation which recalled that of prisoners and in cases of violation of the terms of their contracts they were liable to prosecution.[1]

II. Material Available to the Committee

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

3. The U.S.S.R. Government has not replied to the request made by the Secretary-General of the United Nations that it should send him the documents on which its representative had based his statement in the Economic and Social Council.[2]

4. In its reply to the Committee's questionnaire[3], the Australian Government states that no forced or compulsory labour whatsoever exists in Norfolk Island and Nauru.

5. The following information is derived from the material collected by the Committee.

6. In its reports to the General Assembly of the United Nations on the administration of the Territory of Nauru, the Australian Government regularly provides

[1] United Nations, Economic and Social Council, 12th Session, 469th meeting: *Official Records*, paragraph 22.
[2] See United Nations document E/AC.36/4.
[3] United Nations document E/AC.36/11/Add.21.

information on the Chinese labour used in the phosphate mines. In this connection the report for the period 1 July 1948 to 30 June 1949 states—

The bulk of the semi-skilled and unskilled labour utilised in connection with the mining and shipment of phosphate from the island comes from China. The Chinese are recruited in Hong Kong by an agent representing the British Phosphate Commissioners, in accordance with the demand for such labour in the Territory. Recruits, before final selection, are examined by an official of the Government of Hong Kong, who reads and explains to them the terms of the agreement of engagement. The new employees are conveyed by sea free of charge to Nauru, where the agreement is again read and further explained to them under the direction of the Administrator, who, when satisfied that each intending employee is fully aware of the terms of the engagement, approves and witnesses the signatures of the agreement.

The agreement is made and entered into subject to the provisions of the Chinese and Native Labour Ordinance, 1922-1924, and of any and of all Ordinances of the Administration of Nauru which may be in force at the time the agreement is signed.

The Chinese and Native Labour Ordinance contains provisions for the adequate quartering of all immigrant labour ; the supply of rations ; the availability of medical and hospital facilities ; the observance of public health regulations ; the hours of employment and overtime conditions ; the free repatriation of labourers at the expiry of their contract and for re-engagement if both parties so desire.

On arrival at the island the workers are required to enter quarantine for observation, after which they are housed in a Chinese settlement. Chinese employees of the Administration are housed in the Administration settlement.

On completion of their contracts those who desire to return or who are not re-engaged are provided with free return passage to their homes.

The movement of Chinese workers during the year was—

Population at 1 July 1948		1,370	
Arrivals during 1948-1949		106	
		1,476	
Repatriation during 1948-1949 . . .	33		
Deaths during 1948-1949	3	36	
Population at 30 June 1949 . . .		1,440	(including 2 women and 2 children).[1]

7. Under the Chinese and Native Labour Ordinance, 1922 (No. 18 of 1922),[2] persons guilty of breaches of contracts of employment are liable to penal sanctions. According to Article 8 : " A labourer who has entered into a contract of service and who neglects, without reasonable cause, to perform any work, which under the contract it is his duty to perform, shall be guilty of an offence". Article 14 goes on to state that " Any labourer who through negligence or carelessness or other improper conduct, causes damage to, or loss of, any tools or other property of his employer, shall be guilty of an offence".

8. Australia has not yet ratified the international labour Convention No. 65 concerning penal sanctions for breaches of contracts of employment by indigenous workers.

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[1] GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA : *Report to the General Assembly of the United Nations on the Administration of the Territory of Nauru from 1 July 1948 to 30 June 1949*, paragraph 16.

[2] See GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA : *Report on the Administration of Nauru during the Year 1922, prepared by the Administrator for Submission to the League of Nations* (Victoria, 1923), p. 30.

NEW GUINEA

I. Allegation

1. In the course of debates in the Economic and Social Council, one allegation was made with regard to this territory. It was concerned with *(a)* certain restrictions on the freedom of employment, and *(b)* the use of compulsory labour for certain types of work. The allegation, made by the representative of the *U.S.S.R.*, was as follows :

In New Guinea, under Australian administration, the Natives were not entitled to dispose freely of their own work. Thus they had no right to accept employment outside the area in which they resided without obtaining special permission. Although the Act of 1949 prohibited forced labour in principle, the regulations relating to Native administration contained a provision permitting the use of forced labour for certain types of work regarded as useful for the populations concerned.[1]

II. Material Available to the Committee

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

3. The Government of the U.S.S.R. has not replied to the request made by the Secretary-General of the United Nations that it should send him the documents on which its representative based his statement in the Economic and Social Council.[2]

4. In its reply to the Committee's questionnaire [3] the Australian Government has supplied certain information relating to the above-mentioned allegation. It states, however, that the requirements in question " do not fall within the scope of the questionnaire of the *Ad Hoc* Committee on Forced Labour which is concerned with forced labour of such a nature as to lend a large degree of economic assistance to the State ".

5. The following information is derived from the material collected by the Committee.

Restrictions on Freedom of Employment

6. The Native Labour Ordinance, 1946 [4], which regulates the recruitment and conditions of employment of the indigenous population of New Guinea in great detail, imposes certain restrictions on the freedom of employment, viz.

(a) In each District, the District Officer has to determine the maximum number of Natives who may be recruited or removed from the District without there being any danger of depopulation. Any person who recruits or removes a Native knowing that such recruitment or removal will result in the maximum number specified being exceeded is liable to a £100 fine (Article 11).

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[1] United Nations, Economic and Social Council, 12th Session, 469th meeting : *Official Records*, paragraph 21.

[2] See United Nations document E/AC.36/4.

[3] United Nations document E/AC.36/11/Add.21.

[4] Government of the Commonwealth of Australia : *The Acts of the Parliament of the Commonwealth of Australia passed during the Year 1946*, pp. 9 *et seq.*

(b) The Administrator may, from time to time, determine and declare ... maximum number of labourers and employees who may be employed in any indus... or class of industry (Article 34).

(c) A Native who has been employed under a contract—which may not ... longer than one year (Article 39)—has to be returned home on the termina... of the contract and may not again be recruited or enter into a new contract ... he has remained at home for a period of at least three months (Articles 16 (i) and ...

(d) Outside engagements under contract as regulated by the Ordinan... a Native may be employed only within the District where his home is situa... or within a 25-mile radius of his home ; to be employed elsewhere in the territ... he has to obtain official permission (Article 90).

7. In its report to the General Assembly of the United Nations on the ad... nistration of New Guinea from 1 July 1946 to 30 June 1947 [1] the Australian Gover... ment mentions these provisions and explains that they are " designed to pres... the Native economy and to make the best use for the benefit of the Territory ... a whole of the Natives who are available for employment ". Formerly, the leng... of a contract of employment under the indenture system (which the 1946 Ordinan... is intended to abolish) was seven years.[2]

Compulsory Labour for Certain Types of Work

8. Australia ratified the international labour Convention No. 29 concern... forced or compulsory labour in 1931. Today, forced labour is prohibited by Arti... 71 (2) of the Papua and New Guinea Act, 1949 (No. 9 of 1949), which reads—

> Forced labour is prohibited in the Territory except in such circumstances as ... permitted by the Convention concerning forced or compulsory labour adopted by t... International Labour Organisation and approved by Australia on the second day ... November, One thousand nine hundred and thirty-one, or any Convention replac... or amending that Convention.[3]

9. In its reports to the I.L.O. on the Forced Labour Convention (No. 2... the Australian Government states that in New Guinea this Convention is appl... in full and that forced or compulsory labour for the construction and maintena... of roads, the transport of persons or goods and for underground work in m... is effectively prohibited. Compulsory labour for the benefit of private individua... companies or associations has never been permitted and there are no Native chi... to exact compulsory labour in any form. Any attempt to do so is punishable un... the Criminal Code.

10. On the other hand, these reports mention one or two exceptions : t... law allows porterage in the neighbourhood of villages and work or services execut... in cases of emergency. In addition, a system of compulsory cultivation is s... in existence in New Guinea.

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[1] GOVERNMENT OF THE COMMONWEALTH OF AUSTRALIA : *Report to the General Assembly ... United Nations on the Administration of the Territory of New Guinea from 1 July 1946 to 30 June ...* p. 12. See also United Nations document T/138, pp. 5-7.

[2] United Nations document T/202, p. 6.

[3] *The Acts of the Parliament of the Commonwealth of Australia passed during the Year 1949*, ... p. 38.

[4] International Labour Conference, 32nd Session, Geneva, 1949 : *Summary of Reports on Ra... Conventions* (Geneva, 1949), p. 207, and *idem*, 33rd Session, Geneva, 1950, *ibid.* (Geneva, 1950), p. ...

11. At the present time, compulsory cultivation is governed by Regulation No. 11 of 1950[1] which is reproduced in the Australian Government's reply to the questionnaire.

12. The reports to the I.L.O. mentioned above[2] state that this Regulation is a precaution taken against a deficiency of food supplies and that at the present stage of development of the Native inhabitants in the territory it is not considered advisable to rescind it, though it is infrequently enforced. The reply of the Australian Government points out that it is " an emergency measure only, to ensure that the Native people make adequate provision for their subsistence and welfare in special circumstances ".

Comments and Observations of the Australian Government

The *Ad Hoc* Committee on Forced Labour has received the following letter from the Australian Department of External Affairs (Canberra) :

Sir,

I have the honour to refer to your letter of 22 November to which were attached the texts of allegations concerning the existence of forced labour in New Guinea and Nauru.

I would be grateful if you would bring to the attention of the Committee the following comments and observations on the allegations and the material concerning them summarised in documents MFL/5/52(l) and MFL/5/52(n) :

New Guinea : The Native Labour Ordinance, 1946, referred to in paragraph 6 of document MFL/5/52(l), has been repealed and is replaced by the Native Labour Ordinance, 1950-1952, copies of which are attached for the information of the Committee—

An examination of this legislation shows—

(a) the Administrator is still empowered to declare " prohibited areas " (Section 101);

(b) the Administrator is still empowered to restrict employment in certain industries (Section 100);

(c) the system of contracts was abolished by the 1950 Ordinance and a system of agreements substituted. Such agreements were originally for a period of 18 months with one extension to a total time of two years. Under the 1952 amendment to the Ordinance these periods are varied to two and three years respectively. The obligation to be returned home and the interval of three months before re-engagement remains, but these provisions do not apply to an employee living with his wife and family at his place of employment (Sections 30 and 31);

(d) the allegation that the Natives were not entitled to dispose freely of their own work and, in particular, had no right to accept employment outside the area in which they resided without obtaining special permission is incorrect, as Section 64 of the Native Labour Ordinance, 1950-1952 clearly states that a Native may be employed in any part of the Territory.

[1] See Annex B to United Nations document E/AC.36/11/Add.21.
[2] See above, paragraph 9.

This legislation was referred to in section 33 of the New Guinea annual report, 1950-1951 and section 40 of the New Guinea annual report, 1951-1952, copies of which have been made available to the United Nations. Extracts of the relevant sections are attached for the Committee's information.

The attention of the Committee might be invited to the foregoing statement and also to the fact that the only form of forced and compulsory labour permissible in the Territory is of a kind permissible under the international labour Convention concerning forced or compulsory labour (Papua and New Guinea Act, 1949-1950). The " compulsory planting of foodstuffs as a precaution against famine " referred to in paragraphs 10, 11 and 12 of the document falls within this category, details of the relevant legislation being given in the information already submitted to the Committee in reply to the questionnaire drawn up at the First Session of the Committee. It has not been necessary to take any action under this legislation.

No other form of forced labour exists in New Guinea.

Nauru : While the annual report on Nauru, 1948-1949 is quoted accurately in paragraph 6 of document MFL/5/52(n), more recent information is available in section 32 of the annual report on Nauru, 1951-1952. Copies of section 32, which should replace the information quoted in document MFL/5/52(n), are attached.

Your attention is drawn in particular to the fact that Chinese may now be accompanied by their wives.

The reference to " penal sanctions for breach of contract " is correct in so much as the particular legislation is still in force. However, approval has been given by the Minister for Territories for the abolition of penal sanctions, and action is being taken to amend the Chinese and Native Labour Ordinance, 1924 accordingly.

I have the honour to be, etc.

(Signed) R. G. CASEY.

Annual Report to the General Assembly of the United Nations on the Administration of the Territory of Nauru, 1951-1952

(Extract)

The following quotation is taken from section 32, Labour, of the above report:

The population of the Island at 30 June 1952 totalled 3,244, consisting of 1,[illegible] Nauruans, 759 Chinese, 560 Gilbert and Ellice Islanders, and 253 Europeans—2[illegible] adults and 877 children. The general labour situation in the Territory is indicated in the following table, which shows the adults in employment and where they were employed at 30 June 1952 :

Where employed	Europeans	Chinese	Gilbert and Ellice Is.	Nauruans	Total
Administration	17	31	—	280	328
British Phosphate Commissioners	100	716	420	124	1,360
Nauru Co-operative Society	—	—	—	48	48
Other	6	—	38	39	83
Total . . .	123	747	458	491	1,819

During the year the number of Chinese workers decreased from 1,411 to 747, the movement being—

Chinese workers at 1 July 1951		1,411
Arrivals during 1951-1952		44
		1,455
Repatriated during 1951-1952	706	
Deaths during 1951-1952	2	708
Chinese workers at 30 June 1952		747

Eight were transferred to Ocean Island and the balance were repatriated to Hong Kong—three of the workers were repatriated on account of health reasons. In the previous year 19 workers had been repatriated on health reasons.

The total labour employed by the British Phosphate Commissioners at 30 June 1951 was 1,597 compared with 1,360 at 30 June 1952. The reduction was effected by the introduction of further mechanical methods of mining phosphate and the completion of reconstruction and development programmes.

There is no recruitment of labour in the Territory. The indigenous inhabitants are engaged by the Administration on a permanent or temporary basis and by the British Phosphate Commissioners as casual non-contract workers. Chinese are recruited on contract from Hong Kong and Gilbert and Ellice Islanders from that colony. The Chinese are recruited by an agent representing the British Phosphate Commissioners. Recruits, before final selection, are examined by an official of the Government of Hong Kong, who reads and explains to them the terms of the agreement of engagement. The new employees are conveyed by sea free of charge to Nauru, where the agreement is again read and further explained to them under the direction of the Administrator, who, when satisfied that each intending employee is fully aware of the terms of the engagement, approves and witnesses the signature to the agreement.

The agreement is made and entered into subject to the provisions of the Chinese and Native Labour Ordinance, 1922-1924, which contains provisions relating to quarters, rations, medical and hospital facilities, the hours of employment and overtime conditions, and the free repatriation of the workers at the expiry of their contract or the re-engagement if both parties so desire.

On arrival at the island the workers are required to enter quarantine for observation, after which they are housed in a Chinese settlement. Chinese employees of the Administration are housed in the Administration settlement.

On completion of their contracts, those who desire to return or who are not re-engaged are provided with free return passages to their homes.

During the year approval was given for the wives and families of Chinese workers to be admitted to the Territory subject to the following conditions:

(1) the wife of a worker and not more than two children, each under the age of 12 years, may be granted a permit to enter and reside in Nauru for a period of one year in the first instance;

(2) a permit may, at the discretion of the Administrator, be renewed in periods not exceeding one year up to a maximum total period of residence of three years;

(3) no application for re-entry after the expiration of a total period of three years' residence is to be considered until after the lapse of a further three years;

(4) all members of families, including children born on the island, to leave Nauru at the expiration of the permit.

Natives from the Gilbert and Ellice Island colony are recruited and employed on conditions similar to those applicable to Chinese.

Training of workers: Nauruan boys between the ages of 16 and 18 years are eligible for apprenticeship to any trade, provided they possess the required basic education. The apprenticeship term covers five years, at the expiration of which the apprentice may qualify as a tradesman. Classes for the instruction of apprentices are conducted by the Administration.

International Labour Organisation : The following Conventions of the International Labour Organisation have been applied to the Territory of Nauru :

No. 27 : Convention concerning the marking of the weight on heavy packages transported by vessels, 1929.

No. 29 : Convention concerning forced or compulsory labour, 1930.

No. 80 : Final Articles Revision Convention, 1946.

Labour legislation : Every contract for service or work in the Territory of Nauru by Chinese, Nauruans and other Pacific Islanders is made in accordance with the provisions of the Chinese and Native Labour Ordinance, 1922-1924, which prescribes minimum conditions and standards for the general benefit of the employees. Every contract must be made in the presence of, and is subject to the approval of, the Administrator, who ensures that the employee understands and is fully aware of the conditions contained therein. Contracts for service are for one year. Indigenous inhabitants of the Territory present themselves for work with any of the three employing organisations, namely, the Administration, the British Phosphate Commissioners, or the Nauru Co-operative Society. Such employment is arranged by the Native Affairs Office, and it is either of a permanent or of a casual nature, depending on the requirements of each organisation and the qualifications of the applicant.

A general survey of the conditions of employment in the Territory is given in sections 149 to 167 (pages 49 to 54) of the annual report, 1948-1949.

Annual Report to the General Assembly of the United Nations on the Administration of the Territory of New Guinea, 1950-1951

(Extract)

The following quotation is taken from page 50, Labour Legislation, of the above report :

The Native Labour Ordinance, 1946 was repealed by the Native Labour Ordinance, 1950, which came into force on 1 January 1951.

The 1950 Ordinance substitutes a system of agreements for the system of contracts previously in force. Contracts in force immediately before the commencement of the 1950 Ordinance continue, but, as the maximum length of such contracts is 12 months, the last of the contracts will expire not later than 31 December 1951. The effect of this Ordinance can already be seen in the reduction of the number of indentured workers by 4,723, although the total number of Native workers employed increased by 2,168. In addition to the employment of Natives under agreement, the 1950 Ordinance deals with the employment of casual workers, the movement of Natives beyond the Territory, and general conditions in regard to employment.

Provision is made for the appointment of authorised officers and inspectors to secure observance of the Ordinance.

Annual Report to the General Assembly of the United Nations on the Administration of the Territory of New Guinea 1951-1952

(Extract)

The following quotation is taken from section 40, Labour, of the above report :

Legislation : The employment of Natives is regulated by the Native Labour Ordinance, 1950, which came into operation on 1 January 1951. The Ordinance substituted a system of agreements for employment for the system of contracts previously in force. The last of the contracts expired on or prior to 31 December 1951. Amendments to the Ordinance were effected during the year by the Native Labour

Ordinance, 1952 (No. 83 of 1952). The Ordinance has received the Governor-General's assent but it had not been brought into operation at 30 June 1952.

The amendments made included—

(i) a change in the maximum term of an agreement from a period not exceeding 18 months with an extension up to a total of two years on certain conditions to a period not exceeding two years with the right to the employee to an extension upon the same conditions as the original agreement for a period not exceeding one additional year;

(ii) the restriction of a monetary payment in lieu of rations to casual workers who have been issued by a District Commissioner with a permit permitting them to receive such payment. Formerly any casual worker could be paid a monetary allowance in lieu of rations.

The Ordinance requires an employer of labour to issue free of charge to each employee rations, clothing and other articles as are prescribed by regulations. The ration scale was altered by an amendment to the regulations published in *Gazette No. 14 of 28 February 1952*. The new ration scale includes items and alternatives, the majority of which can be produced in the Territory.

TERRITORIES ADMINISTERED BY BELGIUM

Summary of Allegations, of Replies to Allegations and of the Material Available to the Committee

CONGO

I. Allegations

1. In the course of debates in the Economic and Social Council, allegations were made concerning *(a)* compulsory cultivation, and *(b)* labour conditions in the mines, particularly the uranium mines.

2. Referring to compulsory cultivation, the representative of the *World Federation of Trade Unions (W.F.T.U.)* made the following statement to the Economic and Social Council:

The report submitted by the Committee of Experts on the Application of Conventions and Recommendations to the International Labour Conference at its Thirty-third Session referred to various territories where forced labour still existed. According to that report, forced labour existed in the Belgian Congo in the guise of agricultural work carried out for educational purposes. In those cases the persons condemned to forced labour had not even been guilty of any offence.[1]

3. Labour conditions in the mines were the subject of the following statements to the Council:

(1) The representative of *Poland*—

Conditions in the Belgian Congo, now that the mines were under American management, approached those of a concentration camp.[2]

[1] United Nations, Economic and Social Council, 12th Session, 470th meeting: *Official Records*, paragraph 26.

[2] *Idem*, 8th Session, 244th meeting: *Official Records*, p. 173.

(2) The representative of *Poland*—

The representative of Belgium had also shown much concern about the situation in the Union of Soviet Socialist Republics, without, however, mentioning the deplorable situation in the Belgian Congo, for which territory he (Mr. Katz-Suchy) could cite several examples of forced labour. To take just one, natives working in the uranium mines in the Belgian Congo could not change their employment.[1]

(3) The representative of the *Byelorussian S.S.R.*—

The material wealth of the Belgian Congo was exploited by American capitalists and its uranium ore commandeered for atomic bomb manufacture. A description of the conditions in the uranium mines had appeared in *Samedi-Soir*; they were surrounded by barbed wire and the workers were treated so badly that many of them died.[2]

II. Replies by the Representative of Belgium to the Economic and Social Council

4. Answering the allegations concerning labour conditions in the mines, the representative of *Belgium* made the following statement:

The Polish representative had asked him to say something of the working conditions in the uranium mines in the Belgian Congo. So far, Belgium had escaped criticism, a dispensation which was beginning to become somewhat embarrassing. His reply would be simple. The forced labour in the Belgian Congo was governed by Convention No. 29 concerning forced or compulsory labour adopted by the International Labour Conference in 1930, to which Belgium was a party. The Convention had been approved by the Decree Law of 20 May 1943, published in the *Moniteur* on 31 July of the same year. The Decree Law was prefaced by a lengthy statement on the reasons for its adoption, which gave an accurate description of the situation in the Belgian Congo. Forced labour on behalf of private interests was completely forbidden. It was impossible in exceptional cases, to be determined by the Administration, and for public purposes, such as food-growing or agricultural training courses. If that was what the Soviet Union and Polish representatives understood as forced labour, their definition of the term was extremely wide.[3]

5. Later, a statement was made by the representative of *Belgium* with regard to compulsory cultivation:

The representative of the World Federation of Trade Unions had, however, followed precisely the opposite line and had dealt with issues within the competence of the Trusteeship Council or other organs of the United Nations and I.L.O. (470th meeting). His references to the type of forced labour which existed in the Belgian Congo called for comment. Belgium had ratified the international Convention on forced labour, subject to the reservations provided in Article 35 of the Constitution of the I.L.O.; it had thus undertaken to abolish the use of forced labour at the earliest possible date, and, in the meantime, to permit forced labour in the circumstances and subject to the guarantees provided in the Convention. Belgium had loyally complied with the obligations it had assumed and reported annually on their execution. The International Labour Organisation had never had any cause for complaint on that score.

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[1] United Nations, Economic and Social Council, 9th Session, 321st meeting: *Official Records*, p. 553.

[2] *Ibid.*, 322nd meeting: *Official Records*, pp. 561-562.

[3] *Ibid.*, 324th meeting: *Official Records*, p. 591.

Belgium was responsible for primitive populations with little inclination for agricultural work. It was therefore not surprising that the report to the Thirty-third Session of the International Labour Conference on the application of the Convention should have referred to the extensive use of compulsory labour as a means of agricultural instruction and of securing the execution of urgent work in the interests of the community. Compulsory labour was subject to a limit of 60 days and no restrictions could be placed on the sale of the crops produced. Similarly, in a huge territory liable to torrential rainfall during certain seasons of the year, it was essential, in the interests of the population itself, to use indigenous labour to restore communications. Provisions were in force to prevent the unjust use of such labour.

It was obvious that the practices to which the representative of the W.F.T.U. had referred were in an entirely different category from the damning revelations made to the Council regarding concentration camps in certain countries of Europe. It was to those revelations that the proposed committee should devote its exclusive attention.[1]

III. Material Available to the Committee

6. The Committee has not received any material with a bearing on these allegations from any Government, non-Governmental organisation or private individual.

7. No action was taken by the Governments of Poland or the Byelorussian S.S.R. or by the World Federation of Trade Unions on the request by the Secretary-General of the United Nations that they should send him the documents and publications which their representatives had quoted during the debates in the Economic and Social Council.[2]

8. In its reply to the Committee's questionnaire[3], the Belgian Government did not provide any information on the Belgian Congo, considering that Part II of the questionnaire was unrelated to the Committee's terms of reference as set forth in Resolution 350 (XII) of the Economic and Social Council.

9. The Committee has assembled and examined a certain amount of information related to the allegations mentioned under Section I above ; this is summarised below.

Compulsory Cultivation

Legislation.

10. When, in 1944, Belgium ratified the international labour Convention No. 29 concerning forced or compulsory labour, it did so with amendments to the rules which govern compulsory cultivation. A Legislative Order dated 20 May 1943 to ratify this Convention contains the following provisions in Article 2 (II) :

By way of exception to the provisions of the first paragraph, the competent authority may authorise recourse to compulsory cultivation as a means of agricultural instruction, if such a measure is justified by the idleness or improvidence of the population, subject nevertheless to the following conditions :

(a) that the compulsion thus imposed is temporary and ceases as soon as the communities to which it is applied have acquired the habit of such cultivation ;

(b) that the compulsion is not applied except for the cultivation of land in which the communities or individuals concerned possess accrued rights ;

[1] United Nations, Economic and Social Council, 12th Session, 472nd meeting : *Official Records*, paragraphs 6-8.

[2] See United Nations document E/AC.36/4.

[3] United Nations document E/AC.36/11/Add. 15.

(c) that the produce of the cultivation thus imposed and all profits accruing from the sale of the produce thereof remain the property of the individuals or communities concerned;

(d) that all necessary measures are taken to ensure the sale of the produce under the most advantageous conditions;

(e) that all necessary measures are taken to protect the communities and individuals concerned against fraud on the part of the purchasers of the produce, in particular by the fixing of a minimum purchase price and by regulations relating to the weighing and payment of the produce.

By way of exception to the said provisions, the competent authority may authorise recourse to the compulsory planting of certain species of trees for the purpose of reafforestation.[1]

11. A Decree of 5 December 1933 on Native sub-districts, as amended by a Legislative Ordinance of 17 April 1942, makes the following provision for compulsory cultivation:

45. Native sub-districts shall be required, without aid from the colonial budget—

.....

(g) to build and maintain in good repair the local means of communication, including the crossings over rivers or swamps which they involve;

(h) (Legislative Ordinance of 17 April 1942)—to plant and cultivate in the sub-district food crops for the sustenance, and in the exclusive interest of the population, or food crops or products for export introduced for educational purposes and to harvest and process them in the manner determined for each product; or to undertake reafforestation and anti-erosion work, or livestock-breeding and anti-epizootic campaigns, or to build installations to improve the processing of the livestock or crop products.

The sale of crop products and the work indicated above shall be performed without compulsion, and for the individual and exclusive benefit of the growers.[2]

Purpose and Importance of Compulsory Cultivation.

12. In its reports to the I.L.O. on the application of Convention No. 29, the Belgian Government refers to compulsory cultivation as a method of instruction used in the interests of the indigenous population.[3] This was also the explanation given in the Economic and Social Council by the representative of Belgium in his statement quoted earlier.[4]

13. A report by the Belgian Colonial Council explains what is meant here by "a method of instruction".[5] The idea is not so much to teach the indigenous population how to grow plants which they can use for food and so safeguard themselves against the risk of famine as, first, to offer a possibility of helping poor, often exceedingly poor, groups of people to try out certain non-traditional crops as a means of improving their standard of living and, secondly, to cater for the need to channel these new products into European commercial and industrial organisations which alone are capable of processing and merchandising them. The report goes on to mention certain tendencies towards abusive practices:

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[1] *Moniteur belge* (London, 31 July 1943), No. 16, p. 279; I.L.O.: *Legislative Series*, 1943—Bel. 2.

[2] L. STROUVENS and P. PIRON: *Codes et lois du Congo belge*, 6th edition (Brussels and Leopoldville, 1948), p. 769.

[3] See, *inter alia*, International Labour Conference, 33rd Session, Geneva, 1950: *Summary of Reports on Ratified Conventions* (Geneva, 1950), pp. 150-152.

[4] See above, paragraph 5.

[5] See L. STROUVENS and P. PIRON, *op. cit.*, pp. 870-871.

But compulsion too often used without moderation or regard for circumstances is unlikely to achieve lasting results, the only kind that matter. The industrialist or business man relies too exclusively on such compulsion. Counting upon the indigenous population's obligation to supply his factories and machines, he makes no attempt at adaptation. His main concern, for which of course he cannot be blamed, is his undertaking's returns. In periods of prosperity, success, accentuated by the low wages paid to the indigenous producer, brings him in large profits which lead him to have ambitious ideas and to expand his undertaking to an extent incompatible with the difficulties inherent in periods of economic depression. In order to keep going, he appeals to the administration, which is disturbed to see the results—obtained with its own assistance —in danger, even if only because of their effect on the budget and on the charitable works and institutions from which the indigenous population itself benefits, and immediately thinks mainly in terms of lowering the purchase price paid to the grower and of increasing production. The result is individual wages that are extremely low in proportion to the work required.

The report stresses the point that compulsory cultivation cannot be regarded as a lasting measure. All obligation to engage in it must lapse as soon as the education of the crop-grower is complete. This stage may be reached in a fairly short time in the case of forest plantations (palms) or shrubs (coffee plants) but not in the case of annual crops (cotton and rice). The report concludes—

To sum up, compulsory crop-growing cannot be regarded as a permanent means of developing the colony and supplying European undertakings whose trade is based upon indigenous crops. The administration must devote all its efforts to the abolition of compulsory measures, which were adopted temporarily to create among the indigenous population an attitude favourable to the development of their agricultural production and so to their own economic prosperity.

14. In a book published in Brussels in 1950[1], Professor Emile Verleyen of the University Institute of Overseas Territories writes in greater detail about the origin and role of compulsory cultivation in the Belgian Congo. He recalls the fact (page 343) that, before the war of 1914-1918, Belgian colonial undertakings were almost exclusively commercial in character, the indigenous population growing only what it needed for its food. He states later (page 499), however, that owing to the First World War the mother country found it necessary to increase the output of colonial farm products. The Allied Armies needed foodstuffs, while munition factories required cotton. This was when the system of compulsory cultivation was begun. After the war it was retained and yielded extremely satisfactory results in the production of rice, coffee, palm oil, maize, sesame and, particularly, cotton. In a few years, Professor Verleyen states (page 500), the cotton crop has become one of the most important factors in Belgian colonial economy owing to the system of compulsory cultivation and to the advantages which the indigenous population derives from the export policy. Although the system benefits the local peoples, who improve their economic situation by learning to cultivate new crops, the author recognises that it has its disadvantages and recommends that it should be abolished as soon as possible.

15. The disadvantages are discussed in greater detail in a report produced in 1947 by a Belgian Senate study mission to the Congo and territories under Belgian trusteeship.[2] Speaking of the exodus from the villages and the drift towards the urban and non-tribal centres, the report points out (page 14) that " many of the indigenous population leave the bush where life is less attractive and where—it has

[1] E. VERLEYEN : *Congo, patrimoine de la Belgique* (Brussels, 1950).

[2] *Rapport de la Mission sénatoriale d'études du Congo et dans les territoires sous tutelle belge* (Brussels, 1947).

to be admitted—numerous *corvées* are imposed on the inhabitants in the form of road building or maintenance, the construction or alteration of bridges or even compulsory cultivation". Turning to the prison population, whose numbers are so high (10 per cent. of the male population) that they " might lead one to suspect that imprisonment is a convenient way of increasing local manpower ", the report states (page 68) that " this is due to the multiplicity of crimes, such as breaches of the regulations governing cotton planting and breaches of labour contracts ". Despite these disadvantages and while recognising that " most of the compulsory cultivation is for the benefit of monopolies ", the Senate Mission felt that the indigenous population derived sufficient material advantage from compulsory cultivation for the system to be justified (pages 32-33).

16. The Standing Committee for the Protection of Indigenous Populations has also commented on this system. In a book published in 1949 summarising the work of this Committee [1], its Chairman, Mr. L. Guebels, Attorney-General in Elisabethville, points out (page 103) that—

> In the face of war production requirements, the system of compulsory cultivation has lost the educational aspect which is its only justification. Agricultural instruction, in many cases entrusted to inexperienced staff whose task was to provide indigenous planters with directives and advice and also to supply them with selected seeds, often tried to beat production records simply by instructing their unpopular agricultural " monitors " to increase the length of the rope used for measuring the areas sown.

In the Committee's view, this is one of the reasons for the aversion shown by the indigenous population for agricultural work and for the exodus of the younger generation from the tribal centres. It points out (page 121) that—

> The numerous public and private services imposed for little or no remuneration (the construction and maintenance of roads, rest houses and prisons), as well as the compulsory cultivation system, are repulsive to the indigenous population, who eventually have the feeling that they are individuals who can be called upon for any kind of task or service and whose actions are directed and controlled, frequently to the detriment of their own or their families' normal lives. The thought of productivity has all too often superseded the duty of protecting the indigenous population.

The Committee concludes (page 121)—

> If, in order to improve the lot of rural populations, it is necessary (as it will be for a long time yet) to impose upon them certain work and certain methods of agriculture, it is essential . . . that a rational programme of such work should be established for each region, taking into account the ability of the population to perform it as well as the direct advantages which they would derive from it, in order to make its execution popular.

17. The Belgian Government, while stating that the system is declining, mentions it in its latest reports to the I.L.O. Belgium has not so far withdrawn the reservation on the subject which it made when ratifying Convention No. 29, and the legislation dealing with compulsory cultivation would still appear to be in force. The report submitted to the Belgian Parliament on the administration of the Congo during 1949 mentions (page 15) that 23,099 of the indigenous population were sentenced in 1949 for offences connected with the indigenous districts and compulsory cultivation.

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[1] L. GUEBELS : *Aperçu rétrospectif des travaux de la Commission permanente pour la protection des indigènes d'après les rapports des sessions* (Elisabethville, 1949).

Labour Conditions in the Mines

18. In a statement on labour conditions in the uranium mines, made at the 322nd meeting of the Ninth Session of the Economic and Social Council, the representative of the Byelorussian S.S.R. referred to an article which had appeared in *Samedi-Soir*.[1] It has not been possible to trace this document.

19. The representative of Poland spoke of the repression of Natives working in the mines and of their inability to change their jobs, but without giving any indication of the source from which he had obtained his information.[1]

20. In the Belgian Congo the law allows penalties to be imposed on Natives failing to respect their contracts of employment. Article 47 of a Decree of 16 March 1922 respecting the contract of employment between Natives and civilised employers[2] stipulates that—

If an employee in carrying out a contract of employment maliciously contravenes the obligations imposed upon him by this Decree, the agreement or custom, he shall be liable to a fine not exceeding 50 francs and not more than two months' penal labour, or to one of those penalties only.

The term of penal labour may be increased to three months if the Native has received advances in any form whatever on work which he maliciously refuses to carry out. . . .

Article 48 lays down that—

If an employee is guilty of a serious offence or repeated offences against the rules of employment or of the establishment, he shall be liable to a fine not exceeding 50 francs and not more than a fortnight's penal labour, or to one of these penalties only.

21. These provisions are enforced. According to a report submitted to the Belgian Parliament on the administration of the Congo during 1949, 34,066 of the indigenous population were sentenced in that year for failing to respect their contracts of employment (page 15).

22. Belgium has not yet ratified the international labour Convention No. 65 concerning penal sanctions for breaches of contracts of employment by indigenous workers. This Convention, which was adopted in 1939, provides in Articles 1 and 2 for all penal sanctions for any breach of contract by indigenous workers to be abolished progressively and as soon as possible.

23. In its report published in 1947[3], the Belgian Senate Mission condemned this situation and recommended that Belgium should ratify the Convention as soon as possible (pages 22 and 35).

24. With more particular reference to labour conditions in the mines, some general information is available in a book published in 1946.[4] The author explains (page 5) that the *Union Minière* has adopted a social policy whose purpose " is to retain the services of selected personnel in its mines and factories as long as possible ; hence the title ' stabilisation policy ' ". He notes (page 11) that this policy " involves employing all normal means likely to make the negro worker like the work and

[1] See above, paragraph 3.
[2] L. STROUVENS and P. PIRON, *op. cit.*, p. 915 ; I.L.O. : *Legislative Series*, 1931—Bel. 4 B.
[3] See above, paragraph 15.
[4] L. MOTOULLE : *Politique sociale de l'Union minière du Haut-Katanga pour sa main-d'œuvre indigène et ses résultats au cours de vingt années d'application* (Brussels, 1946).

remain in his job as long as possible ". The methods used to carry out this p... are, in the order of their importance, the following :

(a) freedom to accept employment (pages 16 and 17), any abnormal press... whatever its origin, whether exerted by the Administration or by the Native ch... being harmful to the objective of stabilising labour ;

(b) contracts of employment for longer terms (page 17), in fact, three ye... which is the maximum permissible in law ;

(c) the fostering of family life and assistance with a view to marriage (page... 20) ;

(d) the satisfaction of physical, moral and social needs with a view t... healthy and moral life (pages 21-39).

RUANDA-URUNDI

I. Allegations

1. The allegations made in the Economic and Social Council with regard Ruanda-Urundi were concerned with *(a)* unpaid services for local chiefs a... compulsory unremunerated labour, and *(b)* compulsory labour for failure to p... taxes.

2. These allegations appear in the following statements to the Council :

(1) The representative of *Poland*—

In a petition to the United Nations[1], Mr. Augustin Ndababara, of Ruanda-Uru... had stated that " the Government or administration of Ruanda-Urundi is very bad, t... is to say that it has afflicted us with poor employment. We pay to the officers tax francs 103, land tax francs 15, and on top of that we pay francs 4.50 to headman a... the chief. A poor man who is late in paying, pressure is put upon him and he is punis... with eight lashes ; the next day if he has not paid he is hired, that is some are hir... or sometimes the whole lot are taken to cultivate for the chief without pay. Th... who refuse to work are punished hard again, eight lashes each. "[2]

(2) The representative of *Poland*—

In the Non-Self-Governing Territories United Nations report of 1948, it was st... that unpaid convict labour in Ruanda-Urundi under Belgian trusteeship, and a syst... of poll taxes with labour in default of payment, were condemned last year by t... Trusteeship Council.[3]

II. Material Available to the Committee

3. The Committee has not received any material with a bearing on th... allegations from any Government, non-governmental organisation or private in... vidual.

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[1] United Nations document T/PET.3/16.

[2] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official R...* p. 550.

[3] *Idem*, 324th meeting : *Official Records*, p. 593.

4. No action has been taken by the Polish Government on the request by the Secretary-General of the United Nations that it should send him the documents and publications quoted by its representative in the Economic and Social Council.[1]

5. In its reply to the Committee's questionnaire [2], the Belgian Government did not give any information on Ruanda-Urundi, considering that Part II of the questionnaire was unrelated to the Committee's terms of reference as set forth in Resolution 350 (XII) of the Economic and Social Council.

6. The information which appears below has been assembled by the Committee.

Unpaid Services for Local Chiefs and Compulsory Unremunerated Labour

7. In Ruanda-Urundi, unpaid compulsory labour exists, or used to exist, either in the form of certain personal services for which the local population of Ruanda-Urundi are, or were, occasionally required by virtue of ancestral customs, or in the form of statute labour for the indigenous districts which the law requires them to contribute. These two practices are examined below.

Unpaid Services for Local Chiefs.

8. For the administration of the territory, Ruanda-Urundi legislation has retained the system of chiefdoms and sub-chiefdoms and such customs as do not conflict with the rules of public law or the regulations issued in their stead. Article 35 of the Legislative Ordinance dated 4 October 1943-17 April 1946 concerning the indigenous political organisation of Ruanda-Urundi [3] lays down that " the customary dues of the Bami, chiefs and sub-chiefs, or their cash value as fixed by the Bami with the approval of the Governor of Ruanda-Urundi, shall continue to be levied by the Bami, chiefs and sub-chiefs for their benefit ". Under Article 36, if any chief or sub-chief abuses the rights which he enjoys by law or custom, disciplinary action may be taken (he may be deprived of certain privileges and dismissed his office).

*9. In its report to the United Nations on the administration of Ruanda-Urundi for the year 1948 [4], the Belgian Government wrote—

All labour cont ibutions which alone survived from the old tribal system have finally been abolished and replaced by a small monetary contribution.

The Visiting Mission sent by the Trusteeship Council noted in its report dated 31 October 1948 [5] that—

The various customary payments in kind and in the form of labour are rapidly being replaced by a compulsory cash payment, a process which is now nearly complete.

The report continues—

Contributions in the form of labour which the chiefs and sub-chiefs formerly imposed on those under their jurisdiction were levied at the rate of three days out of five throughout the year; they were gradually reduced to 13 days per year and redemption

[1] See United Nations document E/AC.36/4.
[2] United Nations document E/AC.36/11/Add. 15.
[3] P. LEROY : *Législation du Ruanda-Urundi* (Usumbura, 1949), p. 130.
[4] United Nations document T/361/Add.1, p. 9.
[5] *Idem*, T/217, pp. 44-45.

became optional. This possibility of redemption, which was at first restricted to certain categories of Africans, was extended to all in 1945. As from 1 January 1949 the redemption of contributions in the form of labour will be made compulsory.

The process should be completed by converting the redemption of these various contributions from payments to the chiefs and sub-chiefs into taxes payable to the State or to the Native Treasuries.

Statute Labour for the Indigenous Districts.

10. Articles 45 *et seq.* of the Legislative Ordinance dated 4 October 1943[1] April 1946 concerning the indigenous political organisation of Ruanda-Urundi imposes a wide variety of duties on the chiefdoms, which the chiefs and sub-chiefs have to share out equitably between the various subdivisions in their districts and within each subdivision, between the inhabitants, taking into account as far as possible the particular circumstances of each subdivision and inhabitant (Article 49). Only able-bodied adult males may be required to give their services (Article 49). The Governor of Ruanda-Urundi has to prepare a programme for these services in such a way that no one is obliged to contribute more than 60 days a year. This limit may, however, be exceeded if public health or the food requirements of the indigenous population make urgent work imperative. The 60 days include travelling time and the time required to provide housing for the workers (Article 48). Any indigenous inhabitant who fails to carry out or is negligent in carrying out the work required of him is liable to a term of penal servitude not exceeding seven days and a fine of 100 francs or to one of these two penalties (Article 51). Subject to one of two exceptions, an indigenous inhabitant who is called upon to give his services may provide a substitute or obtain exemption on payment of a sum of money (Article 50).

11. The work in question is of three types—

(a) that required of chiefdoms under Article 45, without any express provision being made for the remuneration of the workers, viz., local road-clearing, burials, work on reafforestation projects, the planting and tending of food crops in the district for the feeding and in the exclusive interest of the population and, generally, any work necessary to prevent famines;

(b) that required of chiefdoms under Article 46, for which the workers are remunerated from the budget of the chiefdom at rates current in the area, viz., the measures prescribed to combat sleeping sickness and any other health measures which the competent authorities may deem advisable, the construction and maintenance of such premises as are necessary for health services in the opinion of the medical and administrative authorities, the construction and maintenance of schools, a court-house and prison for the indigenous population, rest-houses for indigenous assistants attached to the administration, regional motor roads and water channels;

(c) that required of chiefdoms under Article 47, for which the workers are remunerated from the Ruanda-Urundi budget at rates current in the area, viz., the construction and maintenance of rest-houses for visiting European officials.

Judging by the text of the Legislative Ordinance alone, only the services mentioned under *(a)* can be regarded as unpaid.

*12. The Belgian Government summarises these provisions in its report to the General Assembly of the United Nations on the administration of Ruanda-Urundi for the year 1950.[2] It lists the services referred to in Article 45 as unpaid work

[1] P. LEROY, *op. cit.*, pp. 127 *et seq.*

[2] *Rapport soumis par le gouvernement belge à l'Assemblée générale des Nations Unies au sujet de l'administration du Ruanda-Urundi pendant l'année 1950* (Brussels, 1951), pp. 137-138.

but states that the unremunerated labour for road-clearing has been replaced by a tax in lieu fixed at 7 francs in 1949 and 10 francs in 1950, the object being to eliminate certain abuses and distribute over the population as a whole a burden which was previously borne entirely by the population in the immediate vicinity of the roads. The report contains no other information on the way these various provisions are applied, but adds that the possibility of recasting all this legislation is at present being studied.

13. In its report published in 1947, the Senate Study Mission sent to the Congo and territories under Belgian trusteeship, mentioned above[1], passed the following comments on this system of local statute labour :

An attempt should also be made to remedy the exodus which depletes too many villages in favour of factories, construction sites, or even simply non-tribal centres where too many of the indigenous population hope to find a better life. We have observed that many villages are left with too few young and able-bodied men. Attracted by the mirage of urban salaries and the amenities of large cities, many of the indigenous population leave the bush where life is less attractive and where—it has to be admitted—numerous *corvées* are imposed on the inhabitants in the form of road building or maintenance, the construction or alteration of bridges or even compulsory cultivation (page 14).

14. The Belgian authorities are themselves aware of these disadvantages and it was to overcome them, at least to some extent, that the system of optional labour exemption taxes was introduced some years ago. The following passage appears in a prefatory statement explaining the Legislative Ordinance which introduced the system in the Belgian Congo in 1944 :

The intensive economic development of certain areas and the rapid evolution of their populations makes it increasingly difficult for the work required of the indigenous sub-districts to be carried out by means of the individual services rendered by the inhabitants.

It is difficult for the *corvée* system to retain its place in a rapidly developing society. To escape it, an increasing number of young people desert the villages for a few months every year, not without their movements causing a regrettable disturbance in the social life and economic activity of their communities. Since supervision is only exercised fitfully, it is in practice the most docile that bear the full burden of the labour service.

In addition, the output obtained from work that is not freely undertaken is very often below standard. Particularly in building or road work, there is an enormous waste of labour owing to the incompetence and lack of enthusiasm both of the workers and of the indigenous authorities in charge.[2]

Compulsory Labour for Failure to pay Taxes

15. Article 17 of a Decree dated 17 July 1931 on the Native tax[3] lays down that—

A defaulting taxpayer may be directly subjected to detention without prejudice to the distraint of his movable property.

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[1] See above, under "Congo", paragraph 15.

[2] L. STROUVENS and P. PIRON, *op. cit.*, Note on Article 49*bis* of a Decree dated 5 Dec. 1933 on Native sub-districts.

[3] P. LEROY, *op. cit.*, pp. 146 and 147.

Article 21 adds—

A person so detained shall remain in the custody of the administration and ... perform certain work.

The Governor shall determine the conditions of detention and the type of ... imposable.

The Resident or his deputy shall assign the persons so detained to the work ... question.

In no circumstances may the period of detention for the recuperation of a tax ... longer than two months.

The taxpayer may free himself from detention at any time by paying the tax ...

16. An Ordinance dated 2 November 1933, as amended on 2 May 1934 ... 14 July 1949 [1], describes this system in the following terms:

7. Taxpayers detained for debt may be employed on works the general program ... of which shall be drawn up for the current year by the Governor of the Ruan ... Urundi territories and which shall consist in—

(1) helping in the building and maintenance of roads and clearing of rivers;

(2) working on sites and in undertakings directed by the State;

(3) helping in the upkeep of posts, the construction of such State buildings as ... erected there and, in general, in all the Administration's services maintained ... stations;

(4) taking part in porterage for the needs of the Administration;

(5) taking part in the clearing and drainage of land.

8. Persons so detained shall do the work prescribed under guard of the Admi ... stration, at the hours and for the length of time determined by the Territorial Admi ... strator; this length of time may not, however, exceed the working time of wage-earn ... workers.

9. When the place at which the work is done is near enough, the detainees s ... live in their own village. They shall provide for their own subsistence, if they have ... means to do so.

If not, the Administrator shall supply them with their food and lodging and ... necessary, shall provide them with a blanket.

17. In their annotated edition of the codes and laws of the Belgian Con ... where this system of detention is also used, Léon Strouvens and Pierre Piron exp ... the way in which the system operates and make it clear that the law allows ... Administration to resort to detention even before any attempt has been made ... obtain the payment of the tax by means of distraint upon the person's chatt ... They add that, after having served his term, the taxpayer is regarded as relea ... from his fiscal liabilities.

*18. In its report to the General Assembly of the United Nations on ... administration of Ruanda-Urundi in 1950 [3], the Belgian Government confi ... that this system is in force and states that the number of persons imprisoned ... this way in 1950 was 1,614 out of a total 788,059 taxpayers.

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[1] "Regulations governing detention for debt and types of work which may be imposed ... detained debtors"—P. LEROY, *op. cit.*, p. 150.

[2] *Op. cit.*, (see above, under "Congo", paragraph 11), Note on Article 18 of a Decree dated ... 1914 concerning the Native tax.

[3] *Op. cit.*, p. 63.

19. The Belgian Colonial Council, when adopting the Decree which now governs the Native tax in the Congo, made the following comments:

Two matters in particular engaged the Council's attention during the general debate which preceded the consideration of the articles.

First, several members expressed the fear lest, in its application, the tax might afford the Government a means of directly compelling the indigenous inhabitant to work and so of reviving forced labour, with all its concomitant abuses.

True, the introduction of taxation among primitive people inevitably resulted, as experience in all new countries showed, in gradually inducing them to work. Taxation thus became a salutary incentive encouraging the indigenous inhabitant to awake from an age-long sloth, and so an indirect method of compelling him to work, the legitimacy and necessity of which no one denied.

But what was to be feared was that, through a tax fixed arbitrarily at an excessive rate, the indigenous inhabitants might be directly compelled to enter the employment of, say, an industrial undertaking so as to ensure it the labour it required.[1]

Comments and Observations of the Belgian Government[2]

The *Ad Hoc* Committee on Forced Labour has received the following letter, dated 4 May 1953, from the Belgian Permanent Delegation to the United Nations:

The Permanent Delegation of Belgium has the honour to reply to the letter dated 22 November 1952 which the Chairman of the *Ad Hoc* Committee on Forced Labour sent to the Minister of Foreign Affairs of Belgium.

This letter invites the Belgian Government to transmit to the *Ad Hoc* Committee any comments and observations it may wish to make regarding certain allegations made against the Belgian Congo and Ruanda-Urundi in connection with the question of forced labour.

The letter notes that the Committee wishes to emphasise that it has come to no conclusions either on the relevancy of the allegations or on the evidential value of the information and documentary material concerned.

These allegations and data relate to matters of the kind covered in Part II of the questionnaire prepared by the Committee at its First Session.

The Permanent Delegation regretfully finds itself obliged by the above-mentioned letter to confirm that the Belgian Government does not consider itself called upon to provide the *Ad Hoc* Committee with comments and information on such matters, which are not within the Committee's terms of reference, as defined by resolution 350 (XII) of 19 March 1951 from which its powers are derived.

It is recalled that the International Labour Organisation is competent in such matters and that its legislation is based on its Constitution and, more particularly, on Article 35, The annual report submitted by the Belgian Government for the period 30 June 1951-1 July 1952 on the international Conventions made applicable to the Congo and Ruanda-Urundi—which include the Forced Labour Convention—contains all the information which Belgium is called upon to offer on the subject at the international level.

The Permanent Delegation presents its compliments to the Chairman of the *Ad Hoc* Committee on Forced Labour.

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[1] See L. STROUVENS and P. PIRON, *op. cit.*, pp. 856-857.

[2] See also Addendum, p. 621.

Additional Material

RUANDA-URUNDI

Addition to Paragraph 9.

A report by the Belgian Ministry for the Colonies[1] confirms that the forme customary services have all been replaced by a cash contribution at a standa rate of three francs per day of service, except in one chiefdom where the amou of the contribution is four francs.

Addition to Paragraph 12.

The above-mentioned report states[2] that the tax in lieu of road-clearing w fixed at 15 francs in 1951.

It also confirms that " the possibility of recasting this legislation is at pres being studied ".

Addition to Paragraph 18.

According to the report in question[3] the number of persons imprisoned i 1951 was 1,516 out of a total of 818,665 taxpayers.

BULGARIA

Summary of Allegations and of the Material Available to the Committee

I. ALLEGATIONS

1. Allegations with regard to Bulgaria were made—

(1) In the course of debates in the Economic and Social Council, by the re presentative of the *United Kingdom*[4] and by the representative of the *United Stat of America*.[5]

(2) In written communications submitted to the Committee by the *Inte national Confederation of Free Trade Unions*[6], the *International Federation of Fr Journalists*[7], the *International League for the Rights of Man*[8] and the *Bulgari National Committee*.[9]

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[1] MINISTÈRE BELGE DES COLONIES : *Rapport sur l'administration belge du Ruanda-Urundi pen l'année 1951* (Brussels, 1952), pp. 22-23.

[2] *Ibid.*, p. 146.

[3] *Ibid.*, p. 59.

[4] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting : *Official Rec* p. 112.

[5] *Idem*, 12tn Session, 470th meeting : *Official Records*, paragraph 11. The verbatim text of t statement by the representative of the *United States of America* before the Economic and Social Co was submitted by the United States Government with a covering letter dated 26 July 1951 (see Un Nations document E/AC.36/4, p. 8).

[6] Letter dated 30 Apr. 1952.

[7] Memoranda dated 4 Oct. 1951 and 24 Mar. 1952, and memoranda submitted at the 3rd Ses of the Committee.

[8] Memoranda dated 15 Apr., 18 June and 5 Nov. 1952.

[9] Memorandum dated 11 June 1952.

(3) By the representatives of the first three non-governmental organisations mentioned under (2) above when heard at the Second and Third Sessions of the Committee.

2. These allegations, the essential passages of which are quoted or summarised in a later section [1], related to—

(a) the existence of forced labour, based on a series of legislative texts promulgated after 9 September 1944 and enforced mainly by the administrative authorities, though also in certain cases by the courts ;

(b) the purpose of forced labour, viz., the re-education and punishment of those who are opposed to the régime, the punishment of criminals and the fulfilment of State economic plans ;

(c) the existence and location of several labour communities and of concentration and forced labour camps, as well as the conditions which prevail in them ;

(d) the number of forced labourers ;

(e) the legal and other restrictions imposed on the freedom of employment; labour reserves.

Existence of Forced Labour and Legislation Dealing with It

3. The representative of the *United Kingdom* stated that a Law of November 1945 had established " labour education communities " and a Law of 1946 had set up " idlers' camps ". In the labour education communities, chiefly intended for political prisoners, conditions were extremely harsh. Moreover, students could be sent as idlers either to labour brigades or to those concentration camps.

4. The representative of the *United States of America* stated : " Bulgaria introduced forced labour camps by two Decree Laws of 20 January 1945. These regulations, which underwent minor changes in later years, were finally replaced by the Law on the People's Militia (*i.e.*, police) dated 25 March 1948. " He further mentioned that the period of confinement was at least one year and that the Minister of the Interior was authorised to condemn a person to forced labour, although the concurrence of the Chief Prosecutor was necessary for political cases. He added that a Law of 25 March 1948 had made provision for " the internment of politically dangerous persons in a new place of residence ". He went on to quote another Bulgarian Law dated 30 April 1946 which establishes special labour camps for " persons who have taken to loafing and vagrancy and spend most of their time in saloons, coffee houses, bars, pastry shops and the like ". He added that the scope of the Law was broadened on 9 May 1949 to include men and women who were " fit for work but did not perform socially useful work ". He commented that it was always the Ministry of the Interior which sentenced persons to " systematic enlightenment ".

5. The *International Confederation of Free Trade Unions* made a similar statement and referred to legislation issued since September 1944, which has allegedly instituted forced labour in Bulgaria.

6. The *International Federation of Free Journalists* referred, *inter alia*, to articles 43 to 47 of the new Bulgarian Penal Code, which deal with penalties for juveniles. It asserted that Bulgaria had forced labour of two types, " simple " and " penal ", and stated that work and services were exacted from people under the threat of punishment, though they had not offered their services voluntarily

[1] See below, paragraphs 3 to 19.

and that forced and compulsory labour was being used for work undergrou... mines.

7. The *International League for the Rights of Man* stated that at leas... million people were under the forced labour systems legally established i... countries of Bulgaria, Czechoslovakia, Hungary, Poland and Rumania. Refer... more particularly to Bulgaria, the memorandum pointed to forced labour as... officially established institution. It referred to several legal texts with an all... bearing on forced labour. These were : *(a)* an amendment dated 7 April ... to section 13 of the Bulgarian Penal Code of 1896, introducing " forced lab... education work " ; *(b)* the Bulgarian Code of Criminal Procedure, section ... as amended on 6 October 1948, concerning the substitution of forced lab... educational work for punishment ; *(c)* a Decree Law of 20 January 1945 on co... munities of educational labour for politically dangerous persons ; *(d)* a Decree L... dated 20 January 1945 on communities of educational labour ; *(e)* a Decree L... dated 15 November 1945 " to establish a fund for communities of educati... labour " under the Ministry of the Interior ; *(f)* a Law dated 30 April 194... " the labour mobilisation of idlers and vagrants " ; *(g)* an amendment to this L... which entered into force on 9 May 1949, giving the Law the new title of " the L... on Labour Mobilisation " ; *(h)* an Ukase issued by the Presidium of the Nati... Assembly on 5 October 1950, repealing the Law mentioned under *(g)* ; *(i)* ... " Law of the People's Militia " promulgated on 25 March 1948, which abrog... the two Decree Laws dated 20 January 1945 ; *(j)* the " Personnel Charts of ... Ministry of the Interior ", referring only to the staff of the Central Office of ... Ministry in Sofia, but including departments with jurisdiction over " la... mobilisation " and " communities for educational labour and corrective homes ... minors " ; *(k)* an Ukase of 25 February 1950 amalgamating the funds for " ... communities for educational labour " and " the improvement of the pr... administration " ; *(l)* section 22 of the new Criminal Code introducing for... labour without confinement ; *(m)* regulations on " the management of construc... projects pursuant to section 3 of the Law on the Two-Year Plan, 1947-1948 " ... *(n)* section 2 of the " Law on Labour Mobilisation ", section 7 of which spea... " forced labour in the camps for educational labour ".

8. The *Bulgarian National Committee* stated that forced labour combined ... summary confinement in camps was institutionalised in Bulgaria after the cha... of 1944.

The Purpose of Forced Labour

9. The representative of the *United States of America* affirmed : " Subje... confinement in such camps (*i.e.*, the communities for educational labour) ... ' politically dangerous persons ', namely people who have manifested an ' a... popular ' attitude, and also blackmailers, defrauders, procurers, prostitutes, ga... lers, etc. ", adding that " one of the characteristics of both fascist and commu... legislation [is] that political opponents are defamed and debased by lumping th... together with common criminals ". Speaking of another Bulgarian Law, d... 30 April 1946, as extended on 9 May 1949, he affirmed that " any person ... for some reason or another has antagonised the communist authorities can ea... be accused of frequenting a coffee house and avoiding socially useful wo... He referred to section 9 of this Law, which provides for the " systematic enlig... ment and re-education " of the persons for whom these measures were desi...

10. The *International Federation of Free Journalists* stated that forced la... in Bulgaria served a double purpose : *(a)* to confine in camps all Bulgarians ...

did not agree with the present régime, and *(b)* to procure unpaid labour for the fulfilment of the Five-Year Plan. It also stated that the " simple " labour mentioned under paragraph 6 above is imposed on : " (1) young men relegated from high schools and universities expelled from the communist party, or found guilty of anti-régime activities ; (2) Turks, Bulgarian citizens ; (3) men found unfit for army service on health grounds ". It added that " service with the Labour Army is a penalty as well as a means of political re-education ".

11. The *International League for the Rights of Man* stated : " Farmers are employed under the official programme of ' forced labour-educational work ' ; peasants, deprived of their land, are pushed into industrial enterprises either as unskilled workers or as inmates of forced labour camps located near industries of different kinds ". It also stated that about one million peasants were to be " moved to industrial undertakings ", adding that forced labour was the basis of practically all industrial achievements in Bulgaria. Referring to an amendment dated 7 April 1948 to the Bulgarian Penal Code of 1896, it pointed out that the penalty of " forced labour-educational work " was introduced as an alternative to the comparatively mild punishment of detention or even of short-term imprisonment. It also stated that there was " a very close connection " between the labour imposed on vagrants, etc., and the execution of the Bulgarian Five-Year Plan.

12. The *Bulgarian National Committee* referred to forced labour as a repressive measure against " political opponents " or " politically dangerous persons ".

Forced Labour Camps

13. The representative of the *United Kingdom* spoke of " idlers' camps ", " concentration camps ", " labour-education communities " and " labour brigades ", adding that in labour-education communities conditions were extremely harsh.

14. The representative of the *United States of America* referred to the existence of forced labour camps, explaining that these camps, as maintained by the Law on the People's Militia (*i.e.*, police), dated 25 March 1948, were " euphemistically called ' communities for educational labour ' ".

15. The *International Federation of Free Journalists* submitted, together with a number of affidavits, a list of 56 forced labour camps grouped in five categories (agriculture, industry, construction of railroads, construction of highways, and military corrective camps), together with copious information describing life and conditions in many of these camps.

16. The *International League for the Rights of Man* spoke of approximately 50 known forced labour camps which existed in Bulgaria. It also gave some information on the living and working conditions in " some of the most famous camps situated along the Danube River and reaching into the Dobrudja region ". It submitted a list of camps with comments on their location, the work done there and their role in the country's economic life.

Number of Forced Labourers

17. The *International League for the Rights of Man* stated : " Forced labour in Bulgaria is performed to an insignificant degree by people sentenced by a court verdict. Today there are in the country about 20 prisons with about 20,000 prisoners. The régime in a prison differs from the régime and purpose of the forced labour camps and is not considered here.... The Board of Labour Service in co-operation

with the Militia has provided the Government with about 50 known forced labour camps and with at least 110,000 forced labourers who, at times, have worked for the fulfilment of the economic plans of the Government. When one considers the fact that by 1946 the total number of workers engaged in all industries of Bulgaria's economy was 134,096 (*Izvestia na Glavnata Direkzia na Truda*, Issue No. 10, June 1946) and that the present number of workers is probably about 300,000, the estimated figure of 110,000 persons in forced labour camps presents a startling proportion of the approximated total of 300,000 workers." Referring to the various types of economic activity in Bulgaria, the League asserted that " at times about 15,000 forced labourers have been employed in the mines of the country ", and affirmed that the doubling of coal production in Bulgaria—from 2,200,000 tons in 1939 to 4,400,000 tons in 1950—was due in large measure to the exploitation of the labour of camp inmates. It also stated that there were " repeaters ", *i.e.*, persons sent back to the camps " after they have recovered from their former experience ". It explained that there were no figures for the percentage of " repeaters ", but added that it was " fairly high ".

18. The *International Federation of Free Journalists* stated that according to reliable sources, at least 80,000 Bulgarian citizens were to be found in the concentration camps in Bulgaria.

Restrictions Imposed on Workers

19. The *International League for the Rights of Man* stated : " The workers neither choose nor change their jobs ; strikes are prohibited ; the work is evaluated on the basis of fulfilled ' norms ' ; the workers are compelled to put in extra hours of work without remuneration ; non-paid ' competitions ' and ' working brigades ' are a familiar fact. One must recall the Soviet labour system with its feature ' Stakhanovism ', and an exactly similar system will be found in Bulgaria. " It also stated : " The so-called free worker in Bulgaria is not free in the sense in which a worker in the United States or France or the United Kingdom, or in any democratic country, is free. He is required to work at a certain place. It is difficult for him to leave his job. He cannot voluntarily seek employment. He must carry with him a work book which gives the reasons for his having left his previous job before he can be hired. The so-called free worker in Bulgaria is free only as his lot is compared to the lot of those who are under total restraint in a forced labour camp. It further quoted an article which appeared in the *Rabotnichesko Delo* advocating that severe measures should be taken against workers producing poor quality goods. Mention was also made of Resolution 41 of the Council of Ministers, article 6 of which reads : " Construction workers who, on or before 25 April 1948 have not begun to work... shall be deprived of all rations. Such workers may be drafted under labour mobilisation for economic purposes."

II. Material Available to the Committee

20. The Committee has taken note of the Bulgarian Government's reply to the letter sent on 4 May 1949 by the Secretary-General of the United Nations.[1]

21. The Bulgarian Government has not replied to the Committee's questionnaire, nor has it submitted any material.

[1] United Nations documents E/1337/Add. 17 and Corr. 1.

22. Documents have been presented by the International Confederation of Free Trade Unions, in letters dated 12 October 1951 and 30 April 1952, and by the International League for the Rights of Man, with its memoranda.

23. The Committee has also assembled and examined a certain amount of information related to the allegations mentioned under Section I above.

24. The material available to the Committee is summarised below.

Work Imposed by a Court of Law

General Principles of Penal Repression.

*25. The basic text dealing with penal repression in Bulgaria is the new Penal Act of 1951.[1] It explains in Article 1 that " the purpose of the Penal Act is to protect the People's Republic of Bulgaria and the social structure and legal order established there by defining crimes and fixing the penalties applicable to them ". The purpose of the penalties, inflicted, according to Article 21, " solely on the basis of existing legislation ", is—

(1) to render the enemies of the people harmless; (2) to deprive the author of a crime of the possibility of committing other crimes; (3) to correct and re-educate him so as to make him obey the rules of the socialist community; and (4) to influence the other members of society by educational methods.

The Article adds that " a penalty may not be inflicted in order to cause physical suffering or humiliation contrary to human dignity ". The element of social danger is considered when the sentence is determined, as will be seen from the following extract from Article 35:

The amount of punishment is fixed with due regard to—

(1) the degree of social danger constituted by the act and its author, and

(2) the motives behind the commission of the act and other extenuating or aggravating circumstances.

26. The educative nature of penal repression is also revealed in the Articles of the Penal Act dealing with the penalties applicable to minors. According to Article 43, " the punishment of minors is primarily intended to re-educate them and prepare them for work of use to the community ". Article 44, which lays down the principles to be followed in imposing penalties on minors, substitutes public censure for corrective labour.

27. The penalties applicable under the Penal Act are listed in Article 22, which states—

Penalties may take the following forms:

(1) deprivation of liberty;

(2) corrective labour without deprivation of liberty;

(3) confiscation of property in whole or in part;

(4) fines;

(5) deprivation of rights; and

(6) public censure.

[1] *Izvestia na Presidiuma na Narodnoto Sãbranié*, No. 13, 13 Feb. 1951.

The relative gravity of these penalties is determined by the order in which they are set down in the previous paragraph ; three days of corrective labour are equivalent to one day's deprivation of liberty.

.....

28. The Penal Act defines a crime as a " socially dangerous act (action or inaction) culpably committed and declared to be punishable by law " (Article 1). Bulgarian legislation also provides for the application of the principle of analogy in penal law. An Act of 7 April 1948 to amend and supplement the Penal Act [of 1896][1] lays down in paragraph 1—

A new paragraph reading as follows is hereby added to Article 1 :

" If any act is not explicitly defined as an offence but is socially dangerous and according to the general meaning of the law, is substantially similar to an offence provided for, the court may inflict on the offender the penalty prescribed for such an offence. "

The new Penal Act, repealing the Act of 7 April 1948, also recognises the application of the principle of analogy in penal law, in that it states in Article 2 that—

Every socially dangerous act culpably committed which resembles in character one of the crimes covered by the law, although not specifically so covered, is a crime.

29. In Bulgarian criminal law, there are two distinct forms of penal labour : *(a)* labour in combination with deprivation of liberty and *(b)* corrective labour without deprivation of liberty. These two forms of forced labour are examined below.

Work Imposed on Prisoners Serving a Sentence of Deprivation of Liberty.

30. According to the Penal Act, any person sentenced to be deprived of liberty has to perform " suitable work ". Under Article 23, " the serving of such a sentence [which, according to the same article, may be for from one day to 20 years] is accompanied by suitable work which is reckoned in reduction of the term of the sentence, two days' work being counted as three days' deprivation of liberty ". Many crimes defined in the Special Section of the Penal Act are punishable with deprivation of liberty, the convicted person performing suitable work, as required by Article 23.

Corrective Labour without Deprivation of Liberty.

31. Apart from the work which may be imposed on prisoners sentenced to be deprived of liberty, the Penal Act makes provision for a penalty of corrective labour inflicted on offenders who retain their freedom.

32. A punishment called " forced labour with a view to education for work " was first instituted by the Act of 7 April 1948 to amend and supplement the Penal Act and was intended as an alternative to detention or imprisonment. The second part of paragraph 2 added a new paragraph to the Penal Act in force at that time to read : " The court may, in lieu of detention or imprisonment, prescribe forced labour with a view to education for work ".

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[1] *Dŭrzhaven Vestnik*, No. 80, 7 Apr. 1948.

[2] Instances are to be found in the offences regarded as crimes against the People's Republic [as] treason, treason and espionage, wrecking, diversionary activities and sabotage, other crimes against the People's Republic, and crimes against another workers' State), crimes against the legislation concerning elections, crimes against social property, crimes against the people's economy, crimes against the system of administration, etc. For examples, see Articles 70, 71, 73, 79, 83, 85, 113, 121 and 122.

33. The Penal Act in force at present refers only to corrective labour without deprivation of liberty, *i.e.*, the penalty is not regarded as an alternative to any punishment whereby an offender is deprived of liberty. Under paragraph 1 of Article 24 of the new Penal Act, " the period of corrective labour may vary between one day and one year ".

According to the second or third paragraphs of Article 24—

> This penalty shall not involve deprivation of liberty but shall take the form of labour at the workplace of the condemned person or elsewhere. Where the court so orders, a proportion of his wages not exceeding 25 per cent. shall be deducted in favour of the State ; the time served shall not be credited to him for a retirement pension or, in general, for a period of labour training.
>
> If the guilty person is unfit for work, the court shall substitute deprivation of liberty for corrective labour, taking into account the scale set down in paragraph (ii) of Article 22. Should the condemned person refuse to work without a valid reason, corrective labour shall be replaced by deprivation of liberty for the same period.

34. Under the Penal Act, corrective labour may not only be an independent penalty, but may also be imposed by a court of law for a failure to pay fines. Article 27 of the Penal Act begins by stating that " a fine shall be commensurate with the convicted person's material situation ", and then goes on to state that " should it prove impossible to collect the fine imposed, it shall be replaced by corrective labour at the rate of one day's labour for every 250 levas of the fine up to a maximum of one year ".

35. Article 42 of the Penal Act states that preventive detention shall be deducted when carrying out a sentence which imposes deprivation of liberty or corrective labour.

36. The Special Section of the Penal Act makes provision, first, for offences for which corrective labour without deprivation of liberty is the only penalty for a given crime and, secondly, for offences for which it is only one of several penalties. In the latter case, the selection of the penalty is left to the discretion of the court. Provision is made in several Articles of the Penal Act for offenders to be sentenced to corrective labour, *e.g.*, Article 113 (insufficient care in the handling of goods affecting economic targets), where there is a choice between deprivation of liberty for not more than five years and corrective labour, Article 117 (failure to obey a legal injunction to carry out a task in connection with the Government's economic plans or projects), where there is a choice between corrective labour and a fine, Article 122, paragraph 2 (witting participation in a pseudo-co-operative undertaking), where there is a choice between deprivation of liberty for not more than two years and corrective labour, Article 208 (failure on the part of any person to give his real name, or the giving of a false name), where the sole penalty is corrective labour, and Article 210 (the propagation of abusive, slanderous or false statements likely to arouse distrust in the régime or to cause social disturbances), where there is a choice between deprivation of liberty for not more than two years and corrective labour.

37. The new Code of Criminal Procedure[1] published in 1952 gives details of the way in which the penalty of corrective labour is to be imposed. Article 267 lays down that " the procedure for the execution of sentences involving ... corrective labour without deprivation of liberty ... shall be laid down in a set of regulations to be drafted jointly by the Ministry of the Interior and the Prosecutor's Office,

[1] *Izvestia na Presidiuma na Narodnoto Sŭbranié*, No. 11, 5 Feb. 1952.

for subsequent approval by the Council of Ministers ". The Code also contains the following clauses dealing with the execution of corrective labour :

268. A sentence of corrective labour without deprivation of liberty shall be served either at the convicted person's workplace or in places specially provided for the purpose.

269. The court which originally pronounced the sentence shall also rule as to the substitution of corrective labour for a fine, deprivation of liberty for corrective labour or corrective labour in places specially provided for the purpose for corrective labour at the convicted person's workplace.

There is another reference to corrective labour in Article 345, which lays down the procedure to be followed in respect of rehabilitation. Listing the documents which have to be submitted in connection with an application for rehabilitation the Article lays down, in paragraph *(a)*, that the papers to be submitted by the applicant must include documents to prove that three years have elapsed since he served his sentence of corrective labour.

Administration of Prisons and Other Institutions.

38. The administration of prisons is the responsibility of the Ministry of the Interior, as may be seen from an Act to transfer prisons, corrective institutions and re-educational establishments from the Ministry of Justice to the Ministry of the Interior.[1] This Act stipulates that the administration, management and supervision of these institutions are the responsibility of the Minister of the Interior who perfoms these duties either personally or through his subordinate authorities.

Work Imposed by the Administrative Authorities

Labour and Education Communities.

Legislation passed in 1945.

39. Labour and education communities set up within State farms or undertakings were first instituted in Bulgaria by a Decree Law " concerning labour and education communities " and a Decree Law " concerning labour and education communities for persons who constitute a political danger ".[2] According to Article 1 of the first of these two texts, the following classes of persons were to be forcibly placed in one of these communities : " *(a)* persons convicted more than once of (non-political) offences under ordinary law, in so far as such persons constitute a threat to order and security within the country ; *(b)* prostitutes, procurers and pimps ; *(c)* blackmailers and gamblers ; and *(d)* beggars and idlers". Article 1 of the second text laid down that the persons liable to be " forcibly placed " in one of these communities were those who constituted " a danger to public order and security of the State ".

40. The labour and education communities, as instituted by these two Decree Laws, were supervised by the Minister of the Interior. The concluding Articles of both texts laid down that the Minister of the Interior was to be entrusted with their application. Under Article 6 of the first text, any decision to place a person in a community or to order his release was to be taken by the Director of the People's Militia. In the case of persons covered by Article 1 of the second text, such decisions were taken by the Minister of the Interior on the basis of a " report drawn up by

[1] *Dŭrzhaven Vestnik*, No. 48, 28 Feb. 1948.
[2] Both published in the *Dŭrzhaven Vestnik*, No. 15, 20 Jan. 1945.

the Director of the People's Militia after due investigation". Both Decree Laws stipulated that the reason for taking any such decision should be stated. Under the second paragraph of Article 7 of the former text and Article 3 of the latter, no term in one of these communities was to exceed six months unless prolonged by a new decision supported by a statement of reasons.

41. Article 2 of the first of these two texts indicated that the aim of the communities, was " to wean persons placed in them away from their criminal or immoral leanings or habits, to train them for honest labour and to rehabilitate them morally and intellectually ". The educational character of these communities was also referred to in Article 3, which mentioned the organisation under the guidance of specialised educators of work for the inmates, with stress laid on the principles of co-operation at work, self-supervision and emulation, profit-sharing for the workers and recognition for outstanding personal and occupational qualities. The Article also made provision for the organisation of " occupations aimed at educating and rehabilitating the inmates ", athletic activities, etc. Article 4 laid down that the authority in charge of each community was to provide employment for the inmates after their release.

Legislation passed in 1948.

*42. The two Decree Laws published on 20 January 1945, mentioned above, were repealed by Article 69 of the People's Militia Act.[1] This Act makes provision, though in a different form, for similar measures to those instituted by the legislation issued in 1945 and it retains the labour and education communities. Chapter VII, entitled " Measures of Supervision ", contains a section headed " Measures to be Taken against Socially Dangerous Persons ". Articles 52 to 54 read—

Article 52 : The People's Militia may arrest and send to labour and education communities or to new places of residence, persons guilty of fascist activities [*proiavi*] and activities directed against the people, persons who constitute a threat to public order and the security of the State or, finally, persons who spread pernicious and false rumours.

Article 53 : The People's Militia shall take similar action against—

(*a*) blackmailers, swindlers and habitual offenders ;

(*b*) procurers, pimps and other persons constituting a threat to public morals ;

(*c*) gamblers, beggars and other persons guilty of scandalous conduct ;

(*d*) speculators and black-marketeers.

Article 54 : Decisions to arrest persons such as those defined in Article 53 and to send them to labour and education communities or to assign them to a new place of residence shall be taken by the Minister of the Interior or by such persons as he may designate for that purpose. Decisions to arrest persons such as those defined in Article 52 shall be taken by the Minister of the Interior with the agreement of the Prosecutor-General of the People's Republic.

The term of detention in a labour and education community shall not exceed one year, unless prolonged by a new decision taken in accordance with the procedure described above.

The assignment of a new place of residence may be definitive or temporary.

Prisons and Education Communities Fund.

43. The financial organisation of the labour and education communities instituted by the two Decree Laws passed in 1945, mentioned above, was governed

[1] *Dŭrzhaven Vestnik*, No. 69, 25 Mar. 1948.

by a Decree Law to establish a labour and education communities fund under the aegis of the Ministry of the Interior.[1] The enforcement of this Decree Law was entrusted to the Minister of the Interior (Article 4) but certain financial and administrative details were made the joint responsibility of the Minister of the Interior and the Minister of Finance. The resources of the fund were to be derived—

(a) from the sale of the products of farms and workshops situated in labour and education communities;
(b) from payments made by the State or municipal institutions, whether independent or under public control, for the use of the labour of persons placed in the communities;
(c) from gifts and other sources.

44. This Decree Law was repealed in 1950 by the first paragraph of Article 5 of a Decree to combine the labour and education communities fund and the fund for the improvement of the state of prisons in Bulgaria.[2] The object of the new fund, known as the "Prisons and Education Communities Fund", is stated in Article 2, which reads as follows:

The purpose of the fund shall be—
(a) to make a rational use of the work of prisoners and persons placed in the communities. To this end, the fund shall establish its own workshops, farms and other economic undertakings;
(b) to contribute to the improvement of the living conditions and cultural level of prisoners and persons placed in the communities.

The Decree states that the fund is supervised by the Minister of the Interior but that its organisation, replenishment, utilisation and accounts are to be governed by the regulations issued by the Minister of the Interior with the agreement of the Minister of Finance. According to Article 4, the resources of the fund are to be drawn—

(a) from the income yielded by its own farms and undertakings;
(b) from wages paid in return for the work of prisoners and persons placed in communities;
(c) from gifts and other sources.

Mobilisation for Labour of Idlers, Persons who Constitute a Threat to Public Order and Morals, etc.

45. Under legislation passed in Bulgaria in 1946, certain citizens of either sex could be mobilised for labour if they lapsed into idleness or vagrancy or, more generally, were not engaged in any work of use to the community. This latter measure was introduced by an Act of 30 August 1946 concerning the mobilisation for labour of idlers and vagrants [3], which was later amended by a Decree of 9 May 1949 [4] altering the title of the 1946 text to read: "Act concerning Mobilisation for Labour". The Act as amended was subsequently repealed by a Decree of 5 October 1950.[5]

46. According to Article 1 of the Act of 1946, "all Bulgarian citizens of either sex who are fit for work and have completed 16 but have not yet attained 50 or

[1] *Dŭrzhaven Vestnik*, No. 267, 15 Nov. 1945.
[2] *Ibid.*, No. 47, 25 Feb. 1950.
[3] *Ibid.*, No. 198, 30 Aug. 1946.
[4] *Ibid.*, No. 104, 9 May 1949.
[5] *Ibid.*, No. 235, 5 Oct. 1950.

in the case of women, 45, years of age, and who have abandoned themselves to idleness or vagrancy, or spend a considerable part of their time in inns, cafés, bars, confectionery shops and similar establishments, shall be mobilised for compulsory labour for the benefit of the community". The 1949 amendment extended the scope of the initial Act; the wording was more general and it introduced the idea of "a threat to public order and morals". Article 1, as amended in 1949, laid down—

All Bulgarian citizens of either sex who are fit for work and have completed 16 but have not yet attained 50 or, in the case of women, 45, years of age, and who are not doing any work useful to the community or who, by their mode of life or behaviour, constitute a threat to public order and morals, shall be liable to mobilisation for labour.

47. Article 4 stipulated that the maximum period of mobilisation for labour was to be six months, though any person who, within six months of his or her release, had not taken up an occupation of use to the community might be remobilised. According to Article 7, mobilisation orders were to be issued by the Minister of the Interior or by a person appointed by him. A special committee designated by the Minister was empowered to issue rulings on appeals against mobilisation orders. The administrative authorities, the militia and the municipal councils in the villages were instructed in Article 7 to draw up lists of the persons liable for mobilisation and to submit these lists to the Minister of the Interior, "together with an individual report, accompanied by a statement of reasons, for each person". Under Article 3, persons mobilised had to be assigned to work of public interest. Unlike the two Decree Laws issued in 1945, the Act concerning mobilisation for labour made provision for penalties (Articles 11-14).

Mobilisation of Labour and Industry—Temporary Labour Service.

48. Article 2 of an Act of 1948 respecting the mobilisation of labour and industry [1] empowers the Council of Ministers to "direct individual persons or groups of citizens between the ages of 18 and 50 years to perform industrial or other work" and to "mobilise specialists over the age of 50 years". The last paragraph of the Article lays down that "subjects of foreign States may be mobilised if their place of residence is in this country". Under Article 4, persons so mobilised are to be remunerated, while Article 6 provides for penalties to be imposed on persons failing to report for work, abandoning their work wilfully or refusing to carry out the work entrusted to them.

49. In addition to this Act, the Committee had before it a number of legal texts requiring certain specialists to enter paid employment related to their specialised knowledge for a given period of time. These texts include : *(a)* an Act concerning the punishment of specialist workers evading employment in the mines [2]; *(b)* a Decree concerning the occupations and rights of public health workers [3]; and *(c)* an Ordinance to allocate and place young specialists graduating from higher educational establishments. [4]

50. Resolution 41 passed by the Council of Ministers on 6 April 1948 (Protocol No. 53) [5], refers to the mobilisation of construction workers for economic purposes.

[1] *Dŭrzhaven Vestnik*, No. 50, 2 Mar. 1948 ; I.L.O. : *Legislative Series*, 1948—Bul. 2.
[2] *Izvestia na Presidiuma na Narodnoto Sŭbranié*, No. 12, 9 Feb. 1951.
[3] *Ibid.*, No. 71, 4 Sep. 1951.
[4] *Ibid.*, No. 98, 7 Dec. 1951.
[5] *Dŭrzhaven Vestnik*, No. 88, 16 Apr. 1948.

Article 7 lays down that owners and managers of projects who violate the Law on Labour Standards, Output and Wage Scales and Ordinance No. 17 of the Labour Administration shall be assigned to forced labour, in accordance with the People's Militia Act, in labour and education communities.

51. A number of allegations have been made to the effect that Bulgaria's economic plans, and particularly its Five-Year Economic Plan, are intimately related with the practice of forced labour. Many of the provisions of an Act concerning the State Five-Year Economic Plan of the People's Republic of Bulgaria (1949-1953)[1] advocate an increase in the labour force. According to Section III, paragraph 2, the total number of workers and employees is due to reach 948,000 by 1953 and considerable increases are scheduled in the number of persons employed in every economic sphere. In industry, for example, there is due to be a 38.4 per cent. increase in the number of persons in employment in 1953 as compared with 1948, while a 57.3 per cent. increase is scheduled in the permanent staff in the building trades, a 28.2 per cent. increase among transport workers, a 52.1 per cent. increase in communications staff, etc. The same article lists a number of measures to be taken to increase the skill of workers and provide them with vocational training. As regards the implementation of the Plan, the Act lays down in Section IV that " the Council of Ministers shall secure the full co-operation of workers, peasant-workers, craftsmen and intellectuals of the people on the basis of shock work and socialist competition with a view to the implementation of the Plan ". The Council of Ministers is made responsible for the execution of the Plan, Section IV, paragraph 2 stipulating that " to ensure the Plan is implemented, the Council of Ministers may take decisions whose effect shall be generally binding ".

52. Until 1951, Bulgaria had a system of temporary labour service, instituted by an Act of 1948.[2] Under Article 1, all Bulgarians and foreign citizens resident in the country aged, in the case of men, between 18 and 45 and, in the case of women, between 18 and 40 years were liable to such service. Either five or ten days' work could be exacted every year, but exemption could be purchased for a certain sum of money (Articles 6-8). Such service was required for work of benefit to the locality (Articles 3 and 4) but could also be exacted in the event of a disaster for a maximum of five days a year (note on Article 5). The Act was abrogated by a Decree of 20 April 1951[3] which includes a clause dealing with the performance of certain work of benefit to the locality:

Article 2: It may be decided by a resolution adopted at a meeting of all the inhabitants of any locality that the members of the population shall perform voluntary work for a period not exceeding four days per year on the building of roads and drainage of canals and other improvements.

Assignment of a New Place of Residence

Politically Dangerous Persons.

53. The possibility of assigning persons to a new place of residence was first offered by a Decree Law of 1945 concerning labour and education communities for persons who constitute a political danger.[4] The persons covered by this legislation, *i.e.*, those who constituted " a danger to public order and the security of the State ".

[1] *Dŭrzhaven Vestnik*, No. 12, 18 Jan. 1949.
[2] *Ibid.*, No. 223, 23 Sep. 1948; I.L.O.: *Legislative Series*, 1948—Bul. 4.
[3] Decree abrogating the Act concerning temporary labour service, *Izvestia na Presidiuma na Narodnoto Sŭbranié*, No. 32, 20 Apr. 1951.
[4] See above, paragraph 39.

could, under Article 1, be required to reside at a specified place under the surveillance of the People's Militia. The procedure for assigning such persons to a new place of residence was the same as that followed in placing them in a special labour and education community.[1]

*54. The People's Militia Act of 25 March 1948, which abrogated the Decree Law mentioned above under paragraph 53 [2], authorises the Militia to assign certain persons to a new place of residence (Article 52) either definitively or temporarily (Article 54). Such action can be taken against persons liable to be placed in labour and education communities (defined in Article 52 as " persons guilty of fascist activities [*proiavi*] and activities directed against the people, persons who constitute a threat to public order and the security of the State or, finally, persons who spread pernicious and false rumours "). The decision to order such action is taken by the Minister of the Interior, with the agreement of the Prosecutor-General of the People's Republic (Article 54).

55. The People's Militia Act states in the second paragraph of Article 55 that—

Persons assigned to a new place of residence shall not be allowed to leave such place of residence without authorisation. If necessary, they may be required to report and register periodically at the local militia commissariat. Whenever persons so assigned have no means of subsistence and are unable to find employment themselves, the local militia commissariat shall take steps to find work for them.

Other Persons.

56. The People's Militia Act further states that a new place of residence, either temporary or definitive, may be assigned to the persons listed in Article 53, viz. :

(a) blackmailers, swindlers and habitual offenders ;
(b) procurers, pimps and other persons constituting a threat to public morals ;
(c) gamblers, beggars and other persons guilty of scandalous conduct ;
(d) speculators and black-marketeers.

Under Article 54, " decisions to arrest persons such as those defined in Article 53 and... to assign them to a new place of residence shall be taken by the Minister of the Interior or by such persons as he may designate for that purpose " ; such decisions do not require the approval of the Prosecutor-General.

57. Article 55 of the People's Militia Act quoted in paragraph 55 above, is also applicable to such persons.

Restrictions Imposed on Workers—Labour Reserves

*58. The new Labour Code introduced in Bulgaria in 1951 [3] imposes certain restrictions on the freedom of workers. Despite the principles laid down in Article 24, which stresses that an employer (*i.e.*, an undertaking, administration or organisation) may not change the workplace and type of work specified in a contract without the consent of the worker or employee concerned, the following restrictions are permitted :

(1) When the exigencies of production in the undertaking or the requirements of the administration or organisation make it necessary, a worker or employee may be

[1] See above, paragraph 40.
[2] See above, paragraph 42.
[3] *Izvestia na Presidiuma na Narodnoto Sãbranié*, No. 91, 13 Nov. 1951.

temporarily assigned to different work in the same or a different undertaking, administration or organisation in the same locality for a period not exceeding 45 days in a single year (Article 25, section 1).

(2) In the event of a stoppage of work, a worker or employee may be similarly assigned under the same conditions as in (1) for the duration of the stoppage (Article 25, section 1).

(3) When unavoidable circumstances make it necessary, a worker or employee may be ordered to do different work even though such work is not suited to his skill (Article 25, section 2).

(4) Skilled workers or employees in the categories named in an Ordinance of the Council of Ministers may be transferred to other work in the same or a different undertaking or moved to work in a different locality, even without their consent (Article 25, section 1).

(5) A worker or employee may be sent to another workplace if the exigencies of production in the undertaking or the requirements of the administration or organisation make it necessary (Article 26, section 2).

(6) Subject to an appeals procedure provided for in Article 29 *(i)*, a contract of employment may be terminated on the request of the local committee of the occupational union concerned.

In the event of a worker or employee refusing to be transferred, the employer may terminate the contract, with or without notice, depending on the circumstances (Articles 31 *(e)*, and 33 *(e)*).

*59. A Central Labour Reserve Department, set up within the Council of Ministers by an Ordinance of 3 March 1952[1], is to direct the training and allocation of young reserve workers, to systematise the recruitment of labour and to supervise and allocate manpower according to the needs of industry, transport and construction. Article 2 provides for various types of vocational schools, which are open, according to Article 3, to young persons aged between 14 and 17 or to young men and girls aged between 16 and 18 years, depending on the type of school. Under Article 4, "candidates for the labour reserve schools shall be found from voluntary applications or by planned recruitment from among young persons in the towns and country with the collaboration of the People's Councils of Workers' Deputies and the administrative services of the agricultural co-operatives". Under Article 5, persons who have finished their training in the labour reserve schools are required to work for four years in the branch of industry to which they have been sent.

Additional Material

Addition to Paragraph 25.

A new Act on the judicial system issued in November 1952[2] defines the task of justice in the following terms :

Article 1 : It shall be the task of justice in the People's Republic of Bulgaria to protect from every violation the popular-democratic social and public order established by the Constitution, the socialist economic system and socialist property. Justice shall protect the political, labour and other personal and property rights and legitimate

[1] Ordinance No. 199 issued by the Council of Ministers on 3 Mar. 1952 to set up a Central Labour Reserve Department (*Izvestia na Presidiuma na Narodnoto Sãbranié*, No. 34, 25 Apr. 1952).

[2] *Izvestia na Presidiuma na Narodnoto Sãbranié*, No. 92, 7 Nov. 1952.

interests of citizens, as well as the rights and legitimate interests of State institutions and undertakings and other public bodies.

.....

Article 3: In their activities, the courts shall ensure the accurate and uniform application of the law by all institutions, undertakings, public bodies, officials and private citizens, and shall educate citizens in a spirit of devotion to their country, of labour discipline, conscious obedience to the law and respect for the rules of the socialist community.

Addition to Paragraphs 42 and 54.

A reference to persons being assigned " to educational labour " and " to another place of residence " is to be found in an Act of February 1953 [1] to amend and supplement the Penal Act of 1951. The principal additions are two clauses (Articles 72 *(a)* and *(b)*) under which Bulgarian citizens are punishable as traitors if they are guilty of having left the country without permission or of not returning within the stipulated time after a legitimate stay abroad. In addition to deprivation of rights and confiscation of property, the second paragraph of Article 72 *(b)* institutes " administrative measures—assignment to educative labour or to a new place of residence ", to be taken against adult members of the traitor's family who were living with him or were dependent upon him.

Addition to Paragraphs 58 and 59.

An Act to stabilise manpower in undertakings and institutions was promulgated on 17 February 1953 [2], its aims being, according to Article 1, to strengthen labour discipline and thereby to contribute to the reinforcement of the nation's economic and defensive strength.

Article 2 prohibits workers and employees in State, co-operative and public undertakings and institutions from leaving their employment on their own initiative by their unilateral termination of a contract of employment concluded for an indefinite period. They are not allowed to leave unless they have obtained permission from the head of their undertaking or institution ; such permission must, however, be given in the various cases listed in Article 3. Under Article 4, persons contravening the ban imposed by Article 2 are liable to deprivation of liberty for from two to four months or to corrective labour for a period not exceeding one year, except where heavier penalties may be inflicted under other legislation. Article 5 lays down that the heads of undertakings and institutions are also liable to punishment if, either intentionally or through negligence, they fail to hand over an offender to the courts or engage a worker who has left his previous employment without permission and is evading the prosecution to which he is consequently liable.

Articles 6-8 are concerned with the pupils of labour reserve schools. Under Article 6, pupils who leave these schools without permission or are expelled for committing flagrant and systematic breaches of their discipline are liable to be detained in a " labour colony " for a period not exceeding one year. Article 7 provides that, on completing their studies, pupils shall accept the employment to which they are assigned in a specified locality and shall remain there for the period stipulated by the Council of Ministers ; otherwise, under Article 8, they are liable to the penalties laid down in Article 268 of the Penal Act, *i.e.*, deprivation of liberty for a period not exceeding three years or corrective labour.

Article 9 provides that persons contravening the Act shall be judged by people's courts using the rules of the accelerated system of procedure.

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[1] *Izvestia na Presidiuma na Narodnoto Sãbranié*, No. 13, 13 Feb. 1953.
[2] *Ibid.*, No. 14, 17 Feb. 1953.

CZECHOSLOVAKIA

Summary of Allegations, of Replies to Allegations and of the Material Available to the Committee

I. Allegations

1. Allegations relating to Czechoslovakia were made—

(1) In the course of the debates in the Economic and Social Council by the representatives of the *United Kingdom* and by the representative of the *United States of America*.

(2) By the *Government of the United Kingdom*, in an Annex attached to the note submitted to the Secretary-General of the United Nations on 22 June 1951 in reply to his note SOA. 317/8/03 of 18 May 1951 regarding the establishment of the *Ad Hoc* Committee on Forced Labour.[1]

(3) In memoranda, to some of which were attached legal texts and various reports and pamphlets on the situation in Czechoslovakia, submitted to the Committee by the following non-governmental organisations: the *International Confederation of Free Trade Unions*, the *International Federation of Free Journalists*, the *International League for the Rights of Man*, the *Christian Democratic Union of Central Europe*, the *Council of Free Czechoslovakia*, and the *National Committee for a Free Europe*.

(4) In oral statements before the Committee by the representative of the *Council of Free Czechoslovakia*, by the representative of the *International Federation of Free Journalists* and by a member of the *National Committee for a Free Europe* appearing in his personal capacity.

(5) In the oral testimony of a witness associated with the *Council of Free Czechoslovakia*, heard by the Committee at its Second Session.

2. These allegations referred to—

(a) the existence, *de facto* and *de jure*, of a system of forced labour employed both as a means of political coercion and as a means of fulfilment of the country's economic plans;

(b) the judicial or administrative procedure whereby forced labour is imposed;

(c) the deportation of Czechoslovak citizens to the Soviet Union or their transfer from one area to another inside Czechoslovakia for compulsory labour;

(d) the location of forced labour camps, the number of their inmates, and their conditions of work.

These allegations, grouped according to the subjects to which they refer, are summarised below.

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[1] See United Nations document E/AC. 36/4.

Existence, Aspects and Purposes of Forced Labour

3. The allegations in this connection made by one of the representatives of the *United Kingdom* to the Economic and Social Council were as follows :

In Czechoslovakia, no attempt was being made to disguise the fact that forced labour camps existed. Mr. Mayhew called the attention of the Council to Law 247 of 25 October 1948. Article 1, Section 3, of that Law stated that prisoners were employed in the national interest in fulfilment of the economic plan. Article 2, Section 1, stated that the prisoners were between 18 and 60 years of age and included persons who " menace the structure of the people's democratic order ". Article 3, Section 2, stated that, officially, sentences varied from three months to two years. Article 5 specified that the execution of the sentence could not be delayed. Finally, Article 6 provided that the sentence could be shortened or prolonged at the suggestion of the camp administration. Before the adoption of that Law, some 170,000 Sudetens who had remained in Czechoslovakia had been sent to forced labour, mainly in the eastern part of the country. Some had been deported to Russia.[1]

4. The allegations made by another representative of the *United Kingdom*, in two statements, were as follows :

Perhaps Czechoslovakia was the most painful example of a country to which the system of forced labour had spread. The introduction of the five-year plan for that country in October 1948 had been accompanied by the promulgation of Law 247 concerning forced labour camps. The authors of that Law had made no attempt to disguise such camps as educational institutions. Possibly the Czechoslovak forced labour camps were the least inhumane of such communist institutions, but they constituted a wholesale violation of human rights. The Law contained no provisions for a trial of any sort. Section 2 of the Law began with the words : " To the camp shall be sent : *(a)* Persons who have reached the age of 18 and are not older than 60 and are physically and mentally fit but shirk work or menace the structure of the people's democratic order or national economy ... ; Section 3 with the words : " A commission of three, whose members and deputies shall be nominated by the regional national committees, shall decide upon sending persons to a camp, upon the duration of their term, etc.... " ; and in Section 5 it was simply stated that : " An appeal lodged against a decision under Section 3 has no delaying effect ". There was no suggestion in the Law that those condemned to forced labour should have legal advice or be heard in their own defence. Probably the first time they heard of the charge against them was when the police came to their house in the middle of the night and removed them to the camp. The United Kingdom delegation had circulated to delegations a specimen decree of the type issued through the security police, although paragraph 24 of the regulations showed that an arrest could be made in anticipation of the issue of a decree. It was true that the victim had the theoretical right to appeal against the arbitrary decision of the commission, but in the meantime he would be subjected to forced labour and his business might be taken over and his wife and family turned out of their house. The Law amounted to sheer terrorism and political oppression.[2]

The United Kingdom's concern regarding forced labour in Czechoslovakia had nothing to do with the nationalisation of Czechoslovak industry ; its concern had been aroused by Law No. 247 promulgated in Czechoslovakia on 25 October 1948, regarding the organisation of forced labour camps. Since the United Kingdom was opposed to forced labour, it had concluded that there was a case for investigation by the United Nations. While he would not enter into a discussion of political systems, he wished to make it clear that the United Kingdom had not associated itself with the United

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 112.

[2] *Idem*, 11th Session, 413th meeting : *Official Records*, paragraph 21.

States in the matter of forced labour on account of any similarity in their economic systems, but because both Governments were alarmed at the spread of forced labour in the countries dominated by the Soviet Union.[1]

5. The United Kingdom Government's Annex to their note submitted on 22 June 1951 [2] contained, in regard to Czechoslovakia, the following passage:

His Majesty's Government and the people of the United Kingdom continue to regard with the gravest concern the system of forced and underpaid labour employed in the U.S.S.R. and now being introduced into Soviet-dominated States of Eastern Europe. ...

His Majesty's Government are of the opinion that a proper examination of this question ... requires consideration of the hard evidence available, and in particular the legislation pertaining to forced labour which is now in force in certain countries. Additional information on Soviet forced labour policy has accordingly been selected by His Majesty's Government from published sources and official documents of the U.S.S.R. and the Soviet-dominated Czechoslovak Government.[3]

6. The allegations made by the representative of the *United States of America* to the Economic and Social Council in two statements were as follows:

On 24 March 1949, the following passages, which had not been denied by the Czechoslovak authorities, had appeared in the *New York Times*:

> He [the Czechoslovak Minister of the Interior] said he would need 10,637,952,000 crowns (212,759,040 dollars) this year compared with 3,879,983,000 crowns (77,597,860 dollars) in 1949. Expenditures for internal security will exceed those for national defence by more than 1,000,000,000 crowns.
>
> The Interior Ministry's own income [he observed significantly] will increase by about one-third over last year's, thanks to increased revenues from the forced labour camps as well as from the *Official Gazette* and the sale of pamphlets.

He [the representative] did not suppose that the revenue from the sale of the *Official Gazette* and the pamphlets was very large. The information showed that forced labour had become an integral part of the Czechoslovak economy, as it was of the economy of the U.S.S.R. and other communist countries. On 11 August 1950, the information agency Reuter had despatched from Prague the following message: "The Czechoslovak Government today announced the setting up of labour camps where security offenders could be sent for periods of up to two years". That announcement was a clear admission by the Czechoslovak Government that it was its policy to send security offenders to labour camps.[4]

In Czechoslovakia conditions were again similar, although there the laws spoke openly of forced labour camps and did not use vague euphemistic terms to cloak the real nature of the camps. As in Bulgaria, the offences for which a person could be condemned to forced labour were drafted in very broad terms, the camps were under the authority of the Ministry of the Interior and people were condemned through administrative procedures. Under the new penal laws adopted on 12 July 1950, the authority to punish certain very broadly defined offences was conferred entirely upon the people's committees, which were purely political bodies, and it was not even required to grant the accused hearing.[5]

7. In an oral statement made before the Committee, the representative of the *Council of Free Czechoslovakia* asserted that the forced labour system served two

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 474th meeting: *Official Records*, paragraph 38.

[2] See above, paragraph 1 (2).

[3] To this Annex were attached extracts from Law No. 247 of 25 Oct. 1948 and regulations concerning forced labour camps.

[4] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting: *Official Records*, paragraphs 26-27.

[5] *Idem*, 12th Session, 470th meeting: *Official Records*, paragraph 12.

purposes, one economic—to supply cheap labour, and the other political—to eliminate all opposition to the communist régime. He alleged that the policy followed was " neither completely economic nor completely political : it is something between ". He continued—

We call it forced labour and they call it re-education. All the forced labour camps, from their point of view, are for re-education purposes. ... The kind of life that is led with the work [exacted from the forced labourers] is considered an education in itself, which will correct their previous wrong political opinions. That is the theory. ... Yet, from the practice and the situation in the camps, that is not re-education but camouflage. ... It is on the basis of suspicion, political unreliability that people are assigned to forced labour.

Quoting from the Czechoslovak Constitution of May 1948, and from the laws promulgated during 1951 concerning labour reserves, he concluded that " the rest of the working population cannot be said to be free in any sense of the word. The country is one large forced labour camp."

8. In his memorandum dated May 1952, the representative explained that he used the term " forced labour " in the sense in which it was defined in the Forced Labour Convention (No. 29) adopted on 28 June 1930 by the International Labour Conference in Geneva, *i.e.*, " 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 ". He added that, on the basis of this definition, " it is clear that there is no longer any voluntary labour in Czechoslovakia. Only the degrees of coercion vary."

All the attributes that distinguished a wage earner as a voluntary worker from a slave or serf are now abolished. It is impossible to draw a sharp line between them. It is impossible to enumerate and classify all the shades of difference between the two poles.

The representative further alleged that in Czechoslovakia today there were three fundamental types of forced labour, distinguishable according to the degree of compulsion—

(1) Forced labour in the technical sense of the word, imposed on an individual " because the authorities consider it right for him ".

(2) Forced labour exacted from so-called " military brigades ", that is, from soldiers assigned to work in mines or elsewhere.

(3) Forced labour as a " measure of redress ", a punishment imposed by the decision of a court. In this connection he referred to the Penal Code of 1950 (Act No. 86)—

... Under Articles 37 and 38 of the Penal Code of 1950 ... the court can sentence the guilty person ... to a measure of redress for the duration of one to six months. ... The measure of redress is carried out without confinement. It obliges the guilty person, during the prescribed period of time, to work where he has been assigned, for a reduced remuneration and without the benefit of certain advantages that accrue from the job.

9. In his oral statement before the Committee the member of the *National Committee for a Free Europe*, appearing in his personal capacity, commented on Decree No. 88 respecting general compulsory labour service, promulgated on 1 October 1945, and also on various laws concerning compulsory or forced labour promulgated since February 1948. He asserted that the difference between the

form of forced labour imposed after February 1948 and the form of forced labour required under the Decree of 1945 was as follows :

The Decree of 1945 was conceived as an emergency measure in order to enable the upbuilding of the country which had been partly devastated by war and the occupation. ... The Decree enabled the Labour Departments ... to assign men between the ages of 16 and 55 years and women between the ages of 18 and 45 years to a work the immediate carrying out of which was rendered necessary by important public interests. ... It was for a limited period of one year ...

Since then, of course, the economic situation has changed very much and Czechoslovakia has become a planned economy under a five-year plan. ... On 29 June 1951 the Cabinet decided that 77,500 workers in administrative employment ... and commercial undertakings would be transferred to the mines and heavy industry. ... The 77,500 were mostly selected from groups of so-called unreliables, people who had political affiliations with former so-called bourgeois parties or people who were of bourgeois descent and therefore unreliable.

10. In its memorandum of 28 May 1952, the *Christian Democratic Union of Central Europe* offered, as evidence of the existence of forced labour in Czechoslovakia, a short survey of Decree No. 88 of 1 October 1945, and Acts Nos. 175 of 21 July 1948, 247 of 25 October 1948 and 86 of 12 July 1950.

Since 1952, it is alleged in this memorandum, a reorganisation of the system of forced labour camps has been noticeable ; some of the larger camps have been abolished and several small ones have been set up in industrial and mining districts.

11. The *International Confederation of Free Trade Unions* submitted to the Committee a map of camps in Czechoslovakia and the texts of Decree No. 88 of 1 October 1945 respecting general compulsory labour service and of Act No. 14 of 16 March 1946 respecting the united trade unions.

12. In its " Summary Report on Forced Labour in Czechoslovakia ", the *International League for the Rights of Man*, dealing with the origins of the labour camps system in Czechoslovakia, stated that the first legal provision concerning compulsory labour was Decree No. 88 of 1 October 1945.

The Decree was enacted upon suggestion of the Communist Minister of Labour and Social Welfare at that time, Dr. Josef Soltesz ... [It] was ... signed by President Benès and it was considered to be an emergency measure ... [to end] within two years after the end of hostilities, at the latest. However, it remained in force until ... February 1948 ... and largely enabled the new ... Government to send a number of persons labelled as being " unreliable " elements right away into the labour camps. The new régime promptly amended ... the Decree, extending the period for which a person may be assigned to compulsory work from 18 months to two years. ... This amended Decree now offers a legal basis for the labour assignments which have become a daily reality of the country's life and which affect the lives and liberty of thousands of its inhabitants.

The report also enumerates various laws, decrees and regulations enacted in Czechoslovakia since the new Government was set up in Prague, " most of them closely following the corresponding Soviet legislation ".

13. In a memorandum dated 5 November 1952 submitted by the *International League for the Rights of Man*, it is asserted that " the official attitude towards the problem of manpower in 1946 may be seen in the words of Dr. Josef Sliz, a leading officer of the Ministry of Social Welfare, in a study ... published in *Socialni Revue*, pages 346-350 ". The following passage from this study is quoted in the memorandum.

Labour direction as a planned national economic system will bring many new problems concerning the developments of a socialist order, problems of personal freedom

the individual's relations to the community and his share in the work of the community. One of the important questions is the extent to which the State can interfere with the life of the individual. This cannot be solved merely on political or legal grounds. The new direction of labour may restrict the freedom of the citizen only if this is in agreement with the demands of planned national economy, the success of which determines fundamentally the living standard of the community.

The memorandum further states—

In the case of Czechoslovakia, it is ... possible to demonstrate the relationship between the location of forced labour camps and the planned economic development of the country.

The areas of the country which have strategic importance for industry are: Joachimsthal, with its uranium deposits; Falknov, which also has uranium as well as coal deposits; Pilsen, Prague, Pardubice and Ostrava, centres of metallurgical industry; Handlova, the location of coal deposits and the Budweis area which contains lignite deposits; Brno, the location of the armament industry; Kladno and Huko, which contain coal and steel mills.

14. In his oral statement made before the Committee during its Third Session, a representative of the *International Federation of Free Journalists* alleged that the system of forced labour in Czechoslovakia played an important part in the national economy and particularly in the rearmament programme.

The large uranium mines ... had been worked [before February 1948] by prisoners of war and criminals. After February 1948 prisoners of war had gradually been replaced by persons sentenced for political crimes or by politically unreliable elements serving administrative sentences of forced labour for purposes of re-education ....

Persons sentenced to forced labour fell into four categories : former owners of industrial firms, businesses, agricultural and other enterprises ; State and other public employees branded as disloyal or politically unreliable ; politically unreliable workers and the descendants of the first two categories.

Referring to forced labour performed by the " military battalions ", he said that before 1948, owing to the shortage of manpower, soldiers had been drafted into the mines for limited periods.

[After February 1948] a purge took place in the army and elements regarded as unreliable were sent to work in the mines. At the present moment conscripts were screened when called up and those whose loyalty to the régime was suspect were drafted into the Technical Aid Battalion for forced labour in the mines or the construction of military installations. They were better treated than other forced labour convicts as they were given more or less the same food as ordinary soldiers and their period of service was 18 months. Prisoners in forced labour camps, on the other hand, never knew when they would be liberated and the heads of camps were now empowered to extend sentences.

Procedure whereby Forced Labour is Imposed

15. In this connection, allegations were made by the representative of the *United Kingdom* in his statement before the Economic and Social Council. He asserted that Law No. 247 of 1948, listing the different categories of persons to be interned in forced labour camps, contained no provisions for a trial of any sort, that the power to decide upon sending persons to a camp, upon the duration of their term, etc., was vested in a commission of three whose members were nominated by the regional national committees, and that there was no suggestion in the Law

that those condemned to forced labour should have legal advice or be heard in their own defence.[1]

16. In his statement before the Economic and Social Council, the representative of the *United States of America* also alleged that people were condemned to forced labour through administrative procedures and that, under the new penal laws adopted on 12 July 1950, the authority to punish certain very broadly defined offences was conferred entirely upon the people's committees, which were purely political bodies.[2]

17. In his oral statement made before the Committee, the representative of the *Council of Free Czechoslovakia* asserted that the overwhelming majority of persons in forced labour camps had been sent there by an administrative commission—

People were assigned to the labour camps without any hearing and without any public decision. They were in the camps, and only after that, in many instances, were they informed that they had been sent there for political reasons.

18. In his oral statement made before the Committee the member of the *National Committee for a Free Europe*, appearing in his personal capacity, affirmed that—

The overwhelming majority of those in forced labour camps go through administrative procedure. Three-man commissions at the regional national committee level decide that somebody was to be put into a forced labour camp and he was not heard before. ...

Political crimes are tried according to the Penal Code by a special court which is called a State court. This court, established in 1948, has three professional judges and two laymen. The accused gets a lawyer, but the possibilities of the lawyer are very restricted because he is expected not only to defend the accused, but also to protect the interests of the people's democracy.

19. In its "Summary Report on Forced Labour in Czechoslovakia", the *International League for the Rights of Man* referred to Law No. 247 of 25 October 1948, under which, it alleged, "any person between 18 and 60 years of age who according to the decision of a three-man commission appointed by the local administration, appears to be 'a threat to the establishment of the people's democratic order or to economic life' may, without being heard, be assigned to hard labour for a period of between three months and two years (Section 3 *(a)*). An appeal against such decision does not suspend the transfer of the person into a camp (Section 5). The commission is also entitled, after the release of the detainee, to deprive him of the right to take up residence in certain localities (Section 4)."

20. The witness associated with the *Council of Free Czechoslovakia* described the conditions in which he was arrested in Prague in 1949, tried and sent to a labour camp.

In any democratic country, if you are arrested, it is a custom to permit you to ask for a lawyer to defend you ... to get you bail and to help you [before the trial]. ... I waited for two months. ... We [he and 15 other accused prisoners] got one lawyer the day before the trial. ... In Prague there are only 36 lawyers who are allowed to defend before the State court ... all fanatical communists. ... The trial was secret. ... They told me that I was branded as an anti-communist ....

I was sentenced to ten months of so-called hard gaol ... [two months later] we were chained together, four and four, put into trucks. ... In the afternoon we found

[1] For a fuller text of this statement, see above, paragraph 4.
[2] For a fuller text of this statement, see above, paragraph 6.

ourselves in the Camp B ... near C. .... The camp was made for about 800 prisoners. .... You had to do the norm [of work which was assigned for the day]. .... This was impossible ....

Deportation of Czechoslovak Citizens

21. Allegations concerning the deportation of Czechoslovak citizens to the Soviet Union were made by the *International League for the Rights of Man* in its " Summary Report on Forced Labour in Czechoslovakia ". It asserted that the deportations began in 1945 and were carried out directly by the Soviet People's Commissariat for Internal Affairs (N.K.V.D.). The report states—

... In the liberated eastern parts of Czechoslovakia, deportation of thousands into similar [nazi] camps of horror was already well under way [in April and May 1945]....

As it is presently known on the basis of various witnesses' reports, the total of some estimated 20,000 persons of Czechoslovak nationality were deported by the N.K.V.D. to the Soviet Union in 1945.

The following extract is taken from one of the " witnesses' reports " referred to in the above passage :

Mr. " S. " ... was arrested in Presov and in March 1945, in a single transport of 2,500 Czechoslovak citizens, escorted to the Soviet Union. Mr. S. ... and most of the deported worked in the Donbass coal basin [Ukraine]. .... In 1947, a number of prisoners, among them Mr. S., were brought to Siberia (camp Morchansk). After three-and-a-half years of imprisonment in various forced labour camps, Mr. S. together with 30 of his fellow inmates were released and ... permitted to return to their country.

22. In his oral statement before the Committee, the representative of the *Council of Free Czechoslovakia* made the following allegations in this connection :

In 1945 about 20,000 people were shipped to the Soviet Union as the Red Army moved west. Those who were denounced by local communists as dangerous were shipped east. In 1947 we succeeded in getting back 5,000 of these people—the rest of them disappeared.

23. On the same question of the deportation of Czechoslovak citizens to the Soviet Union or their transfer from one area to another inside Czechoslovakia for compulsory labour, the following passage of the statement made in the Economic and Social Council by the representative of the *United Kingdom* might again be recalled :

Before the adoption of that Law [No. 247 of 25 October 1948] some 170,000 Sudetens who had remained in Czechoslovakia had been sent to forced labour, mainly in the eastern part of the country. Some had been deported to Russia.[1]

Forced Labour Camps

24. In a memorandum entitled " Slave Labour in Czechoslovakia " submitted by the *International Federation of Free Journalists*, it is alleged that " camps for forced labour were set up in the vicinity of the main mining and industrial centres of Czechoslovakia ". The memorandum states—

One of the largest concentrations of forced labour camps is in the region of the uranium mines near Jachymov, Western Bohemia.

[1] For a fuller text of this statement, see above, paragraph 3.

The Jachymov region contains various camps lying to the north of Ostrov, near the Karlovy Vary-Jachymov highway, and in Vykmanov. ... There are altogether about 65 individual camps accommodating some 25,000 prisoners ....

Another region of forced labour camps attached to uranium mines is in the vicinity of Pribram, in Central Bohemia, south of Prague ....

Among scores of other forced labour camps, these are the names of the worst: Svaty Jan Pod Skalou ..., Central Bohemia—work in quarries; Krivoklat, Central Bohemia—work in quarries; Kutna Hora, east of Prague—work on a State farm; Budejavice, Southern Bohemia—construction of a large military airfield; Pardubice, Eastern Bohemia—production of explosives ....

The memorandum states that it is not possible to assess exactly the number of persons directed to forced labour camps. It adds—

From the reports of refugees who passed through some of these camps we may however safely estimate the present number of inmates as approximately 240,000 people, both men and women. About 80 per cent. of them are political prisoners sentenced by administrative organs (national committees), about 12 per cent. are political prisoners sentenced by State courts ... and the rest are common criminals serving their sentences in forced labour camps.

The following passages of the memorandum relate to working conditions in the camps:

The prisoners in forced labour camps are made to work on jobs particularly dangerous to their lives or health. Prisoners working in uranium mines are exposed to continuous emanation of radio-active rays causing serious internal diseases, and after a few years uninterrupted work comes certain death. Whilst ordinary workers in the uranium mines receive special food and additional milk, the prisoners have to live on ordinary malnutritive prison food. ...

The working time is seldom shorter than 10 hours a day. ... Cases of prisoners being beaten up by guards are reported from every camp. ...

25. In the memorandum submitted by the *International League for the Rights of Man* it is alleged that the total figure of persons held in labour camps in Czechoslovakia was estimated to be approximately 350,000 at the end of November 1951.

Most of the camps are situated in or near industrial and mining centres. It seems to be beyond doubt that economic reasons determine the extent and the use of slave labour.

An Appendix to the memorandum contains a detailed list of forced labour camps in which Czechoslovak citizens are allegedly interned.

26. In its memorandum dated May 1952, the *Council of Free Czechoslovakia* asserts that, " at the end of August 1951, information from many sources, including statements from persons who had escaped from Czechoslovakia and from forced labour camps, listed 87 [camps] of varying character ... in which some 220,000 persons were imprisoned and forced to work ".

The memorandum adds, however—

By 15 March 1952, not only had the number of forced labour camps increased from 87 to 247, and prisoners and detainees from 220,000 to some 350,000, but the system of forced labour was enlarged altogether, especially through the military forced labour companies labelled " technical aid battalions ".

This memorandum also contains a description of allegedly harsh conditions in the camps and of the severe treatment to which the inmates are alleged to be subjected. It also gives a list of camps.

27. The *International Federation of Free Journalists* also submitted to the Committee a list of forced labour camps allegedly located in Czechoslovakia.

II. Replies to the Committee's Questionnaire and to Allegations

28. In a reply[1] to the Committee's questionnaire, the Permanent Delegation of Czechoslovakia to the United Nations stated—

The Government of Czechoslovakia is of the opinion that the *Ad Hoc* Committee on Forced Labour has been established for the purpose of spreading slander against Czechoslovakia and other countries which abolished exploitation of man by man and where work became really free. The *Ad Hoc* Committee, its composition, its arbitrary determination of the terms of reference and the questionnaire itself are an obvious proof of the fact that the object of this entire action is to interfere into the internal affairs of other countries, thus constituting a gross violation of the Charter of the United Nations.

Therefore the Government of Czechoslovakia rejects this questionnaire as illegal. It aims at the spreading of a slander and interference into internal affairs of other countries and is contrary to the obligation of the Member States of the United Nations the purpose of which is to develop friendly relations among nations.

29. In the course of the debates in the Economic and Social Council the representative of Czechoslovakia made a statement in which he criticised the economic and social systems prevailing in capitalist countries and vindicated labour practices in the U.S.S.R. and the people's democracies.

The parts of this statement referring specifically to the situation in Czechoslovakia are as follows :

... after the people of Czechoslovakia had decisively rejected the capitalist economic and social system ... there had been a startling change in the position of the working classes in Czechoslovakia ....

He then turned to the question of labour practices in the U.S.S.R. and the people's democracies. The workers of those countries ... had acquired a new freedom and were able to raise the standard of living of the nation as a whole, instead of working for the benefit of a few individuals ....

He quoted ... a statement by President Gottwald showing the increase in the industrial output to Czechoslovakia since the overthrow of the capitalist system. Under the capitalist system the country's policies had been determined in part by foreign investors and domestic trusts, and its independence had accordingly been limited. All that had been changed. ...[2]

III. Material Available to the Committee

30. The official Czechoslovak documents summarised below include the legal and other texts submitted to the Committee by the United Kingdom Government[3] and various non-governmental organisations[4] as well as the documents assembled by the Committee itself.

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[1] United Nations document E/AC. 36/11.

[2] United Nations, Economic and Social Council, 12th Session, 472nd meeting : *Official Records*, paragraphs 15, 16, 23, 24.

[3] See above, paragraph 5.

[4] See above, paragraph 1 (3).

The texts in question are—

(a) Act No. 86 of 12 July 1950 (the Penal Code)[1];

(b) Explanatory memorandum on Act No. 86 of 12 July 1950[2];

(c) Act No. 87 of 12 July 1950 (the Code of Judicial Criminal Procedure);

(d) Explanatory memorandum on Act No. 87 of 12 July 1950[3];

(e) Act No. 88 of 12 July 1950 (the Administrative Penal Code)[4];

(f) Explanatory memorandum on Act No. 88 of 12 July 1950[5];

(g) Act No. 89 of 12 July 1950 (the Code of Administrative Criminal Procedure)[4];

(h) Explanatory memorandum on Act No. 89 of 12 July 1950[6];

(i) Ordinance No. 105 issued by the Slovak National Council on 23 August 1945[7];

(j) Executive Order No. 89, dated 14 June 1946[8];

(k) Decree No. 88 respecting general compulsory labour service, issued by the President of the Republic on 1 October 1945[9];

(l) Act No. 247 of 25 October 1948 concerning forced labour camps[10];

(m) Explanatory memorandum on Act No. 247 dated 25 October 1948[11];

(n) Act No. 114 of 20 December 1951 concerning the profession of advocate[12];

(o) Explanatory memorandum on Act No. 114 of 20 December 1951[13];

(p) Act No. 241 of 27 October 1948 concerning the first Five-Year Economic Plan for the development of the Czechoslovak Republic[14];

(q) Act No. 110 of 19 December 1951 concerning national labour reserves[15];

(r) Decree No. 128 of 27 December 1951 concerning the organisation of labour recruitment[16];

(s) Speech by the Prime Minister, Mr. Antonin Zapotocky, on the draft of the first Five-Year Economic Plan for the development of the Czechoslovak Republic, made at a plenary session of the National Assembly on 7 October 1948.[17]

31. This material relates to the following points:

(1) The aim of penal law.

(2) Penalties and their execution.

(3) Forced labour imposed: *(a)* on persons under sentence of deprivation of liberty; *(b)* on persons after the completion of their terms of deprivation

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[1] *Sbírka zákonů republiky Československé*, No. 39, 18 July 1950.
[2] *Národní shromáždění republiky Československé*, 1950, No. 472, 23 May 1950, pp. 99 *et seq.*
[3] *Ibid.*, 1950, No. 486, pp. 91 *et seq.*
[4] *Sbírka zákonů republiky Československé*, No. 40, 18 July.
[5] *Národní shromáždění republiky Československé*, 1950, No. 471, 23 May 1950, pp. 45 *et seq.*
[6] *Ibid.*, 1950, No. 484, pp. 29 *et seq.*
[7] *Sbierka nariadení Slovenskej národnej rady*, 1945, pp. 163-165.
[8] *Ibid.*, 1946, pp. 127-136.
[9] *Sbírka zákonů republiky Československé*, No. 40, 17 Oct. 1945, pp. 157-161; I.L.O.: *Legislative Series*, 1945—Cz. 2.
[10] *Sbírka zákonů republiky Československé*, No. 93, 17 Nov. 1948.
[11] *Národní shromáždění republiky Československé*, 1948, No. 109, pp. 4-5.
[12] *Sbírka zákonů republiky Československé*, No. 52, 28 Dec. 1951.
[13] *Národní shromáždění republiky Československé*, 1951, No. 595, pp. 7-12.
[14] *Sbírka zákonů republiky Československé*, No. 90, 2 Nov. 1948.
[15] *Ibid.*, No. 51, 27 Dec. 1951.
[16] *Ibid.*, No. 56, 31 Dec. 1951.
[17] CZECHOSLOVAKIA, Ministry of Information and Public Culture: *The First Czechoslovak Economic Five-Year Plan* (Prague, 1948), pp. 7-22.

liberty ; *(c)* on persons not sentenced to deprivation of liberty ; *(d)* by administrative procedure.

(4) The rights of the defence.

(5) Labour reserves and restrictions on the freedom of employment.

These points are examined below.

The Aim of Penal Law

* 32. Section 1 of Act No. 86 of 1950 (the Penal Code) states—

The Penal Code protects the People's Democratic Republic, its socialist construction, the interests of the working people and of the individual ; it also teaches observance of the rules of socialist communal life. In order to achieve these ends, it uses the threat of punishment, the imposition and execution thereof, and protective measures.

Section 17 states that the purposes of penalties are—

(a) to render enemies of the working people harmless ;

(b) to prevent offenders from committing further offences and to teach them to observe the rules of socialist communal life ;

(c) to exercise an educational influence on other members of society.

The explanatory memorandum on the Penal Code comments on this point at length. It states—

The Penal Code not only protects the revolutionary achievements of our workers against members of the exploiting classes now deprived of their political power. It is also directed against greed, a lax attitude towards work ... as well as the vestiges of capitalist ideas in people's minds. ...

The new Code is imbued with the spirit of socialist humanism. Hence the stress it lays on the educational purpose of penal sanctions. ... But precisely for this reason it also falls with the utmost severity on those who are incorrigible enemies of the people and the nation. ...

Legal precepts express the will of the ruling class and protect and reinforce its economic and political privileges.

But if it is true that every legal precept is an effective weapon of the ruling class in its struggle to reinforce and strengthen its power, how much more is it true that every penal law reflects, directly and with little concealment, the class character of the State. ...

[The new Penal Code] removes petty offences from the purview of the courts and leaves them to be dealt with by administrative penal law. ...

The period of people's democracy involves a particularly acute struggle against the vestiges of capitalist society. ... The new Penal Code expresses the political will of the working masses, it expresses a new, socialist, legal order. ... Its punitive provisions are aimed at those remnants of capitalist society which try to prevent the socialist construction of the People's Democratic State. ...

Commenting more particularly on Section 1, the explanatory memorandum states—

Section 1 of the draft enumerates the social institutions and interests protected by penal law. These are, more particularly, the People's Democratic Republic, its socialist construction and the interests of the working people. ...

However, the purpose of the Penal Code ... is not only to punish those who by their acts injure or endanger the legal order of the people's democracy ; it also endeavours to educate citizens in observing the rules of socialist society. ...

* 33. Act No. 87 of 1950 (the Code of Judicial Criminal Procedure) provi in Section 1, subsection 2, that " Proceedings must be so conducted as to tea the citizens to be on guard against the enemies of the working people and oth who disturb their constructive efforts, and to discharge their civic duties ".

The explanatory memorandum on this Act also states that its purpose is enable the courts " to teach the workers to be on guard against their enemies ".

Commenting on Sections 1 to 6 of the Act, the explanatory memorandu states—

> In a capitalist society, criminal acts as a rule affected the interests of a small gro of capitalists who constituted the ruling class. In a people's democracy, however, t interests of the State coincide with those of the workers and therefore any attack agai the popular democratic legal order affects the workers' interests also. ... Thus, t protect the constructive efforts of the workers, those who offend against the penal la must be detected, particularly such elements as are hostile to the State. ... Hen Section 1 of the draft provides that criminal prosecutions must be so conducted as t disclose the actual methods used in subversive activities, to show their danger to socie and thereby to contribute to a greater watchfulness and vigilance among citizen

* 34. Act No. 88 of 1950 (the Administrative Penal Code) states in Section and 2 that its purpose is to protect the People's Democratic Republic, its socia construction and the interests of the working people and of the individual. Ot acts which are not punishable under the Judicial Penal Code are to be prosecut as offences under the Administrative Penal Code.

The explanatory memorandum on this Act gives the following explanation its purposes :

> In the struggle against the class enemy, not only judicial penal law, but also admini trative penal law must be effective weapons in the service of the working class. ... [administrative penal law] must mobilise citizens for the struggle against all enemi of our new social order. ...

The explanatory memorandum stresses the " class nature " of administrati penal law. The new Code is to provide " an effective weapon in the accentuat class struggle ... and a suitable instrument for the political education of citizens

Discussing Section 1 of the Act, the explanatory memorandum states—

> This Section expresses the political purpose of the Administrative Penal Co namely, to protect the People's Democratic Republic ... and to educate citizens to b good members of the new society. ... This introductory clause, designed as a fund mental rule of interpretation for the application of all the other provisions of the Admini trative Penal Code, clearly expresses its class objective and its educational character

Commenting on Section 12, subsection 3, the explanatory memorandum stress the point that the Act must enable the Administration " to inflict telling and effe tive penalties on those who are the real class enemies " ; if the offender intend to " show hostility towards the people's democratic régime or the socialist constru tion of the Republic ", he may be sentenced to deprivation of liberty for not les than three months and not more than two years. In such cases the sentence served in forced labour camps. The memorandum stresses the point that, judgi by past experience, " such camps play an important part in the re-education persons who, by their former anti-democratic convictions and actions, hinder th socialist development of the Republic ".

It is stated in the explanatory memorandum that the success achieved by th kind of labour-educational work implies that the institution of forced labour camp

should be used for the progressive execution of penalties of deprivation of liberty imposed for offences motivated by a hostile attitude towards the present social order. This is why, the memorandum states, this institution has been firmly established in the Administrative Penal Code, Section 151 of which formally repeals the Act concerning forced labour camps.

According to the memorandum, forced labour camps are to be used for those " who have clearly shown by their administrative offence that they are hostile to the present social order. In this respect, the actual offence committed is essentially immaterial. " Also according to the memorandum, the most common type of offence for which persons may be sent to forced labour camps to serve their sentences is " deliberate evasion of work ", which is punishable under Section 72 of the Code.

* 35. Under the title " Purpose of the Act ", Section 1 of Act No. 89 of 1950 (the Code of Administrative Criminal Procedure) states—

> The purpose of the present Act is so to regulate administrative criminal procedure that offences can be speedily and reliably investigated as well as justly punished, thereby ensuring that the objectives of the Administrative Penal Code are reached and in particular that citizens are taught to discharge their duties in the building of socialism.

The explanatory memorandum on this Act explains why administrative penalties may be imposed by people's committees and adds that these committees will be able to use " the provisions of the Administrative Penal Code as an effective weapon in the class struggle ". It also states that the Act stresses " the educational character of the new administrative criminal procedure ", which endeavours to instil into an offender " a new attitude towards society, to convince him of the wrongness of his act and to set him on the path to reform ".

Penalties and their Execution

Penalties.

* 36. Section 17 of Act No. 86 of 1950 (the Penal Code) specifies the purposes of penalties. Section 18 lists the penalties and Section 20 defines certain aggravating circumstances.

The purposes of penalties (Section 17) have already been analysed.[1] It remains, therefore, to be seen what penalties there are and what, in penal law, are considered to be aggravating circumstances. Penalties may be either " principal " or " accessory ". Apart from the death penalty, the principal penalties are deprivation of liberty and corrective measures. The accessory penalties include loss of nationality, exclusion from the Army, confiscation of property, prohibition to exercise a specified occupation, expulsion and prohibition of sojourn. Section 18 stipulates that accessory penalties are only to be inflicted in conjunction with a principal penalty.

Section 20 considers aggravating circumstances to exist if an offender " *(a)* by a criminal act has shown himself to be hostile to the people's democratic régime ; *(b)* by a criminal act has endangered the political, military or economic interests of the Republic ".

These penalties are discussed in the explanatory memorandum on the Act. Some extracts from this document have been reproduced[1], and it may suffice to quote the following passage :

> ... the draft provides that a person who, by his act, has shown that he is hostile to the people's democratic régime and on whom even the completion of his sentence

[1] See above, paragraphs 32-35.

has failed to produce the educational effect intended, may be committed to a forced labour camp.

*37. Section 11 of Act No. 88 of 1950 (the Administrative Penal Code) contains a list of penalties which, as in the case of the Penal Code, may be either principal or accessory.

Section 12 deals with aggravating circumstances in the case of offences punishable under the Administrative Penal Code. According to subsection 2, if there are aggravating circumstances, a fine and deprivation of liberty, may be imposed concurrently, even if this is not specifically provided for in the Special Provisions of the Code ; according to subsection 3, if the offence showed, or was intended to show " a hostile attitude towards the people's democratic régime or the socialist development of the Republic, a penalty of deprivation of liberty for not less than three months and not more than two years may be imposed on the offender ". The sentence of deprivation of liberty, according to the same subsection, is served " in a forced labour camp ".

Commenting on Section 12, subsection 2, of the Administrative Penal Code the explanatory memorandum states—

> The provision of the Code whereby a penalty of deprivation of liberty may be imposed concurrently with a fine, even when not so specified in the Special Provisions of the Code, is aimed primarily at class enemies.

The memorandum also stresses the point, with regard to Section 12, subsection 3, that the primary purpose of the Administrative Penal Code is " to consolidate and extend the victory of the working class ". It follows that the Code must be an instrument enabling the administrative authorities to " inflict telling and effective penalties on those who are the real class enemies ". This is why persons who " have shown themselves to be hostile to the people's democratic régime " are to serve their sentences of deprivation of liberty in forced labour camps. It is also stated that detention in forced labour camps is intended only for " those who are the real enemies of the working class. ... Past experience with forced labour camps has made it clear that hostility towards the people's democratic régime shows itself generally in a permanently negative attitude towards constructive work. "

38. According to Section 7 of Act No. 89 of 1950 (the Code of Administrative Criminal Procedure) offences committed under the Administrative Penal Code are dealt with " in the first instance by district people's committees ". The Section also states that the Government is to define by Decree the offences to be dealt with in the first instance by " local people's committees ".

Execution of Penalties.

39. Section 32 of Act No. 86 of 1950 (the Penal Code) states—

> A penalty of deprivation of liberty shall be executed in a penal establishment, a judicial prison or a labour unit or, in the case of members of the armed forces on active service, in a disciplinary unit of the armed forces. Prisoners shall be given useful work so that, on discharge, they may reintegrate themselves in the workers' community.

According to Section 36, entitled " Committal to Forced Labour Camps "—

> 1. Any person who, by his offence, has shown hostility to the people's democratic régime, and has failed, by his work and conduct while serving his sentence, to show an improvement such as to justify the hope that his future behaviour will be satisfactory

and befitting a good worker, may be committed to a forced labour camp for not less than three months and not more than two years after completing his full sentence of temporary deprivation of liberty.

2. Persons under 18 years of age may not be committed to a forced labour camp.

In commenting on Section 36 the explanatory memorandum states that deprivation of liberty, while still the most important penalty, is no longer intended to exclude the offender from the social community; on the contrary, " collective labour on a productive task, combined with a sense of personal usefulness and a change of environment ", should reform the offender. Moreover, the comment adds, if his conduct and attitude to work show that there is some improvement, he may be conditionally released after half his sentence has been served.

40. Section 280 of Act No. 87 of 1950 (the Code of Judicial Criminal Procedure) contains provisions governing the " application of corrective measures ". Subsection 1 of this Section deals with corrective measures which do not require the convicted person to change his employment. In this case, the employer is informed of the court's decision and of the conditions governing the execution of the penalty. According to subsection 2, however, the court may also require the offender to change his employment and new work is then assigned to him by the district people's committee in accordance with the court's decision. According to subsection 3, the employer must immediately inform the Public Prosecutor of any circumstances " rendering it necessary for corrective measures or any remaining part thereof to be replaced by the penalty of deprivation of liberty ".

41. According to Section 20 of Act No. 88 of 1950 (the Administrative Penal Code), if a fine cannot be recovered, the people's committee is to impose a penalty of deprivation of liberty in substitution, which must not exceed the maximum term provided for the offence. Under subsection 3, " if fine is imposed concurrently with a penalty of deprivation of liberty to be served in a forced labour camp, the penalty substituted and the penalty of deprivation of liberty may not exceed two years in all ".

42. According to Section 85 of Act No. 89 of 1950 (the Code of Administrative Criminal Procedure)—

...the Ministry of National Security, in collaboration with the Ministry of the Interior, shall issue detailed Ordinances governing sentences of deprivation of liberty to be served in administrative prisons and forced labour camps and shall define which persons may not be committed to such camps.

Forced Labour

Forced Labour Imposed on Persons Sentenced to Deprivation of Liberty.

43. Section 32 of Act No. 86 of 1950 (the Penal Code) states in subsection 1 that " Prisoners must be given useful work so that on discharge they may reintegrate themselves in the workers' community ".

The Section does not refer specifically to forced labour camps; they are, however, mentioned in the passage quoted from Section 36.[1]

Section 48 enables a court to impose fines " concurrently with a sentence of deprivation of liberty ... particularly when the offender by his offence has shown himself to be hostile to the people's democratic régime ... ".

[1] See above, paragraph 39.

44. As already mentioned[1], Section 12 of Act No. 88 of 1950 (the Administrative Penal Code) lays down in subsection 3 that, if the offence was committed in such a way as to demonstrate a hostile attitude towards the people's democratic régime a sentence of deprivation of liberty ranging from three months to two years may be imposed. At the same time, the offender may be sentenced to a fine " not exceeding twice the sum specified for the offence in the Special Provisions [of the Code] ". The sentence of deprivation of liberty and any additional sentence of the same kind imposed in substitution for a fine held to be irrecoverable are in such cases to be served in a forced labour camp.

The Special Provisions mentioned in Section 12 deal, *inter alia*, with the protection of the national economy. They provide for fines to be imposed on persons who endanger " the development of the national economy " (Section 33), " the nationalisation of enterprises " (Section 34) and " the preparation, drafting, operation, execution or control of the unified economic plan " (Section 39). According to Section 39, fines for endangering or disturbing the preparation, drafting, operation, execution or control of the unified economic plan may be imposed more particularly on—

> ... any person who, being a private entrepreneur or a person responsible for the management of a private business, *(a)* fails to adjust his economic activities or the economic activities of the private business to the unified economic plan ; *(b)* fails to discharge properly the duties devolving upon him in the execution of the unified economic plan ; *(c)* fails to submit, within the appointed time, correct and truthful reports as required for the purposes of the unified economic plan.

45. The explanatory memorandum on Act No. 88 of 1950 comments on the Special Provisions in the following terms :

> The Special Provisions of the Act define the essential features of the acts which may give rise to prosecution as offences within the meaning of the Act. .... These definitions are made as flexible as possible so that they may at all times be adapted to the rapidly changing requirements of a people's democracy.

46. Section 85 of Act No. 89 of 1950 (the Code of Administrative Criminal Procedure) is the opening Section of Chapter VIII, entitled " Executive Measures ". As already mentioned[2], this Section deals with the execution of sentences. It empowers the Minister of National Security, in collaboration with the Minister of the Interior, to issue Ordinances governing, *inter alia*, the execution of sentences in forced labour camps.

Forced Labour Imposed on Persons after Completion of their Terms of Deprivation of Liberty.

* 47. It may be recalled that Section 36 of Act No. 86 of 1950 (the Penal Code) states that, in certain circumstances, persons having completed a term of deprivation of liberty may be committed to a forced labour camp for not less than three months and not more than two years.[3]

The explanatory memorandum on this Act states that it is impossible to foresee the effect which a sentence will have on an offender. If he shows improvement he may be conditionally released ; on the other hand, if, when he has served his sen-

[1] See above, paragraph 37.
[2] See above, paragraph 42.
[3] See above, paragraph 39.

tence, the educational effect intended has not apparently been achieved, he may be committed to a forced labour camp.

*48. Section 279 of Act No. 87 of 1950 (the Code of Judicial Criminal Procedure) deals with committal to forced labour camps. It reads as follows :

(1) The Conditional Release Board attached to the regional court in whose jurisdiction the convicted person is serving a sentence of deprivation of liberty shall, at the request of the Regional Prosecutor, decide whether the convicted person, after serving the sentence of deprivation of liberty, should be committed to a forced labour camp.

(2) If the Regional Prosecutor so requests within three days of being notified of the Conditional Release Board's decision, the Board shall refer the case for examination to the Minister of Justice, whose ruling shall be final.

(3) Decisions under (1) and (2) above must be taken before the penalty of deprivation of liberty is completed.

The explanatory memorandum on Act No. 87 of 1950 makes no specific comment on these provisions. It simply states that " where the execution of the penalty itself has failed to reform the convicted person ", he may, " after serving the sentence, be committed to a forced labour camp, provided the legal conditions are fulfilled ". However, as the explanatory memorandum states, and as is also clear from the text of Section 279, the decision as to whether these legal conditions are fulfilled in a specific case lies with the Boards and the Minister of Justice.

Forced Labour Imposed on Persons not Sentenced to Deprivation of Liberty.

49. Under the heading " Corrective Measures ", Sections 37 and 38 of Act No. 86 of 1950 (the Penal Code) make provision for corrective labour not entailing the committal of an offender to a forced labour camp. The relevant passages read as follows :

In the case of an offender whose behaviour has in other respects been satisfactory and befitting a good worker, the court may commute a penalty of deprivation of liberty for a term not exceeding three months to a corrective measure lasting not less than one or not more than six months ... [Section 37, subsection 1]

The offender shall be free while the corrective measure is applied. It shall consist in the offender being compelled, for the specified period, to carry out work assigned to him at a reduced wage and without certain advantages arising from the labour relationship. [Section 38]

Commenting upon these provisions, the explanatory memorandum on Act No. 86 of 1950 states—

Short-term sentences of deprivation of liberty have not justified themselves in the case of workers. ... For this reason, the draft Code replaces the penalty of short-term deprivation of liberty by a new penalty—corrective measures—which may only be applied to workers.

50. Act No. 87 of 1950 (the Code of Judicial Criminal Procedure) deals with the application of corrective measures in Section 280.

Forced Labour Imposed by Administrative Procedure.

51. The following is an historical survey of the legislative measures taken in this connection in Czechoslovakia.

On 23 August 1945, the Slovak National Council issued an Ordinance, No. 105 1945, which was to remain in force for two years from 1 May 1945. This was later supplemented by an Executive Order, No. 89/1946, dated 14 June 1946. This Ordinance instituted labour camps where persons could be detained by order of the Commissar of Internal Affairs if they had been convicted of pro-nazi or anti-Allied activities, endangered the reconstruction of the State in a popular-democratic spirit were a menace to public safety, hampered the reconstruction of the national economy, spoke against the State, lived an idle life or refused to comply with the general obligation to work. Persons placed in these camps had to do work of use to the community, for which they were paid, and could be placed at the disposal of contractors or undertakings. The maximum period of detention was two years, except in the case of persons leading an idle life, who could be detained for an unlimited period.

By a Presidential Decree No. 88 of 1 October 1945 the Czechoslovak Government introduced " compulsory labour service ". According to Section 1 of this Decree, men between the ages of 16 and 55 years and women between the ages of 18 and 45 years could be directed to perform work " which, for important reasons of public interest, must be executed without delay ".

According to Section 4 (2) : " Direction to the labour service may be for a period not exceeding one year ; this period may be extended only in cases of emergency and in any case for not more than six months ".

According to Section 6 appeals against a direction order could be lodged with the competent District Labour Office. According to Section 23 any act or omission violating the Decree or the regulations governing its application were punishable with fines or a term of imprisonment not exceeding one year, or both.

The Decree was repealed by Act No. 247 of 25 October 1948.

52. Act No. 247 of 1948 enabled the Government to commit to forced labour camps persons between 18 and 60 years of age " who shirk work, threaten the building up of the people's democratic régime or endanger the national economy " (Section 2, subsection 1 *(a)*, and " persons duly convicted of any of the offences listed in Act No. 231 of 6 October 1948 on the defence of the People's Democratic Republic " and a number of other Acts passed in 1946 and 1947 (Section 2, subsection 1 *(b)*). The object of the Act, as defined in Section 1, was to teach the persons listed in Section 2 that work is a necessary civic duty, " in order that their labour capacity may be utilised for the common good ", for which purpose they could be committed to a forced labour camp.

According to Section 2, subsection 2, a sentence exceeding three months for offences under administrative law was to be served in a forced labour camp.

Section 3 stated—

> Commissions of three, whose members and deputy members are to be appointed by the Regional People's Committees, shall decide, in the cases mentioned in Section 2 (1) *(a)*, upon sending persons to a camp and their period of detention therein and, in the cases mentioned in Section 2 (1) *(b)*, upon their period of detention.

According to Section 5, appeals against the decisions of such a commission did not entail a stay of execution.

Other provisions of the Act referred to the pay of prisoners and " the moral, vocational and cultural training " they were to receive. They also repealed earlier legislation such as the Ordinance on the establishment of labour formations, issued by the Slovak National Council on 23 March 1948.

53. The United Kingdom Government submitted " Extracts from Regulations of the Ministry of the Interior for the Commissions set up under Section 3, sub-

section 1, of Act No. 247 of 1948 concerning forced labour camps ". This text contains instructions concerning, *inter alia*, the issue of the order committing a person to a camp, appeals against such orders and the regulations to be applied in labour camps. A copy of the form to be used in ordering the committal of a person to a forced labour camp was also submitted.

54. Section 151 of Act No. 88 of 1950 (the Administrative Penal Code) deals with the " repeal of provisions concerning penitentiaries and forced labour camps ", *inter alia*, the Section repeals Act No. 247 of 1948.

55. Several provisions concerning the committal of persons to forced labour camps by administrative procedure are contained in Act No. 89 of 1950 (the Code of Administrative Criminal Procedure).

Section 1 of the Act defines its purpose and states that it is more particularly intended to ensure " that citizens are taught to discharge their duties in the building of socialism ". Subsection 2 adds that " this task shall be performed by the people's committees in close collaboration with the working population, whose co-operation in investigating offences will contribute to the defence of socialist construction ".

Section 7 provides for offences to be dealt with in the first instance by " district people's committees " and states that the Government is to define which offences are to be dealt with by " local people's committees ".

Section 44 empowers the people's committees to substitute written for oral proceedings.

Section 67 governs the suspensory effect of appeals against the decisions of people's committees. It reads as follows :

(1) Except as is otherwise provided in the present Act, an appeal lodged within the time limit shall have suspensive effect.

(2) In its decision, the people's committee may deprive the appeal of its suspensive effect if the immediate execution of the decision is necessary owing to there being any danger in delay or other urgent circumstances. The appeal may not, however, be deprived of its suspensive effect in the case of decisions ordering deprivation of liberty, public censure, prohibition of residence or the publication of the findings.

(3) No appeal shall lie against a decision by which an appeal is deprived of its suspensive effect under subsection (2).

Section 85, already quoted [1], deals with the execution of sentences and with the issue of Ordinances governing sentences of deprivation of liberty in forced labour camps. Section 90 establishes " penal commissions of three ... within the people's committees to adjudicate on major misdemeanours ". The competence of such penal commissions is to be determined by Ordinances to be issued by the Ministry of the Interior in agreement with the central authorities concerned.

56. The explanatory memorandum on Act No. 89 of 1950 comments at some length on these provisions. It states that the Administrative Penal Code is to be so formulated as to become, in the present period of accentuated class struggle, " an effective weapon of the dominant working class, an instrument for the relentless suppression of the remnants of capitalist reactionary elements in the country... ".

The explanatory memorandum claims that the new Code simplifies procedure in criminal cases and, by so doing—

... lightens the task of the workers' representatives in the people's committees and enables them to use the new procedural principles for the flexible and speedy investigation and just punishment of offences ....

[1] See above, paragraph 42.

Since the people's committees will be empowered to impose very heavy penal... a commission of three must be set up within each people's committee to deal w... major misdemeanours.

The memorandum states that the competence of the various bodies concer... is to be defined by executive regulations. It further stresses " the educati... character of administrative criminal procedure ".

Rights of the Defence

57. The following extracts from Act No. 114 of 1951 concerning the profess... of advocate *(advokacie)* were considered in connection with the rights of t... defence :

Section 1 : Advocates shall provide legal assistance to socialist bodies corpora... other social organisations, the organs of State administration and citizens, they sh... defend their interests in accordance with the principle of material truth and the in... rests of society and shall thus contribute towards the consolidation of socialist legality.

Section 13 : The profession of advocate may be exercised only by persons wh... conduct as citizens has been irreproachable [and] who are devoted to the peop... democratic régime. ...

Section 17 : 1. An advocate shall be bound to secrecy concerning any mat... which has been entrusted to him, in so far as his client has not released him from th... obligation. He shall not be obliged to disclose such matters to a court or an organ... the State administration unless the Minister of Justice has released him from his ob... gation to observe secrecy on the grounds of important State interests. An advoca... may not invoke the obligation of secrecy if, under Section 165, subsection 2, of t... Penal Code, he is required to give information on an offence with which his testim... is supposed to be connected.

2. The other members of an advocates' working collective are similarly bou... to secrecy.

The explanatory memorandum on Act No. 114 of 1951 contains the follow... passages :

The profession of advocate must be reorganised if it is to perform its tasks ... harmony with the rules of socialist communal life, if it is to contribute successfully ... the consolidation of the people's democratic régime and the new legal system with wh... our people has provided itself, and if it is to buttress socialist legality. ...

In these circumstances, a new regulation is urgently needed to reorganise t... profession of advocate from its very foundations. ...

The following are the most important principles underlying the proposed n... regulation :

1. The profession may be practised only by advocates who are members of ... advocates' bureau. The private practice of the profession is abolished.

2. The right to choose an advocate is maintained.

3. An advocates' bureau is a working collective which performs the task of pr... viding legal assistance. ...

Labour Reserves and Restrictions on Freedom of Employment

*58. Section 22 of Act No. 241 of 1948 concerning the first Five-Year Econo... Plan for the development of the Czechoslovak Republic states—

Increase in the Labour Force.

(1) All Czechoslovak citizens shall contribute equally to the implementation of the targets of the Five-Year Plan. The volume of manpower used in undertakings and institutions shall nowhere exceed the essential minimum, it shall be suitably distributed and working hours shall be used to the fullest extent.

(2) To reach the production targets of the Five-Year Plan, the volume of manpower employed by the national economy shall be increased on average by 5.6 per cent. as compared with 1948, the number of persons employed in industry being increased by 18.5 per cent. and the number of persons employed in the building industry by 50 per cent.

(3) New labour shall be secured, more especially—

(a) by the planned placement of young people ;

(b) by increasing the number of women in active employment ;

(c) by placing persons not previously employed ;

(d) by encouraging re-immigration ;

(e) by placing persons with reduced working capacity ;

(f) by utilising the manpower available in underdeveloped areas of the country where opportunities for work will be provided ;

(g) by utilising redundant or otherwise superfluous labour for the tasks of the Five-Year Plan.

(4) The training of young people shall, *inter alia*, be organised by new, progressive methods ; in particular, the number of specialised training centres shall be increased, as one means of creating reserves of labour.

*59. With reference to the allegations which were made to the effect that even persons not interned in forced labour camps are no longer free to choose their employment and that the Czechoslovak population is compulsorily mobilised to help carry out the unified economic plan, extracts from Act No. 110 of 1951 concerning national labour reserves are quoted or summarised below.

Section 1, defining the purpose of the Act, states—

The planned development of our economy and, in particular, of our industry, requires a constant influx of new manpower into the mines, steel mills and other important branches of our economy. As unemployment and rural poverty have disappeared from our country, and we cannot rely on manpower flowing voluntarily into our undertakings, new workers must be trained systematically from among the ranks of our youth to form the necessary manpower reserves.

Section 3 governs the establishment of vocational institutions and industrial training schools. According to subsection 4 of this Section the Ministry of Labour is to " ... choose candidates for these schools and place graduates according to the unified economic plan".

According to Section 4, subsection 2, students are to be maintained by the State while under training, and according to subsection 3 graduates are to be " required to work in undertakings designated by the Ministry of Labour for a period of not less than three and not more than five years, as the Ministry may direct ". Subsection 4 states that industrial enterprises must give employment to such graduates and help them " to raise their technical and cultural level ".

*60. Section 1 of Decree No. 128 of 1951 on the organisation of labour recruitment states that " manpower must be secured by recruitment ", to be conducted by the Ministry of Labour through the people's committees and under-

takings. This recruitment aims at " ensuring the fulfilment of increasing econ... tasks ".

Section 3, subsection 1, states that the organised recruitment of manpo... " shall be conducted according to the requirements of the unified economic pl... under a systematic manpower recruitment programme to be drawn up by t... State Planning Board and approved by the Government ". Subsection 2 provi... for the regional people's committees to draw up lists showing the number of ru... and urban workers to be obtained by organised recruitment in each district, a... for the district people's committees to do so for each commune.

According to Section 4, it is the task of the Ministry of Labour and of th... people's committees to make workers aware of the political and economic impor... ance of organised recruitment. The people's committees are to recruit worke... " by direct contact and persuasion in the communes and undertakings ", acti... in agreement with the management of the enterprise concerned.

*61. Prime Minister Zapotocky, speaking on the draft of the first Czechoslova... Five-Year Economic Plan at a plenary session of the National Assembly o... 7 October 1948 stated that—

The prime task of the Five-Year Plan will be the widest mobilisation of labo... and the raising of the productivity of labour. ...

This is no punishment, no force nor terror, but the free democratic right, of ... State which guarantees the right to work to demand unconditionally the fulfilment ... the duty to work from each and every citizen.

Additional Material

Addition to Paragraphs 32 to 35.

Comments on the tasks and objectives of justice in Czechslovakia are contained in an explanatory memorandum[1] submitted to the National Assembly in Octobe... 1952 together with the draft of a Constitutional Act on the judiciary and the publi... prosecutor's office. The following passages are taken from the memorandum:

I. The proposed reorganisation of the judiciary and the rebuilding of the presen... public prosecutor's office into an office of a new type is directly connected with th... nature and class basis of our people's democratic State....

(1) In the first place, our public prosecutor's office and the courts must become a strong weapon against all attacks by the class enemy, from within and without. The great successes which have been achieved in all sectors of socialist construction are bound to entail stronger resistance on the part of the class enemy, who is trying at any price to prevent, or at least slow down, our peaceful reconstruction and the resultant increase in the power, security and defensibility of our country. Our determined uncompromising struggle against the class enemy and all his helpers necessarily requires our judicial apparatus to be so organised—while ensuring unity of action—as to ensure smooth operation and rapid action, based at the same time on a knowledge of political needs and local circumstances.

(2) The tasks involved in the building of socialism in our country and in the reconstruction of our society make it essential for the millions of the working masses

[1] *Národní shromáždění republiky Československé*, 1952, No. 630, pp. 2-4. The draft text presented with this explanatory memorandum was passed on 30 Oct. 1952 and published in *Sbírka zákonů republiky Československé*, No. 35, 18 Nov. 1952.

to be mobilised for their conscientious execution. This is closely connected with the need for a constantly intensified development in the education and re-education of the workers in a spirit of socialism, proletarian internationalism and socialist patriotism.

An important part in this education and re-education is also played by the educational-political activity of the courts, which must develop more intensively and become wider and deeper in scope.

Capitalist society and its education have left a deep impression on the people. The remnants of capitalism in people's minds are one of the basic causes of many of our difficulties in building socialism. They are the source of the wrong attitude adopted by many people towards socialist property, their lack of conscientiousness in their attitude to work—which is more particularly manifested in their failure to comply with labour discipline, in absenteeism, and in the fluidity of labour—and also of their incorrect relationship to the rules of life in a socialist community. Survivals of capitalism are also the source of many criminal acts which hamper the development of our economy. The class enemy therefore takes advantage of them for his subversive criminal purposes.

These phenomena must be fought, and the courts and the public prosecutor's office must stand in the front line of the struggle, the effectiveness of which must be organised and properly assured.

.....

The present organisation and substance of the activities of the public prosecutor's office are no longer sufficient to enable the public prosecutor to carry out successfully all the important and urgent tasks arising at the present time. The successful struggle against the class enemy, the struggle to strengthen our labour discipline, State discipline and socialist legality, the exercise of extensive educational-political activities by the public prosecutor's office in an effort to educate a new socialist man, necessarily require this functional and fundamental change in the present structure of the public prosecutor's office as well as a broadening of its functions.

To this end, we must model ourselves on the famous tradition of the Soviet public prosecutor's office, which has gone a long way during the development of the victorious building of socialism in the Soviet Union.

Addition to Paragraphs 36, 37 and 47.

An Act No. 67 of 30 October 1952 to amend and supplement the Code of Judicial Criminal Procedure[1] renamed the forced labour camps, which are in future to be referred to as " transitional institutions ". The Act also made these institutions subordinate to the Ministry of National Security, together with the other institutions in which sentences of deprivation of liberty and imprisonment are served.

Section III of this Act lays down—

(1) Sentences of deprivation of liberty and imprisonment shall be executed in the institutions of the Ministry of National Security ; in the case of a soldier on active service, a sentence of deprivation of liberty may also be carried out in a military disciplinary unit.

(2) The Minister of National Security, in agreement with the Public Prosecutor-General, shall issue provisions governing the execution of sentences in the institutions of the Ministry of National Security ; provisions governing the execution of sentences in military disciplinary units shall be issued by the Minister of National Defence in agreement with the Public Prosecutor-General.

(3) Where reference is made to forced labour camps in the Code of Judicial Criminal Procedure or the Penal Code, it shall be taken to mean the transitional institutions of the Ministry of National Security.

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[1] *Sbirka zákonů republiky Československé*, No. 35, 18 Nov. 1952.

The explanatory memorandum[1] with which the draft of the new Act was submitted to the National Assembly explained this reform in the following terms:

The forced labour camps have today quite a different purpose from the one they had at the time they were established. Today, the forced labour camps admit, firstly, persons who, by their offences, have shown hostility to the people's democratic régime of the Republic and who, by their work and conduct while serving their sentences, do not justify the hope that their future behaviour will be satisfactory and befitting a good worker (Section 36 of the Penal Code) and, secondly, persons punished by the people's committees (Section 12 of the Administrative Penal Code).

The forced labour camps—like the institutions in which sentences of deprivation of liberty are served—should educate the persons sent to them to do collective work of use to all, and so ensure that they are re-educated to a positive attitude towards the social order of the Republic. It is therefore useful to incorporate these institutions among those in which penalties are executed to form a single unified system. Since the purpose of these transitional institutions is to prepare the persons committed to them for their transition to work done at liberty, the forced labour camps will be renamed transitional institutions. In the transitional institutions will be carried out, firstly, such measures as have up to now been taken on the basis of court sentences or the decision of a conditional release board ; in addition, these institutions will be used for the execution of the remainder of any sentence of deprivation of liberty to be served by convicted persons who otherwise fulfil the requirements for conditional release (particularly as far as their positive attitude to work and orderly behaviour are concerned) but who cannot be granted their conditional release because it might be regarded with disfavour in the milieu to which they would return. In the transitional institutions, they will be prepared for life and work at liberty through properly selected work and discipline corresponding to the purpose of the institution.

Addition to Paragraph 48.

The Act of 30 October 1952 amended Sections 278 and 279 of the Code of Judicial Criminal Procedure (Act No. 87 of 12 July 1950) and also added a new Section 279(a). These new provisions read—

Section 278

(1) Decisions concerning conditional release, the placement of a convicted person in a transitional institution (Section 279) and the committal of a convicted person to such an institution after he has served his sentence (Section 36 of the Penal Code) shall be taken by the Conditional Release Board in whose district the convicted person is serving or has served his sentence of deprivation of liberty.

(2) The Conditional Release Board shall be attached to the regional court; it shall consist of a judge appointed by the Minister of Justice, who acts as president, and two people's judges.

Section 279

A convicted person who otherwise fulfils the requirements for conditional release may be placed for the remainder of his sentence in a transitional institution if his conditional release would be contrary to the purpose of the punishment; this measure may be revoked if the behaviour of the convicted person gives grounds for doing so.

Section 279 (a)

(1) The Conditional Release Board shall decide on the proposals of the Regional Prosecutor by a majority vote.

[1] *Národní shromáždění republiky Československé*, 1952, No. 629, pp. 18-19.

(2) If the Regional Prosecutor so requests, the Board shall refer the case for an examination of its decision to the Minister of Justice, whose ruling shall be final ; he may change the decision of the Board to the disadvantage of the convicted person only if the Regional Prosecutor has requested the referral of the case to the Minister of Justice within three days of being notified of the Board's decision.

(3) The decision as to whether the convicted person, after having served his sentence, should be committed to a transitional institution, must be taken before the penalty of deprivation of liberty has been completed.

Addition to Paragraphs 58 to 61.

A governmental Ordinance dated 19 August 1952 on the placement of skilled workers[1] authorises central departments to transfer skilled workers from one undertaking to another (Sections 2 and 3), since, as is stated in section 1, " for socialist construction to be carried through successfully, it is essential for key undertakings, and particularly new undertakings and those introducing new production methods, to be provided with a sufficient number of skilled workers ". Workers so transferred are required to work in the undertaking to which they are assigned for a maximum of three years under a new contract of employment which takes the place of their previous contract (Section 5). Undertakings must employ the workers assigned to them according to their abilities and must grant them the same benefits as other workers entering employment (Section 6). Workers and heads of undertakings contravening the provisions of this Ordinance are liable to the penalties laid down in the Administrative Penal Code, in so far as the offence does not involve the infliction of some heavier punishment (Section 8).

TERRITORIES ADMINISTERED BY OR ASSOCIATED WITH FRANCE

Summary of Allegations, of Replies to Allegations and of the Material Available to the Committee

I. Allegations

1. The allegations made in the Economic and Social Council were concerned either with the French overseas territories in general or, more specifically, with the Cameroons, French Equatorial Africa, French West Africa and Indo-China.

2. These allegations related to—

(a) forced labour in general, which, although legally abolished, was allegedly still extant ;

(b) the use of men from the second portion of the military contingent for public works in French West Africa ;

(c) the creation of a pioneer corps for public works in French Equatorial Africa ;

(d) the imprisonment of vagabonds in forced labour camps on the basis of a wide interpretation of the word " vagrancy " (the Cameroons and Indo-China) ;

(e) forced labour for failure to pay taxes (the Cameroons and Indo-China) ;

[1] *Sbírka zákonů republiky Československé*, No. 25, 19 Sept. 1952.

(f) compulsory labour for Native chiefs in return for permits to buy fire-arms (French West Africa);

(g) the conscription of children from eight to 12 years old for manual labour.

3. These allegations appear in statements recorded in the Council's proceedings as follows:

(1) The representative of the *Byelorussian S.S.R.*—

In Indo-China and in the French Cameroons, the Native population had to pay exorbitant taxes; failure to pay them was punishable by imprisonment. Furthermore, the French authorities were sending into forced labour camps persons picked up as vagrants, and they had given the word "vagrancy" an unusually wide scope.[1]

(2) The representative of the *World Federation of Trade Unions (W.F.T.U.)*—

In October 1948, the French Confederation of Labour *(Confédération générale du travail)* had submitted a memorandum to the President of the Republic condemning many abuses committed in the territories of the French Union. Mr. Diallo mentioned the case of children from eight to 12 years old who had been conscripted for manual labour in the Niger province.

Forced labour had been abolished in the French Union by the Law of 11 April 1946. The Inspector-General for Labour in French Equatorial Africa had stated, however, when submitting his report on legislation governing compulsory labour, that no regulations had been made governing forced and compulsory labour in the territories of French Equatorial Africa. That would mean not only that the Law of 11 April 1946 had been strictly respected, but also that it had not been necessary to have recourse to any of the exceptions to the general provision in the international labour Convention prohibiting forced labour. Such a statement, however, did not tally with the Government's intention to regulate forced labour, neither did it correspond to certain facts which he brought to the attention of the Council. Thus, many cases of forced labour had been reported in the Cameroons.

A labour code for application in the French African territories had been under consideration for several years. That code was intended to replace the decree enforced under the French Colonial Minister, Mr. Marius Moutet, a decree which had been arbitrarily suspended. The French Government was, however, delaying the enforcement of a code which would represent an advance on the existing state of affairs. The first draft prepared by the French Government prohibited forced labour completely in principle, but it provided for a whole series of exceptions and left the local administration to decide when to make use of those exceptions. The draft code deals with prison labour, military service and public works. Some of the clauses were rather strange, and one might well be asked why the French Government did not apply the laws enforced in the metropolitan country to the overseas territories. The African trade union organisations had protested against those clauses. The Minister of Overseas Territories had replied that the French Government was bound by international conventions and he had referred to a 1930 report of the I.L.O. regulating forced labour. The 1946 French Constitution, however, contained far more advantageous provisions. If the draft code were applied and the exceptions contained in Article 2 of the code were retained, it would be possible to impose forced labour even on children. Although Article 115 of the draft specified that children under the age of 14 could not be engaged for work, it gave the chiefs of territories unlimited authority to prescribe exceptions. Such a labour code would endanger not only the wage earners but also the whole rural population of the overseas territories.

In French West Africa, men from the second batch of the contingent of military recruits were used for work of a public character. Certain young recruits were forced

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting: *Official Records*, p. 119.

into labour units and used in the workyards. As forced labour had been abolished as a matter of principle, the administrative authorities obtained cheap manual labour from the military authorities, for those recruits, who were often victims of ill-treatment and subject to rigid discipline, were paid 4.50 francs a day.

It would be an even greater scandal were the men recruited and drafted in that way forced to work for private undertakings. Yet, the development plan for overseas territories provided that work could be entrusted to private concerns and it was therefore a great temptation for the Administration to send men recruited in that way to work for private concerns.

The creation of the pioneer corps for French Equatorial Africa seemed to be a first step in that direction. An order signed on 16 March 1949, at Brazzaville, by the acting Secretary-General, Mr. Pezet, in the absence of the High Commissioner, then on a special mission, stated that, as from 1 February 1949, a pioneer corps composed of indigenous volunteers would be formed in French Equatorial Africa to provide, in the territories of the Federation, the necessary labour required for the programme of public works or works of public interest laid down in the ten-year development plan. Nowhere was it stated that work of public interest would not be entrusted to private concerns. According to Article 9 the indigenous pioneers were recruited on a voluntary basis for two years. They were subject to the same disciplinary rules as the local militia. In particular, they had to salute their chiefs, officials in uniform and officers and non-commissioned officers of the army and the local militia. The creation of a para-military organisation was a violation of the proposed labour code, as the order deprived the workers of the safeguards they would be given under the code and made them subject to military law. The cautious wording of the provision that the workers were to be volunteers could not delude anyone. Not long since, circulars sent out by the Governor of the Ivory Coast had drawn a distinction between spontaneous volunteers, other volunteers and those liable to statute-labour who paid a certain sum in lieu thereof. Such a system was contrary to the French Constitution and to the international obligations which that country had undertaken.[1]

(3) The representative of the *U.S.S.R.*—

Forced labour existed in disguised forms in French West Africa and French Equatorial Africa. In spite of the provisions of the Act of 1946, compulsory labour service persisted there with certain modifications. Thus, a recent Decree provided for the establishment in Equatorial Africa of a voluntary Native pioneer corps to satisfy the labour requirements for public works under the ten-year development plan. As the officials who had been responsible for that measure had been quite aware that it was contrary to the law, the Decree ordering the establishment of the pioneer corps had not been published in the *Journal officiel* but had merely been communicated to the services concerned.[2]

(4) The representative of the *W.F.T.U.*—

Despite the Act of 1946 abolishing forced labour in the French Union, the report of the Committee of Experts on the Application of Conventions and Recommendations [submitted to the 33rd Session of the International Labour Conference] had confirmed its continued existence in French colonial territories. Quoting a number of practices involving the use of forced labour in French colonial territories in Africa, the W.F.T.U. representative said that, according to *Le Démocrate* of 10 December 1950, anyone wishing to buy fire-arms in the cantons of Lollo and Kale in French West Africa was obliged to work for 7 to 10 days for the chief of the canton in addition to paying the purchase price.[3]

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[1] UNITED NATIONS, Economic and Social Council, 10th Session, 365th meeting : *Official Records* paragraphs 85-90.

[2] *Idem*, 12th Session, 469th meeting : *Official Records*, paragraph 24.

[3] *Idem*, 470th meeting : *Official Records*, paragraph 32.

II. Replies by the French Representative to the Economic and Social Council

4. In the course of debates in the Economic and Social Council, the representative of *France* (Mr. Boris) replied to these allegations ; his replies are summarised in the Council's proceedings as follows :

(a) France, the traditional champion of human rights, had an excellent and long-standing record in its legislation for the abolishment of slavery, and had been a signatory to all international agreements in that connection, including the international labour Convention of 1930.

The representative of France was particularly surprised at the statement issued by the World Federation of Trade Unions on 15 February 1949. That text failed to take into account the fact that the reservation made by France at the time of ratification of the 1930 Convention was very limited in scope and could in no way be said to make the agreement inoperative. The French law now in effect provided for total abolition of forced labour in France as well as in its colonies.

Referring to the statement of the representative of the Byelorussian S.S.R. that the Natives of Indo-China and the Cameroons were sent to forced labour for non-payment of personal taxes, Mr. Boris quoted from document T/239 of 4 February 1949 which certified that the charge was untrue.

The conditions referred to in connection with vagabonds had also been eliminated by law in 1945.[1]

(b) ...the representative of the W.F.T.U. has taken pains not to adhere to the point of departure in answering the essential question : he was contenting himself with the pursuit of the counter-attack.

Mr. Boris would, nevertheless, reply, for as a general principle, he never refused a discussion. He had all the less reason for refusing, moreover, since the discussion could only throw those who had rashly hurled slanderous accusations into confusion.

Mr. Boris recalled that a law, applicable both to France and to its overseas territories, enunciated the principle of an absolute ban on forced and compulsory labour. It also forbade, on threat of punishment, any coercion designed to keep anyone working against his will. Consequently, forced and compulsory labour could not and did not exist in the French Union.

Violations of the law obviously occurred in every society. But there were also the courts, and nothing prevented those who felt that they had been wronged from instituting legal proceedings against alleged offenders.

Furthermore, the French Assembly was currently examining a new draft labour code. Article 2 of that draft code stated that forced labour was forbidden and that any violation of the principle would be punishable by a fine and by a term of imprisonment. The W.F.T.U. representative had criticised some of the provisions of the draft code, or rather the trends reflected therein, since the draft code had not yet become law. The draft code would be discussed in detail, and every member could move amendments.

Violations of the law could of course be found. Such violations occurred in every society and were more likely to do so in the case of recently enacted legislation. There was nothing astonishing in the fact that isolated cases could be cited—cases, moreover, that could not be checked—in which laws had been violated. That observation did not at all mean that the facts alleged by the W.F.T.U. representative were correct. To judge from those on which Mr. Boris had documentation, that was not the case.

The W.F.T.U. representative had, for instance, accused the High Commissioner for the Cameroons of having given orders for carrying out forced labour. Mr. Boris

[1] United Nations, Economic and Social Council, 8th Session, 244th meeting : *Official Records*, pp. 178-179.

had spoken to the High Commissioner for the Cameroons, who was at that very moment in the Council chamber, and who denied categorically the allegation of the W.F.T.U. representative.

The W.F.T.U. representative had spoken [see above, fourth paragraph of the statement in question] of the " second batch of the contingent " ; Mr. Boris recalled, in that connection, that all the inhabitants of the French Union were in principle liable to military conscription. In practice, however, only some of them were called up to serve with the armed forces, while the others remained at home. Under a system which had recently been abolished, that " second contingent " could be called up for carrying out very urgent public works. There was no point in justifying a system which had been abolished, but Mr. Boris wished to remark that he, for his part, would regard it as a sign of progress if, assuming military conscription were no longer necessary, young men were called up for civil service, to help in the building of schools and hospitals instead of learning the use of weapons. As the aim of some of the measures taken under the abolished system, and mentioned by the W.F.T.U. representative, had been to build hospitals and improve sanitation, Mr. Boris could see no grounds for the indignation of a body which remained silent when workers were sent to spend, not a few months or a few years, but their entire lives in the icy wastes of Northern Siberia. And yet, no elected representative ever had the possibility of protesting in their name to any national or international assembly.

The W.F.T.U. consultant had made much of the establishment of a colonial pioneer corps in French Equatorial Africa. He had quoted various texts—texts which did not exist. Since that was a characteristic example of the methods used by the W.F.T.U. to mislead public opinion, Mr. Boris wished to give full details of the case.

Towards the end of 1948, the High Commissioner for French Equatorial Africa had considered that, in order to carry out certain essential public works, a labour policy should be introduced which might uncover hitherto untapped sources of manpower ; the problem of manpower was indeed a difficult one in that area, as in many underdeveloped countries. The High Commissioner had studied the principles of an organisation based entirely on voluntary labour, composed of career soldiers, who were the only competent persons available. The organisation itself, however, was not to be of a military nature.

During the High Commissioner's absence, a draft statute had been prepared, from which the representative of the W.F.T.U. had cited several excerpts. The fundamental principle of voluntary service was proclaimed even in those excerpts. Furthermore, the wages of volunteers were to be higher than those offered by contractors in the open labour market. In that connection, Mr. Boris pointed out that under the legislation of some of the countries where forced labour was practised wages were lower than the average.

Upon his return, the High Commissioner had rejected the draft prepared during his absence, and had drawn up another, which had been promulgated by a Decree dated 6 October 1949 and published in the *Journal officiel* of French Equatorial Africa on 1 November 1949. The new text was entirely different from the one the W.F.T.U. representative had quoted ; in particular, Mr. Boris read out Articles 2 and 9, which had nothing in common with those quoted by the W.F.T.U. consultant.

Article 1 of that text strictly limited the places to which workers who enrolled by voluntarily signing the usual work contract could be sent. They were, and they remained, completely free in the fullest sense of the word. Moreover, the text guaranteed the worker and his family complete protection in matters of health and social welfare. It provided that if the worker's family wished to accompany him their travelling expenses would be paid by the Government, and it also fixed the food rations for members of the family.

There was therefore no question of forced labour, but of social progress and a social experiment which had been approved unanimously by the representative territorial assembly of the Gaboon and with only one dissenting vote by that of the Middle Congo. The members of the two assemblies had been personally invited to visit the yards where labourers recruited by that method were working.

It sometimes happened that pioneers who had been dismissed for laziness begged

to be taken on again. It would be well if as much could be said of certain other countries which the W.F.T.U. representative had carefully refrained from criticising.[1]

(c) [The representative of France] wished first to reply to some of the charges made against France by the representatives of the U.S.S.R. and the World Federation of Trade Unions.

The U.S.S.R. representative had mentioned the existence of the pioneer corps in French Equatorial Africa as an example of forced labour. A similar and equally unfounded allegation had been made at the tenth session by the representative of the W.F.T.U. He had himself replied in detail to that accusation, and had showed that the pioneer corps was made up of volunteers who received wages higher than those offered by contractors in the open labour market. He had also, on that occasion, read passages from the real text of the Decree dated 6 October 1949, a text which was entirely different from the one quoted at the 365th meeting by the W.F.T.U. representative and again during the current session by the U.S.S.R. representative. For the details of his reply on that point he referred members to the summary record of the 365th meeting of the Council.

During the current session, the W.F.T.U. representative had referred to a report by the I.L.O. Committee on the Application of Conventions and Recommendations [see above, paragraph 3 (4)] in an attempt to prove that forced labour still existed in the French overseas territories, on the pretext that no special text had yet been adopted laying down specific punishments for those convicted of using forced labour. In actual fact, however, there was no need for any special text on the subject since the provisions of the Penal Code applied necessarily to persons attempting to use forced labour. The W.F.T.U. representative had also given various isolated examples of alleged forced labour in the territories of overseas France. Mr. Boris said that he would not go into all those cases in detail but would simply emphasise that no law had ever succeeded in completely eradicating a crime. The important point was that a law existed banning forced labour, and that anyone who felt he had been wronged could always institute legal proceedings in order to secure the conviction of the offenders.[2]

III. Material Available to the Committee

5. In reply to a request made by the Secretary-General of the United Nations in May 1951, the French Government sent a letter[3], dated 10 September 1951, enclosing three legislative texts which its representative had quoted in the Economic and Social Council.

6. Furthermore, in its reply to the Committee's questionnaire[4], the French Government submitted a certain amount of information with a bearing on the allegations mentioned earlier.

7. Lastly, the Committee has collected various documents relating to these allegations.

8. All this material is summarised below, allegation by allegation.

Forced Labour in General

9. It was in 1937 that France ratified the international labour Convention No. 29 concerning forced or compulsory labour, but it did so only for certain ter-

[1] United Nations, Economic and Social Council, 10th Session, 365th meeting: *Official Records*, paragraphs 115-129.

[2] *Idem*, 12th Session, 474th meeting: *Official Records*, paragraphs 5-7.

[3] United Nations document E/AC.36/4, B.

[4] United Nations document, E/AC.36/11, p. 42.

tories, whose number did not include Morocco, Tunisia and the States of the Levant under French Mandate. Moreover, the French Government announced that the Convention would apply subject to modifications to Articles 2, paragraph 2 *(a)* (compulsory military service), 10 (compulsory labour exacted as a tax) and 19 (compulsory cultivation). Various forms of compulsory labour were consequently retained in the French overseas territories even after 1937, some of which were permitted, or at least countenanced, by Convention No. 29 during the period of transition. Others, on the other hand, were not.[1]

10. Forced labour in the overseas territories was abolished by an Act of 11 April 1946. The text was forwarded by the French Government in its letter of 10 September 1951 (see paragraph 5 above) and reads as follows [2] :

1. Forced or compulsory labour shall be absolutely prohibited in the overseas territories.

2. A measure shall be issued to provide penalties on summary conviction for any offence involving the use of direct or indirect means or devices to compel a person against his will to accept employment or to remain in his place of employment.

3. This Act abolishes all previous decrees and regulations governing the requisitioning of labour on any grounds whatsoever.

11. In 1950 and 1951, the I.L.O. Committeee of Experts on the Application of Conventions and Recommendations commented on the application of this Act and enquired as to the steps which had been taken to enforce it. The Committee was particularly surprised to find that the measure mentioned in Article 2 of the Act had not been issued and wondered how a text devoid of penalties could be effective.[3]

12. In his report to the I.L.O. on the application of Convention No. 29 for the period from 1 July 1950 to 30 June 1951, the Governor-General of French West Africa admitted that the measure mentioned in Article 2 of the Act had not so far been promulgated, but quoted various provisions of the Penal Code which applied to breaches of the Act and were sufficient, in his view, to ensure its application.[4] The I.L.O. Committee of Experts on the Application of Conventions and Recommendations noted this explanation but enquired whether it held good for the other French overseas territories as well.[5]

13. In its report published in 1950, the I.L.O. Committee of Experts on the Application of Conventions and Recommendations also asked (page 42) whether the ban imposed by the Act of 11 April 1946 was general, extending also to the exceptions made to Article 2 of Convention No. 29. In its report for the year 1951 (page 32), the Committee believed it was right in assuming that the ban was general, but asked the French Government to inform it whether its assumption was correct. In recent years, however, reports for several of the French overseas territories concerning the application of Convention No. 29 continue to mention the existence

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[1] See INTERNATIONAL LABOUR OFFICE : *Report of the Governing Body of the International Labour Office on the Working of the Convention (No. 29) concerning Forced or Compulsory Labour* (Geneva, 1949), pp. 5-6, 7, 8, 9, 10-11, 13, 16, 17, 18 and 21.

[2] *Idem : Legislative Series*, 1946—Fr. 4.

[3] International Labour Conference, 33rd Session, Geneva, 1950 : *Report of the Committee of Experts on the Application of Conventions and Recommendations* (Geneva, 1950), p. 42, and *idem*, 34th Session, Geneva, 1951 : *ibid.* (Geneva, 1951), p. 32.

[4] *Idem*, 35th Session, Geneva, 1952 : *Summary of Reports on Ratified Conventions* (Geneva, 1952), p. 179.

[5] *Idem : Report of the Committee o Experts on the Application of Conventions and Recommendations*, (Geneva, 1952), pp. 34-35.

of various special types of compulsory labour permitted under this Convention. On the other hand, the 1948-1949 report for French Equatorial Africa states that the provisions of the Act of 11 April 1946 " are more restrictive than those of the Convention, since they do not authorise any exceptions ".[2]

*14. In its letter dated 10 September 1951, the French Government enclosed the text of Article 2 of the draft labour code for the overseas territories which was repeatedly quoted during the debates in the Economic and Social Council. This Article reads as follows :

Forced or compulsory labour shall be absolutely prohibited.

The term " forced or compulsory labour " shall mean 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.

*15. In its reply, dated 24 March 1952, to the Committee's questionnaire[3] the French Government adds that this draft has already been adopted by the National Assembly and is being considered by the Council of the Republic. The reply goes on to quote the penalties to which offenders may be liable, viz., a fine of 2,000 to 20,000 francs (4,000 to 40,000 francs for a repetition of the offence), or imprisonment for from six days to three months (15 days to six months for a repetition of the offence), or both.

16. That is the legal situation. On the present *de facto* situation, the representative of the W.F.T.U. mentioned a memorandum from the French General Confederation of Labour (C.G.T.) condemning many abuses committed in the territories of the French Union. The reference was, apparently, to a resolution adopted by the Confederation in October 1948[4], demanding amongst other things but without giving any further details, the " abolition of those forms of corporal punishment still systematically practised in some territories, and of the disguised forms of forced labour which still exist ".

*17. In its reply to the Committee's questionnaire[5], the French Government maintains that the Act of 11 April 1946 is rigidly enforced and adds—

All measures of direct or indirect compulsion to work have completely disappeared in the oversea territories of the French Union.

The Department of Oversea France has received no comments from employers' or workers' organisations on the application of the Act of 11 April 1946 or of the provisions of the international labour Convention No. 29 concerning forced or compulsory labour ratified by France.

Courts of law have not been called upon to deal with any cases relating to the application of the Act of 11 April 1946.

Furthermore, the enquiries made by the general inspectors of oversea labour into the conditions in which Convention No. 29 and the Act of 11 April 1946 have been applied show that no case of compulsion has been brought to light and that the Act of 11 April 1946 has been strictly observed.

18. In a book published in 1947, a former colonial Governor mentions that the abolition of forced labour in French West Africa has led to serious difficulties

[1] International Labour Conference, 33rd Session, Geneva, 1950 : *Summary of Reports on Ratified Conventions* (Geneva, 1950), p. 152 (Cameroons) and pp. 154-155 (French West Africa), and 34th Session, Geneva, 1951 : *Idem* (Geneva, 1951), p. 231 (Cameroons).

[2] *Ibid.* (Geneva, 1950), p. 153.

[3] United Nations document E/AC.36/11, p. 44.

[4] *Le Peuple, organe officiel de la C.G.T.*, 20-28 Oct. 1948, p. 7.

[5] United Nations document E/AC.36/11, p. 45.

and raised critical manpower problems.[1] The same observations are made in connection with French Equatorial Africa in another recent publication which, discussing the manpower shortage there, states that " the recruiting facilities which the local authorities could offer the employers have completely stopped since the Act of 11 April 1946 explicitly prohibited the exercise, even indirectly, of any compulsion to work ".[2] Lastly, one of the most recent reports sent to the I.L.O. from the Cameroons on the application of Convention No. 29 also mentions the disturbances on the employment market due to the suppression of compulsory recruiting.[3]

Use of Men from the Second Portion of the Military Contingent for Public Works in French West Africa

19. Under a Decree of 31 October 1926, those members of the indigenous population of French West Africa who were not enlisted in the army and formed the " second portion of the military contingent " could be called upon to serve in para-military formations responsible for various public works. In its reply to the Committee's questionnaire [4], the French Government stated that—

> The purpose of the system... was not only to establish or improve the facilities (railways, roads, ports) necessary for the economic development of the territories, but also to educate workers, train skilled men and distribute more equitably the burdens imposed on certain populations.

20. In his book referred to earlier, Georges Spitz, discussing the development of the road network, writes that " the work was mainly done with requisitioned labour ".[5] Later, speaking of a large dam on the Niger, finished in 1947, he points out that the majority of the 2,500 Africans working on it were taken from the second portion of the military contingent.[6]

21. Legally, this system was abolished by a Decree of 6 February 1950. According to the French Government's reply to the Committee's questionnaire [4] it ceased to exist in practice a year or two earlier. In mid-1948, no more than 643 workers were from the second portion of the military contingent, and the system was completely abolished in the following year.[7]

Creation of a Pioneer Corps for Public Works in French Equatorial Africa

22. In their statements in the Economic and Social Council, the representatives of the W.F.T.U. and of the U.S.S.R. referred to a pioneer corps created in French Equatorial Africa to supply labour for public works. They maintained that some at least of the indigenous population serving in this corps had not enlisted as volunteers.[8]

23. In its letter dated 10 September 1951, the French Government submitted the full text of the Order of 6 October 1949 by which this pioneer corps was

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[1] G. Spitz : *L'Ouest africain français, Afrique occidentale française et Togo* (Paris, 1947), pp. 350-353 and 479-480.

[2] *Encyclopédie coloniale et maritime, Afrique équatoriale française* (Paris, 1950), p. 241.

[3] International Labour Conference, 34th Session, Geneva, 1951 : *Summary of Reports on Ratified Conventions* (Geneva, 1951), p. 231.

[4] United Nations document E/AC.36/11, p. 46.

[5] G. Spitz, *op. cit.*, p. 275.

[6] *Ibid.*, p. 307.

[7] International Labour Conference, 33rd Session, Geneva, 1950 : *Summary of Reports on Ratified Conventions* (Geneva, 1950), pp. 154-155.

[8] See above, paragraphs 3 (2) and (3), 4 *(b)* and *(c)*.

established, and also two supplementary Orders dated 16 November 1950 and 19 December 1950. Articles 1 and 2 of the Order of 6 October 1949 read—

1. A pioneer corps is hereby set up in the territories of Middle Congo, Ga and Ubangi-Shari for the sole purpose of carrying out the public works referred to the ten-year development plan, and specifically to work on communications in the territories where the partial or complete lack of population would make it impossible to carry out such works.

2. The pioneer corps shall be a body of civilian workers with the same status as ordinary workers except for their dress and group organisation.

The pioneer corps shall be recruited exclusively from among young non-wage earning volunteers who have freely entered into a contract of employment.

According to Article 10, the length of the engagement is two years. The Article also lays down the essential provisions of a contract of employment (a model contract is annexed to the Order).

Imprisonment of Vagabonds in Forced Labour Camps

24. When he stated that, in the Cameroons, the French authorities were sending vagrants into forced labour camps, the word " vagrancy " being given unusually wide scope, the representative of the Byelorussian S.S.R.[1] did not quote any legal text or indicate the source from which he had obtained his information.

25. In its letter dated 10 September 1951, the French Government did not enclose the text of the Act of 1945 which, according to the French representative, abolished this practice in that year.

26. It has not proved possible to trace this legislation, and the only official information on the point which has been brought to light is contained in a statement in a report to the I.L.O. from the French Cameroons on the application of the ILO Recommendation No. 35 concerning indirect compulsion to labour, to the effect that " the meaning of vagrancy is strictly limited and does not lead to any extensive abuse ".[2]

Forced Labour for Failure to Pay Taxes

27. Refuting an allegation that, in the Cameroons under French administration, members of the indigenous population are compelled to work when they fail to pay their taxes, the representative of France [3] referred to United Nations document T/249. This gives the French Government's replies to the questions put to it on the report which it submitted to the Trusteeship Council on the administration of the Cameroons in 1947.

The following passage is taken from paragraph 10 (page 11) :

The actions for non-payment of direct taxes include : summons to appear before the magistrate, summons with expenses, an order to pay, distraint and sale. Such measures are executed by duly commissioned enforcement officers sworn in by the court of first instance.

* 28. In the report itself, the French Government stated in reply to question 7 of the Trusteeship Council's questionnaire that " Taxes are paid in cash. Compulsory labour cannot in any circumstances be imposed for a failure to pay taxes.

[1] See paragraph 3 (1) above.

[2] International Labour Conference, 33rd Session, Geneva, 1950 : *Summary of Reports on Unratified Conventions and on Recommendations* (Geneva, 1950), p. 7.

[3] See above, paragraph 4 *(a)*.

Compulsory Labour for Native Chiefs in Return for Permits to Buy Fire-arms

29. Speaking of compulsory labour exacted in return for permits to buy fire-arms, the representative of the W.F.T.U. quoted the 10 December 1950 issue of the newspaper *Le Démocrate.*[1] It has not been possible to trace this information or obtain any other material on the subject.

Conscription of Children for Manual Labour

30. The allegation on this point[2] was vague and it has not been possible to trace any information on it.

Comments and Observations of the French Government

The Chaiman of the *Ad Hoc* Committee on Forced Labour has received the following letters and documents from the Director of the Conference Secretariat of the French Ministry of Foreign Affairs :

Letter of 18 March 1952

Sir,

In your letter dated 22 November 1952, you asked me to transmit the comments and observations of the French Government on the allegations made in the Economie and Social Council of the United Nations by the representatives of the U.S.S.R., Byelorussia and the World Federation of Trade Unions in connection with professed violations of the legislation on forced labour in certain territories of the French Union.

I have the honour to enclose—

1. the observations of the French Government ;
2. the official text of Act No. 52.1322 of 15 December 1952 to institute a Labour Code in the territories and associated territories within the competence of the Ministry for France beyond the Seas.[3]

I have the honour to be, etc.,

(Signed) V. BROUSTRA.

OBSERVATIONS OF THE FRENCH GOVERNMENT

The allegations made by the representatives of the Union of Soviet Socialist Republics, the Byelorussian Soviet Socialist Republic and the World Federation of Trade Unions concerning professed cases of forced labour in the oversea territories of the French Union refer to—

(a) Forced labour in general, which although legally abolished, was allegedly still extant.

[1] See above, paragraph 3 (4).
[2] See above, paragraph 3 (2).
[3] Not reproduced here.

From the legal standpoint, an Act of 15 December 1952 to institute a Labour Code in the oversea territories and associated territories has confirmed the principle that forced or compulsory labour is absolutely prohibited, labour of this nature being defined 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 ". This is the same statement of principle as was made in Article 1 of the Act of 11 April 1946. This latter Act, however, did no more than state the principle; admittedly, Article 2 laid down that a measure should be issued to provide penalties on summary conviction, but in fact no such text was ever passed and the provisions of the Penal Code were therefore used to ensure observance of the Act, the main provisions being Articles 309 *et seq.* (violence or assault), 307 (threats), 341 (the pledging and sequestration of persons, contracts prejudicial to individual liberty), 114 (arbitrary acts and acts prejudicial to individual liberty instituted by public officials or persons acting under public authority).

This gap has been filled by Article 228 of the Labour Code which institutes as penalties, a fine of 2,000-20,000 francs and imprisonment for from six days to three months, and for a repetition of the offence, a fine of 4,000-40,000 francs and imprisonment for from 15 days to six months. Article 232 also lays down that the penalty is to be imposed as many times as there are workers employed in conditions contrary to the law, up to a stipulated maximum.

In fact, as the French Government has mentioned in its earlier communications, all measures of direct or indirect compulsion have completely disappeared from the territories of the French Union.

Courts of law have not been called upon to deal with any case in which forced labour was involved.

The Ministry for France beyond the Seas has received no comments from employers' or workers' organisations on the application of the Act of 11 April 1946 or of international labour Convention No. 29, ratified by France.

Lastly, the enquiries made each year by the general inspectors of overseas labour, which are used as a basis for the reports sent to the International Labour Office on the conditions in which Convention No. 29 has been applied, show clearly that no case of compulsion has been brought to light and that the principle whereby forced labour is absolutely prohibited has been strictly observed.

(b) The use of men from the second portion of the military contingent for public works in French West Africa.

The allegations made in connection with the use of workers from the second portion of the contingent, like those made in connection with point *(c)*, were covered in memoranda submitted to the Economic and Social Council by the World Federation of Trade Unions and the General Confederation of Labour.

The French Government has nothing to add to the material on this subject already placed before the Economic and Social Council by the representative of France and before the *Ad Hoc* Committee by the Government in its written communications. The system of " using the second portion " in fact died out in 1947 and was legally abolished by a Decree of 6 February 1950 to repeal a Decree of 31 October 1926 on the execution of public works in French West Africa by workers taken from the second portion of the indigenous contingent.

(c) The creation of a pioneer corps for public works in French Equatorial Africa.

In this connection, the French Government has already provided the Committee with a documented note and with the text instituting the pioneer corps in French Equatorial Africa, accompanied by a model contract of employment.

(d) The imprisonment of vagabonds in forced labour camps on the basis of a broad interpretation of the word " vagrancy " (the Cameroons and Indo-China).

(e) Forced labour for failure to pay taxes (the Cameroons and Indo-China).

The French Government would point out that the allegations mentioned in this section were made by the representative of Byelorussia at the Economic and Social Council in 1949. He asserted that the indigenous population in Indo-China and the Cameroons were forced to work if they were unable to pay their excessively heavy taxes.

In fact, an enquiry had provided confirmation that such allegations were devoid of all foundation. The French Government has already provided all the necessary information on this point.

(f) Compulsory labour for Native chiefs in return for permits to buy fire-arms (French West Africa).

(g) The conscription of children from eight to 12 years old for manual labour.

The French Government has instituted enquiries into these specific points and the findings will be communicated to the Committee.

Letter of 3 April 1953

Sir,

Further to my letter No. 236 of 18 March, I have the honour to enclose the findings of the enquiry held by the French Government as a result of the allegations made by the representatives of the U.S.S.R., Byelorussia and the World Federation of Trade Unions in connection with professed violations of the legislation on forced labour in certain territories of the French Union.

As you will observe, these findings confirm the futility of the accusations made against the French Union in the Economic and Social Council.

I have the honour to be, etc.,

(Signed) V. BROUSTRA.

FURTHER OBSERVATIONS OF THE FRENCH GOVERNMENT

The enquiry which has just been held in the Cameroons and French West Africa confirms that the allegations listed under *(d)*, *(e)*, *(f)* and *(g)* of the Committee's summary are, like the other allegations, devoid of all foundation.

These allegations, in so far as they concern the Cameroons, related to (1) the imprisonment of vagabonds in forced labour camps on the basis of a wide interpretation of the word " vagrancy ", and (2) forced labour for failure to pay taxes.

These assertions must be formally denied. Detention, an administrative precautionary measure in the legal meaning of the term, is non-existent in the Cameroons or any of the other territories overseas and cannot therefore be the penalty for vagrancy or failure to pay taxes.

The judicial system makes provision for penal detention only, imposed by regular judgments pronounced in application of the metropolitan Penal Code, which was made applicable in the territory by a Decree of 30 April 1946. The penal provisions applicable to vagrancy are also those of the Penal Code (Articles

269 *et seq.*). Very detailed information on the subject is given in the report to the Trusteeship Council for the year 1950, under the heading " Security " (page 43).

Judicial statistics show, moreover, that vagrancy is not penalised with exceptional severity. Out of a total of 13,991 minor offences in 1951, 220 convictions for vagrancy were made for a population of 3,000,000. The figures for 1952, which have not yet been fully collated, are comparable if not actually lower.

The allusions concerning the exaction of forced labour for failure to pay taxes are also without foundation. The ease with which taxes are collected is a sure sign that taxation is not excessive. It should be emphasised, moreover, that all dues and taxes, like the rates at which they are levied, are voted annually by the freely elected representatives of the population to the Territorial Assembly instituted by a Decree of 25 October 1946.

The alleged exaction of compulsory labour based on exorbitant taxation is consequently the product of inaccurate information and a complete misrepresentation of the situation.

The allegations which concern French West Africa related to (1) compulsory labour for Native chiefs in return for permits to buy fire-arms, and (2) the conscription of children from eight to 12 years old for manual labour.

Without recalling the absolute prohibition of every form of forced labour prescribed by an Act of 11 April 1946 and confirmed by an Act of 15 December 1952 to institute a Labour Code, I would simply mention, in connection with the first of these two points, that Native chiefs take no part whatsoever in the issue of permits for the purchase of fire-arms.

Applications are submitted to the district chief, who forwards them with his comments for decision, in the case of shotguns to the area commandant, and in the case of modern weapons to the territorial chief.

Cantonal chiefs have therefore no means of exerting any pressure, particularly since those who purchase fire-arms, by reason of the cost, are usually prominent personages or officials belonging to the indigenous *petite bourgeoisie*, and as such are not subject to the authority of traditional chiefs.

As regards the work of children, a Decree of 18 September 1936, which was the legislation in force at the time of the alleged occurrences, prohibited the employment of young persons under 14 years of age on work other than apprentice training in small craftsmen's workshops. The Decree also provided that the employment of any minor should be subject to the production of a certificate and the parents' prior consent.

The Labour Code, which is now the authoritative text, lays down that children may not be employed in any undertaking, even as apprentices, if they are under 14 years of age, unless the territorial chief allows an exception to be made after consultation with the Labour Advisory Committee in the light of local circumstances and of the work which the children may be called upon to do.

The employment of children is supervised by the labour inspector, who may order the children to undergo a medical examination in order to ensure that the work is not beyond their strength.

Letter of 3 April 1953

Sir,

In a letter dated 22 November you informed me of the allegations made by the representative of the Byelorussian Soviet Socialist Republic in the Economic and Social Council, concerning professed violations of the legislation governing forced labour in French Indo-China.

I have to inform you that, since " Indo-China " no longer exists as an administrative and political entity, having been replaced by the three States of Cambodia, Laos and Viet-Nam, I forwarded your letter to the competent authorities in these States. The authorities in question have requested me to transmit to you the accompanying observations in the hope that you will be able, in spite of the late date of their receipt by the Committee, to include them in the report which the Committee on Forced Labour is to submit to the Economic and Social Council.

I have the honour to be, etc.,

(Signed) V. BROUSTRA.

OBSERVATIONS OF THE GOVERNMENT OF CAMBODIA

Forced labour is strictly forbidden in Cambodia under an Act of 11 April 1946, the applicability of which in Cambodia was confirmed by Kram No. 375-NS of 30 October 1947.

This Act defines as offences " all means or methods of direct or indirect compulsion for the purpose of engaging any individual, or retaining him at a workplace, without his consent ".

There is no administrative forced labour (payment of taxes, etc.).

The Government of the city of Phnom-Penh, in carrying out public works, resorts only to voluntary manpower.

As regards taxes, there was formerly a personal tax imposed on any Cambodian subject or person assimilated thereto between the ages of 18 and 60 years. This tax is governed by the Act, or Kram, No. 43-NS of 23 May 1945, which was repealed and superseded by Kram No. 299-NS of 20 February 1947, under which a national contribution was instituted as from 1 January 1947.

This national contribution was abolished in 1949 by Kram No. 511-NS of 11 April 1949.

The introduction of new taxes is governed by the following texts :

Kram No. 591-NS of 24 April 1950 to establish a certificate of identity for Cambodian subjects.

An Act voted by the National Assembly regulating the water and lighting tax levied for the benefit of the municipal budget of the city of Phnom-Penh (Kram No. 742-NS of 24 September 1952). This tax is imposed on all male persons between the ages of 18 and 60 years who are living in the city of Phnom-Penh or had settled there before 1 January of the fiscal year.

As regards vagrancy, only the Cambodian judicial authorities are competent to deal with this offence, which is defined in Sections 365-368 of the Cambodian Penal Code. In practice, very few cases have been brought before the courts and the tendency over the past few years has been not to consider vagrancy as an offence any longer.

Furthermore, arduous work and night work are forbidden for women and minors.

Within the private sector of the economy, *i.e.*, in commercial and industrial undertakings, labour organisation is subject to the labour regulations in force in Cambodia. Workers and employees enjoy highly satisfactory conditions and their wages or salaries usually exceed the minimum prescribed.

In conclusion it may be asserted that compulsory forced labour no longer exists in Cambodia.

The foregoing shows that the allegations made by the Byelorussian Soviet Socialist Republic during the recent sessions of the *Ad Hoc* Committee on Forced

Labour of the United Nations concerning professed violations of the current legislation governing forced labour in Cambodia are false and devoid of any foundation.

Kram (No. 372-NS)

Considering the agreement of 7 January 1946 establishing a temporary *modus vivendi* between France and Cambodia and the annexed protocol of 16 July 1946;

Considering the Royal Ordinance of 12 June 1933 to regulate labour and manpower in Cambodia;

Considering Royal Ordinance No. 84 of 20 May 1938 regulating labour in Cambodia;

Considering all French labour regulations now in force in Cambodia;

Considering Kram No. 91-NS of 24 July 1947 to establish a Ministry of Information and Social Welfare;

Considering Kret No. 91-NS of 24 July 1947 to establish a Regency Council to wield power until the coming of age of His Majesty the King;

having heard the Council of Ministers,

We hereby Decree as follows

Article 1: Until such time as Our Services have drawn up a new set of labour regulations, the French labour regulations now in force in Cambodia shall be temporarily applicable to Our subjects.

Article 2: The President of the Council of Ministers and the Minister of Information and Social Welfare shall be entrusted with the execution of the present Kram.

Done in Our Royal Palace at Phnom-Penh on 30 October 1947.

Regency Council
(Kret No. 91-NS of 24 July 1947)
(Signed) N. SURAMARIT,
President.

Submitted by Us to the Regency Council for signature:

(Signed) HUY KANTHOUL,
Minister of Information and Social Welfare.

(Signed) S. WATCHHAYAVONG.
President of the Council of Ministers.

No. 228-DB
Seen for approval
Phnom-Penh, 23 October 1947
(Signed) L. PICHON,
Commissioner of the French Republic for Cambodia.

A certified true copy:
(Signed) HEM PHANRASY,
Inspector of Social Affairs and Labour.

OBSERVATIONS OF THE GOVERNMENT OF LAOS

The allegations made by the representative of the Byelorussian Soviet Socialist Republic betray complete ignorance of the institutions of Laos, their operation and the manner in which the executive and legislative powers are exercised, as defined by the Constitution of the Kingdom of 11 May 1947.

The abolition of compulsory labour is one of the questions with which the deputies in the National Assembly are most deeply concerned. Although the necessities of reconstruction, caused by the war, led the National Assembly, on 3 January 1950, to pass an Act establishing extremely severe regulations—to apply over a period of five years—with regard to the utilisation of workers assigned to this specifie type of public works, the same Assembly unreservedly repealed this Act in the following year by Act No. 90 of 16 March 1951, which reads as follows :

Article 1 : Act No. 55 of 3 January 1950 to regulate public works is hereby, and shall remain, repealed.

Article 2 : Throughout the territory of Laos, as from the date of promulgation of the present Act, the only type of labour in existence shall be free labour.

This Act was promulgated by Royal Ordinance No. 80 of 29 March 1951. The deputies are keeping a close watch over its enforcement, and systematically oppose any measure which may be considered to be a departure from the principle laid down.

The minimum wage prescribed for free workers is determined each year by Royal Ordinance according to the cost of living in the various provinces. The latest Royal Ordinance issued on this subject is Royal Ordinance No. 132 of 24 March 1951.

As regards the scale of taxation and the conditions under which taxes are collected, the allegations of the representative of Byelorussia are completely untrue. Taxpayers in Laos have an extremely light burden by comparison with taxpayers in other countries.

Budgetary estimates of receipts from direct taxation amount to 17,348,736 piastres, out of a total budget of 250,574,000 piastres for April 1952 to April 1953.

All taxes introduced before the present constitutional régime was adopted have been abolished and replaced by taxes voted by the National Assembly. The tax known as " personal tax " has been abolished and no tax has replaced it.

As to the question of " vagrancy ", the Royal Government can assert that this offence is practically non-existent among the population of Laos, where every family owns its house and its plot of land and wants nothing more than to go about its own work in peace.

Observations of the Government of Viet-Nam

From the statement of the delegate of Byelorussia it would appear that he was referring especially to the situation resulting from the Decree of 6 January 1903, known as the Decree respecting indigenous status, and the provisions of the amended Penal Code which punish vagrancy. As regards the first point, the Decree of 6 January 1903 empowered chiefs of provinces to impose the penalties of imprisonment (for a period not exceeding five days) and fines (not exceeding 15 francs) on Natives and assimilated Asiatics, as a disciplinary measure, for any delay in paying taxes, fines or, generally speaking, any sum due to the village, the province or the colony.

The scope of this Decree was considerably reduced by the Decree of 13 September 1932, which provided that the penalties in question were not applicable to taxpayers whose names appeared on taxpayers' registers.

In practice the administrative authorities very rarely made use of the right

thus granted them. After the promulgation of the Decree of 13 Septembe[r] mentioned above, indigenous status was imposed only upon those subject [to] personal tax ; it was definitely and finally abolished as a result of the aboli[tion] the tax itself in 1946.

At the present time, failure to pay or delay in paying taxes is punishable [only] by fiscal fines.

As regards vagrancy, an offence punishable by three to six months' impri[son]ment under the amended Penal Code which is applicable to southern Viet-Nam, [a] vagrant is a person who fulfils the three following conditions : lack of means [of] subsistence, habitual failure to exercise a trade or profession, and intent to com[mit] an offence.

Since the penal interpretation is restrictive, the courts might not convict [the] accused person if either one of the above conditions was not met or could not [be] clearly established. Furthermore, when there are extenuating circumstances [the] prison sentence imposed is often shorter than the minimum period prescribed.

There is therefore no question of sending individuals caught in a state [of] " vagrancy " to forced labour camps, nor of interpreting the word in an unu[sual] wide sense.

Finally, it should be added that so-called " compulsory " work was [pro]hibited under the Decree of 30 December 1936 to regulate labour and that [the] recent Labour Code of Viet-Nam (Ordinance of 8 July 1952) forbids it absolu[tely].

Additional Material

Addition to Paragraphs 14 and 15.

The Labour Code for the Oversea Territories was finally adopted by the Nati[onal] Assembly on 23 November 1952 and was promulgated on 15 December 1952 [under] the title " Act to institute a Labour Code in the Territories and Associated Territ[ories] within the competence of the Ministry for France beyond the Seas ".[1]

The following is the final wording of Article 2 :

> Forced or compulsory labour shall be absolutely prohibited.
>
> The term "forced or compulsory labour" shall mean 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.

Before the last debate in the National Assembly, the Council of the Repu[blic] had approved the following text, which retained the exceptions listed in Artic[le 2], paragraph 2, of international labour Convention No. 29 :

> Forced or compulsory labour, as defined by paragraphs 1 and 2 of Article [1] of the Geneva international labour Convention No. 29 of 28 June 1930, ratified on 17 [June] 1937, shall continue to be absolutely prohibited.

This narrower text did not find favour with the National Assembly, which was opposed to the inclusion in the Act of the exceptions contained in Artic[le 2] of international labour Convention No. 29.[2]

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[1] *Journal officiel de la République française, Lois et Décrets*, No. 298, 16 Dec. 1952, pp. 11541 [et] [2] *Journal officiel de la République française, Débats parlementaires, Assemblée nationale*, No. 23 Nov. 1952, pp. 5467-5472.

In the Geneva Convention, this definition is accompanied by various reservations which are mentioned in the text adopted by the Council of the Republic.

However, owing to the provisional character of the Convention and to the fact that there are paragraphs in Article 2 which can be the occasion of abuses, the Government considers it preferable to include in the Labour Code a condemnation pure and simple of forced labour, provided, of course, that the conditions in which requisitions might be authorised are clearly specified in a legal text which the Government undertakes to table during the first three months of 1953.

We know that, at the moment, the administrations of the territories overseas are powerless in face of disasters and are deprived of any legal means of requisitioning since the laws relating to organisation in time of war have been repealed in those territories owing to the fact that they gave rise to certain abuses.

It is consequently necessary to adopt a text which clearly specifies at what times and in what areas and places requisitions can be made to cope with various disasters or to carry out urgent public works.

The Government feels we must reject the hypocrisy into which we should inevitably be driven if, after condemning forced labour, the administration was obliged to have recourse to underhand practices to requisition the labour necessary to meet certain needs.

We must act quite openly.

No one here will refuse to recognise the need to reaffirm in this Labour Code our fullest condemnation of forced labour. Nor will anyone deny, since this is so,—and I think that the representatives from overseas will agree—that Parliament must next examine and approve a specific, clear-cut text to lay down the conditions in which requisitions might be made if necessary.[1]

As penalties for breaches of the prohibition on forced labour, Article 228 of the Code, as finally adopted, provides for fines ranging from 2,000 to 20,000 francs, imprisonment for periods ranging from six days to three months, or both.

Addition to Paragraph 17.

In its report to the I.L.O. on the application of Convention No. 29 for the period 1 July 1951-30 June 1952, the General Inspectorate of Labour of French Equatorial Africa states that the Convention " is applied in strict conformity with the Act of 11 April 1946. The provisions of this Act are more restrictive than those of the Convention, since they allow for no exceptions ".

The Government-General of French West Africa states in its report on the Convention for the same period that its previous reports are " still entirely valid, since no violation of the ban on forced or compulsory labour has been registered in the Territories of the Federation by the supervisory services and no comments on the subject have been made by employers' or workers' organisations ".

Addition to Paragraph 28.

A report submitted to the I.L.O. on the application of Convention No. 29 in the Cameroons for the period 1 July 1949-30 June 1950[2] confirms that taxes are payable in cash and that the taxpayers cannot free themselves from this obligation by work. No case of physical constraint has been noted.

During the debate, the following statement, announcing further legislation, was made by the Secretary of State for France beyond the Seas :

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[1] *Journal officiel de la République française, Débats parlementaires, Assemblée nationale*, No. 97, 23 Nov. 1952, pp. 5469-5470.

[2] International Labour Conference, 34th Session, Geneva, 1951 : *Summary of Reports on Ratified Conventions* (Geneva, 1951), p. 231.

DEMOCRATIC REPUBLIC OF GERMANY

Summary of Allegations and of the Material Available to the Committee

I. Allegations

1. Allegations with regard to the Democratic Republic of Germany[1] were made—

(1) In the course of debates in the Economic and Social Council, by the representatives of the *United Kingdom*, the *United States of America* and the *American Federation of Labor*.

(2) In memoranda communicated to the Committee, by the following non-governmental organisations: the *International League for the Rights of Man*[2] and the *Committee of Free Jurists*.[3]

(3) At sessions of the Committee, by the representatives of the *International Confederation of Free Trade Unions*, the *International League for the Rights of Man* and the *Committee of Free Jurists*.

2. These allegations, which are summarised below, relate to—

(a) the existence of forced labour in general and, more particularly, its connection with the working of uranium mines;

(b) the existence and location of concentration and forced labour camps;

(c) the working conditions, health and atmosphere in the camps and uranium mines.

Existence of Forced Labour

3. The representative of the *United States of America* at the Tenth Session of the Economic and Social Council, asserted that—

It was becoming increasingly clear that forced labour was not limited to only the territory of the Soviet Union. To cite but one example, the *Rheinische Zeitung* of 7 January 1950 had contained an article on the Erzgebirge uranium mines in the Soviet Zone of Germany.[4]

4. The representative of the *United States of America* at the Eleventh Session of the Council referred to a letter published by the German Social Democratic Party assigning a woman to work in Aue. The relevant passage of his statement is summarised as follows:

Recently, the German Social Democratic Party had published a sickening document describing conditions there [in the Eastern zone] in great detail. He would quote

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[1] Also referred to in the allegations as Eastern Germany; Eastern Zone of Germany; Soviet Occupation Zone in Germany; Soviet Zone of or in Germany; Soviet-occupied Germany.

[2] Memorandum dated 18 June 1952.

[3] Memorandum dated 19 Mar. 1952.

[4] United Nations, Economic and Social Council, 10th Session, 366th meeting: *Official Records*, paragraph 3.

from that document part of a passage reproducing a letter to the wife of a man who had escaped. The letter read—

From Labour Office Teltow-Mahlow

Branch Office Zossen 21 March 1949

To Mrs. Frieda Heyer.

Concerning your assignment to work in Aue:

The medical examination has revealed your capacity for the contemplated assignment from here to Aue for work. You are therefore requested to present yourself at the Labour Office in Aue with the installation assignment card and to begin working in Aue in place of your husband who has made his own employment there impossible by fleeing with your knowledge and your help.

(Signed) NITSCHE

The letter made it clear that the order that she should go to work in her husband's place was based on a medical examination ; there was no mention in the letter of a court of law finding her guilty of conniving at her husband's escape.[1]

5. The representative of the *American Federation of Labor* to the Economic and Social Council, referred to the existence of forced labour in Eastern Germany and stated—

...at the current time, after the war, the workers of the Eastern zone of Germany were being forced to work in the uranium mines of Saxony.

The information on the latter point had been supplied by Dr. Fritz Löwenthal, who had been a member of the Communist Party, had been in the Soviet Union during the years when Hitler was in power and had entered Germany in 1946 to become director of the Ministry of Justice in the Soviet occupation zone in Germany. What he had seen as director had compelled him to flee the Soviet zone....[2]

6. The representative of the *International Confederation of Free Trade Unions* made a similar statement at the Second Session of the Committee.

7. The *Committee of Free Jurists* referred to the " organised recruiting of workers in the Soviet zone of Germany by a system of coercion " and quoted the three following legal texts relating to " the legal basis for the organised recruiting of workers " : (1) Ordinance dated 2 June 1948 on the guaranteeing and protection of rights in the assignment of workers ; (2) Ordinance dated 12 July 1951 on the duties of labour authorities and the direction of labour ; (3) First Executive Regulations dated 7 August 1951 to give effect to the Ordinance on the duties of labour authorities and the direction of labour.

The *Committee of Free Jurists* also referred to a number of legal and administrative documents relating to the purpose of these texts, their enforcement by the administrative authorities and the penalties they involve.

8. The *Committee of Free Jurists* claimed that all the material it had placed at the disposal of the Committee had been the result of evidence given by 80,000 persons during the last three years, and stated that there were about 20,000 political prisoners, opponents of the régime, who were serving sentences of forced labour not in forced labour camps, but in normal penitentiaries.

9. Referring to sentences which have been passed on German citizens by Soviet military courts, the representative of the *Committee of Free Jurists* stated—

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[1] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting : *Official Records*, paragraph 29.

[2] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraphs 64 and 65.

In most cases a sentence of 25 years' confinement with forced labour has been inflicted upon them, through applying paragraph 58 of the Soviet Military Penal Code dealing with hostile acts towards the Soviet authorities.

10. In connection with Order No. 3 of the Control Council for Germany dated 17 January 1946, the representative of the *Committee of Free Jurists* stated that this text dealt exclusively with the recruitment of unemployed workers and that, from the very beginning, it was wrongly applied and distorted in the Soviet zone.

11. Referring to deportations of German specialists to the Soviet Union, the representative of the *Committee of Free Jurists* stated that such deportations had taken place in 1946, when two industrial combines, the Zeiss optical industry and the Junkers aircraft industry, had been affected by these measures, and again in 1951, when a total of some 60 engineers who were specialists in the optical and aircraft industries had been deported.

12. The representative of the *Committee of Free Jurists* also stated—

> There are not yet any corrective labour camps, as there are in Soviet Russia in Siberia, but ... there is now a trend to introduce them into the Soviet zone ;... there is now a beginning or a basis, because on 1 October a new criminal procedure came in which paragraph 254 authorises the infliction of corrective labour without trial on the written request of the prosecution. Also ... a new criminal code is planned for December in the Soviet zone in which it will be provided that instead of penitentiary or prison there will be deprivation of freedom which would also enable them [the authorities] to place people in corrective labour camps and to compel them to forced labour.
>
> As regards compulsory provisions within the economic field ... it may, however, be said that since the beginning, and excluding deportation to Soviet territory, all such provisions were within the responsibility of the German authorities. Before 1949 they were applied in conformity with Soviet regulations ; after 1949, even after the creation of the German People's Republic, the prescriptions of the Soviet authorities remained in force.

Existence and Location of Camps and Number of Compulsory Workers

13. The representative of the *United Kingdom* to the Eighth Session of the Economic and Social Council stated—

> It had been observed that in the Soviet zone of Germany, the nazi techniques had been taken over and improved upon. An inquiry undertaken a year ago showed that the population of concentration camps was greater at the present time than it had been in 1939. There was every reason to believe that 200,000 to 300,000 prisoners were interned in the six major and the six or seven smaller camps....
>
> From the evidence of prisoners, it appeared that 17,000 prisoners at Buchenwald had been sent to Siberia in April 1947 and that, on 31 January 1948, 47,600 prisoners had been deported from the internment camp at Feunfeichen for labour in the Kuzbas factories in Siberia.
>
> Some information had been obtained on the camps at Bautzen, Jamlitz and Buchenwald as well as on the MVD prisons at Pirna, Dresden and Muehlberg.[1]

14. In his statement at the Eleventh Session of the Economic and Social Council, the representative of the *United States of America* spoke of "forced labour camps in the Eastern zone of Germany".[2]

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[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, pp. 112-113.

[2] *Idem*, 11th Session, 413th meeting : *Official Records*, paragraph 29.

15. The representative of the *International Confederation of Free Trade Unions* stated that " in the Soviet zone of Germany, a number of nazi concentration camps were re-opened and operated by the Soviet police. After the establishment of a ... government in the Eastern zone, these camps were handed over to the East German police. At the present time, a number of so-called ' penal justice camps ' are run by the East German police. " He added that " according to reports which we received only a few days ago, the construction of a large concentration camp is now under way on the island of Ruegen ". He asserted that this camp was intended for prisoners who were considered politically dangerous to the régime and stated that " after the deportation of the population of the five-kilometre zone, along the border of West Germany, a general wave of arrests of politically suspect persons is scheduled, which will further increase the number of prisoners in the new concentration camp centre ".

16. Referring to the number of compulsory workers, the representative of the *Committee of Free Jurists* said—

I could speak about two main areas of concentration for that type of manpower. First of all, the well-known district of Aue—that is, the uranium mining district. A figure—not recent, however—was quoted to the effect that some 300,000 of those people were put to work at one time in this district of Aue. However, this total number may have been reduced to some considerable extent. Meanwhile, since some of the mines have been exhausted, new mines have been opened in the southern part of Thuringia, and therefore a point of concentration may be found there as well. Further, there is a general trend towards the expansion of steel industries, and two new combines are being constructed at present, one of which is the western combine in Kalbe on the River Saale ; the second, the eastern combine, is in a place called Fuerstenberg-am-Oder.... In other words, those are the two main places of concentration of forced labour and forced manpower.

Conditions in Camps and Mines

17. Speaking of concentration camps, the representative of the *United Kingdom* alleged that " A German news agency had reported, on 23 November 1948, that three German civil servants had died of starvation and ill-treatment at Sachsenhausen, although they had been acquitted by a Soviet military court ".[1] Discussing certain camps, the names of which he quoted (see paragraph 13 above), he stated—

Though the death rate was extremely high, those camps were always full. The prisoners included not only nazi officers and war criminals, but also women, children and large numbers of adolescents arrested for no known reason. Prisoners who had been in nazi camps as well as in Soviet camps had ascertained that absolutely the same conditions prevailed in those two categories of camps.[2]

18. In his statement to the Economic and Social Council on the Erzgebirge uranium mines, the representative of the *United States of America* mentioned an article published on 10 January 1950 in the *Rheinische Zeitung*, which pointed out that " working conditions there were as intolerable as those prevailing in Soviet forced labour camps ".[2]

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[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 113.

[2] *Idem*, 10th Session, 366th meeting : *Official Records*, paragraph 3.

19. Speaking in the Economic and Social Council of conditions in the Eastern zone of Germany, in particular in the uranium mines there, the representative of the *United States of America* referred to a document published by the German Social Democratic Party which described the position of women in the following terms :

The authors of the document had pointed out the intolerable position of women in forced labour camps in the Eastern zone of Germany ; they had stated that they were considered fair game both for U.S.S.R. soldiers and German workers, that to live they had to make friends with many of those men, that they were compelled to work until six weeks before giving birth and that their babies were thereafter soon taken away from them so that they could resume work.[1]

20. The representative of the *American Federation of Labor* spoke of working conditions in the uranium mines and, referring to information supplied by Dr Fritz Löwenthal[2], stated—

... He himself had seen what was happening in Saxony. The work there was mainly the extraction of uranium. Theoretically, only persons of from 18 to 45 years of age could be pressed into service, but, in actual fact, children of 14 years and men of 65 and over were put to work. The workers were obliged, at any cost, to produce the minimum amount of work demanded by the occupation authorities. The work was extremely dangerous because the miners worked underground, inhaling the dangerous products emanating from radium. Dr. Löwenthal said that there were no safety devices or health safeguards in the mines. Accidents had been so frequent that it had been difficult to replace the male workers. The authorities had been obliged to introduce forced labour for women. Even pregnant women and mothers of young children had been forced to work.[3]

21. The *International League for the Rights of Man* spoke in general terms about forced labour camps and alleged that " even if there were no political purpose behind the establishment of these forced labour camps, the camps would exist because of the need for cheap and immediate production along the lines of armament needs ". It then went on to quote, as an example, the working conditions in the uranium mines—

The personal testimonies of those who have been sentenced to work in the Jachymow uranium mines in Czechoslovakia and the Aue mines ... are consistent in their description of impossible quotas, starvation diet if the quotas or norms are not fulfilled, of the tortures which take place and the death rate due to the lack of protective clothing and machinery and the lack of sufficient or adequate medical care.

22. Speaking of concentration camps in Eastern Germany, the representative of the *International Confederation of Free Trade Unions* stated that " reports on conditions in these camps show that the treatment of prisoners is characterised by a combination of Soviet and nazi methods ". He added that this was " the peculiar feature of the East German communist régime " and referred to the testimonies of two private individuals. Referring more particularly to the mining of uranium ore in the region of Aue in Saxony, he mentioned the " extremely difficult conditions " in which the workers were employed, adding that such workers were

[1] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting : *Official Records*, paragraph 29.

[2] See above, paragraph 5.

[3] UNITED NATIONS, Economic and Social Council, 10th Session, 365th meeting : *Official Records*, paragraph 65.

subject to " special restrictions " and that " the entire area is cut off from the rest of the Eastern zone and closely watched ".

23. When speaking of the mining industry, the representative of the *Committee of Free Jurists* stated that there were three different categories of workers : *(a)* workers who were, " 100 per cent. voluntary manpower " ; *(b)* people " who have been compelled and, even if not formally so, yet compelled by either political or economic pressure to perform that type of work which, under other circumstances, they would not have freely undertaken or resorted to " ; and *(c)* persons sentenced to forced labour by the courts, who were treated like prisoners. In connection with this allegation he referred to the legal texts quoted in the memorandum of 19 March 1952.[1]

II. Material Available to the Committee

24. In a communication dated 13 July 1951 [2] the *International Confederation of Free Trade Unions* enclosed a number of documents relating to the Soviet zone of Germany. In addition, it submitted a number of documents at the Second Session of the Committee. At the Third Session of the Committee, the *Committee of Free Jurists* submitted a number of legislative and other texts.

25. The Committee has also assembled and examined certain material related to the allegations mentioned under Part I above.

26. All this material is summarised below.

Legislation

27. In speaking of forced labour, the allegations do not always indicate very clearly whether the reference is to forced labour of a punitive, educational or corrective nature or whether, on the contrary, it is to the recruitment or mobilisation of manpower. The distinction has, however, been made in the following summary of the legislation, which has been mentioned in the allegations or has a bearing on them.

Punitive, Educational or Corrective Labour performed by Prisoners under Sentence.

*28. Article 137 of the Constitution of the Democratic Republic of Germany, approved on 30 May 1949 [3], provides that " the execution of punishment is based on the conception of the educative influence of joint productive labour on those capable of improvement ".

29. The same concept is advanced in an Ordinance of 3 April 1952 on the employment of convicts [4], which lays down in its preamble that " the execution of punishment is based on the idea of educating persons capable of improvement through collective and productive work ". The preamble also states that, apart from giving effect to Article 137 of the Constitution, the purpose of the Ordinance is to " give convicted persons an opportunity of applying their abilities to tasks confronting the national economy ". Under Article 1, certain categories of persons

[1] See above, paragraph 7.
[2] See United Nations document E/AC. 36/4.
[3] See United Nations : *Year Book on Human Rights* for 1949 (New York, 1951), p. 78.
[4] *Gesetzblatt der Deutschen Demokratischen Republik*, No. 43, 8 Apr. 1952, pp. 275-276.

sentenced to be deprived of liberty may, if they consent, be assigned to work in specified industrial sectors and so become eligible for the remission of part of their sentences. Article 2 makes such remission conditional upon the convicted person's conduct being satisfactory and upon his regularly performing the full amount of work allotted to him. Should he appreciably and regularly exceed this amount, he may be granted up to one year's remission, subject to his undertaking to work in the same industrial sector for twice as long as the period remitted, and at least one year.

30. Under an Ordinance on the punishment of crimes of speculation, dated 22 June 1949[1], a court may order heavy manual labour in conjunction with a prison sentence for offences of particular gravity from the standpoint of the reconstruction of the country. This Ordinance was passed, as its preamble states, "with a view to effectively combating criminal speculation, strengthening the building of democracy and promoting the development of the peacetime economy". Article 2 lays down that "the execution of the sentence of imprisonment imposed under this Ordinance may be accompanied by heavy manual labour".

*31. Since 1950, the execution of sentences in the Democratic Republic of Germany has been the responsibility of the Ministry of the Interior, under an Ordinance of 16 November 1950[2] transferring the operations involved in the execution of sentences to that Ministry. According to the preamble, the purpose of the Ordinance is "to ensure that sentences are uniformly executed in accordance with the principles enunciated in Article 137 of the Constitution of the Democratic Republic of Germany".

*32. The two new legal texts referred to in Part I[3] are not yet available to the Committee.

Compulsory Labour, Direction of Labour, Requisitioning and Related Matters

33. The material available to the Committee includes a number of legal texts which mention several forms of labour imposed on pain of various penalties, mainly for the reconstruction of the country, the execution of economic projects, the combating of natural disasters, etc. These forms of compulsory labour were instituted immediately after the cessation of hostilities when the whole of German territory was placed under joint Four-Power occupation and they have been maintained, or new ones introduced, under legislation promulgated in the Eastern zone of Germany by the Soviet occupying power or by the German authorities. This legislation is summarised below.

Measures taken by the Occupying Power(s).

34. Order No. 3 of the Control Council for Germany, dated 17 January 1946, on the registration of the population of employable age, the registration of unemployed persons and their placement in employment[4], lays down in Article 18 that "in case of necessity the Labour Office has power to place persons in employment by compulsory direction". Article 20 institutes penalties in the form of fines not exceeding 10,000 marks or imprisonment not exceeding one year, or both (in the case of employers), and fines not exceeding 1,000 marks or imprisonment not exceeding three months, or both (in all other cases), though Article 19 provides for an additional punishment, namely, the loss of the right to obtain food ration cards

[1] *Zentralverordnungsblatt*, No. 54, 27 June 1949, pp. 471-472.
[2] *Gesetzblatt der Deutschen Demokratischen Republik*, No. 133, 23 Nov. 1950, pp. 1165-1166.
[3] See above, paragraph 12.
[4] *Official Gazette of the Control Council for Germany*, No. 6, 30 Apr. 1946, pp. 131-133.

35. An Instruction, dated 16 May 1947, with regard to the above-mentioned Order [1] stipulates in Section I that " the right to direct labour may only be exercised in urgent cases, *i.e.*, where labour cannot otherwise be obtained for important projects, such as the punctual execution of orders of the Occupying Power, work in connection with natural catastrophes, supplying the population with essential commodities, the maintenance of transport and communications, etc. ". The Instruction further lays down in the second paragraph of Section I that " the direction of labour is also required to absorb work-shy elements into the process of economic reconstruction ".

36. An Order No. 234 was issued on 9 October 1947 by the Soviet Military Administration in Germany [2] in connection with " measures to increase the productivity of labour and further improve the standard of living of industrial and transport workers and employees ". Article 8 provides that " the Governments of the *Länder* and the German Labour Offices shall take steps to provide industries and important construction sites with labour, chiefly by voluntary recruitment, and to eliminate fluctuations in the labour force, in order to limit to the utmost possible extent the application of the forced mobilisation of labour envisaged in Control Council Order No. 3 ".

37. Prior to this Order, Order No. 153 issued on 29 November 1945 by the Supreme Head of the Soviet Military Administration in Germany [3] conferred on labour offices, under Article 1 *(c)*, " the right, in case of need, to assign work to unemployed persons regardless of their occupation ". This principle is more fully stated in the Directives for the application of this Order, dated 17 December 1945 [4], which lay down that " if a labour relationship cannot be established by placement, the direction of labour shall, under the present Order, be the right and duty of labour offices ".[5] The Directives also indicate [6] the cases in which an unemployed person may refuse the work to which he is assigned, namely, if he is physically incapable of doing it or it is injurious to his health or, in the event of the workplace being away from his place of residence, if no provision has been made for his board and lodging or if the maintenance of his dependants is thereby endangered.

38. Article 1 *(c)* of Order No. 153 provides that " persons who evade their obligation to work shall be denied food ration cards and be held answerable ". Section IV of the Directives lays down that " those who fail to comply with the orders issued by labour offices to ensure a supply of labour for the most important branches of the economy shall be punished : (1) by the withdrawal of their food ration cards ; (2) by being made to answer for their fault in other ways ".

Ordinance dated 2 June 1948 on the Guaranteeing and Protection of Rights in the Assignment of Workers.[7]

39. The purpose of this Ordinance, issued by the German Economic Commission [8], is to limit the assignment of workers as far as possible. According to

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[1] *Zentralverordnungsblatt*, No. 3, 13 June 1947, pp. 38-39.
[2] *Ibid.*, No. 1, 15 Jan. 1948, pp. 1-4.
[3] *Arbeit und Sozialfürsorge* [Yearbook published by the German Administration of Labour and Social Welfare in the Soviet zone, covering the period 1945-31 March 1947] (Berlin), pp. 296-297.
[4] *Ibid.*, pp. 415-422.
[5] See the second paragraph of the section entitled " Ad Article 1 *(c)* ".
[6] In subparagraphs 1, 2 and 3 of the fourth paragraph of the section entitled " Ad Article 1 *(c)* ".
[7] *Zentralverordnungsblatt*, No. 22, 6 July 1948, pp. 255-259.
[8] In issuing this Ordinance, the German Economic Commission indicates that it is made under Article 8 of Order No. 234/1947 of the Supreme Head of the Soviet Military Administration in Germany.

Article 1, "manpower requirements shall be met in principle by way of re ment". Article 2 lays down that—

(1) The assignment of workers shall be permitted only if voluntary labo not available.

(2) The assignment of workers may be resorted to for the following purp

(a) to remedy a state of public emergency;

(b) to fulfil production programmes in essential undertakings;

(c) to do work for the occupation authorities.

(3) The assignment of workers for any other purposes shall be prohibited.

Article 3 establishes priorities for the supply of manpower. Articles 4 a outline the procedure to be followed in assigning workers to the various un takings. These articles read—

Article 4: (1) All undertakings or administrations in need of labour shall a for it to the local labour and social welfare offices.

(2) Such applications shall be accompanied by data and estimates corrobor the need for labour.

Article 5: The labour and social welfare offices shall investigate, before supp the workers, whether the full number of workers asked for is required and whethe undertaking or administration cannot meet the shortage from its own resources. B workers are provided or assigned to work outside their permanent place of resid the local labour and social welfare offices shall, in consultation with the Free Ger Trade Union Confederation, examine the housing facilities and living conditions w can be provided for such workers.

40. Chapter II of the Ordinance (Articles 7-14), entitled "Assignment lays down the conditions attendant upon any such assignments. According Article 7, "the competent authority for an assignment shall be the labour a social welfare office within whose jurisdiction the workers to be assigned h their domicile or permanent residence". The length of the assignment is l down in Article 8, which stipulates—

(1) Assignments shall be permitted only for a period not exceeding six mon

(2) If the execution of any work referred to in Article 2 of the present Ordina extends beyond six months, the *Land* labour and social welfare office which author the assignments may, with the approval of the German Economic Commission (Cen Administration for Labour and Social Welfare), prolong the period of assignmen

Article 9 of the Ordinance specifies that only men between the ages of 18 a 60 years and women between the ages of 18 and 45 years are to be liable to assi ment. Under Articles 10 and 11, various persons may be exempted. Assignme are made on the basis of an assignment order issued by the labour and social wel office (Article 12). Annexed to the Ordinance is a copy of an assignment order fo According to Article 13, a premature termination of an employment relation arising from an assignment may be effected only through the labour and so welfare office which ordered the assignment. The need to continue an assignme kept under constant review, as is clear from the text of Article 14, which rea

(1) The labour and social welfare office effecting an assignment shall keep u constant review the necessity for the continued employment of the person assi

If the continued employment of the person assigned is not considered neces the labour and social welfare office competent for the place to which he was ass

shall terminate the assignment even though the term of the assignment has not yet ended.

Article 16 of the Ordinance lays down that every assignee is to be paid at the scheduled rates in force at his new place of employment. Articles 17-19 make provision for the granting of leave and the payment of travelling expenses, while later chapters authorise the payment of a separation allowance (Articles 20-22) and a hardship allowance if the worker's assignment entails a reduction in his earnings or income (Articles 23-26).

41. Chapter VI, headed " Appeals ", outlines the procedure to be followed in the event of an appeal against an assignment order made by a labour and social welfare office. Any such appeal, which has suspensive effect, may be lodged with an appeals board, which sits at the labour and social welfare office, within two days of the order being received. Paragraph 2 of Article 28 lays down that " the appeals board shall hear the oral testimony of the appellant and shall give him an opportunity to present written evidence in support of his appeal ".

42. Article 31, regarding punishments, reads—

Persons contravening the provisions of this Ordinance shall be punished by the court as follows :

(a) in the case of employers, by a fine not exceeding RM. 10,000 and imprisonment for a term not exceeding one year or by one of these penalties only ;

(b) in the case of persons assigned, by a fine not exceeding RM. 1,000 and imprisonment for a term not exceeding three months or by one of these penalties only.

43. Article 4 (3) of the First Executive Regulations dated 7 August 1951 to give effect to the Ordinance on the duties of labour authorities and the direction of labour[1], mentions the Ordinance of 2 June 1948 in the following terms :

Labour departments shall be empowered to assign workers in virtue of the Ordinance of 2 June 1948 on the guaranteeing and protection of rights in the assignment of workers (*Zentralverordnungsblatt*, page 255).

Ordinance dated 12 July 1951 on the Duties of Labour Authorities and the Direction of Labour.[2]

44. This Ordinance introduces changes in the recruitment and placement of labour, stipulating in Article 1 that " the duties of the former labour offices shall be taken over by new labour departments to be set up within the administrations of the urban and rural district councils ". The preamble further orders that the number of persons in employment in the national economy is to reach 7,600,000 in 1955, " which means engaging 890,000 more for employment on production work ". Article 2 of the Ordinance reads—

It shall be the duty of the labour departments to—

(1) *(a)* determine the reserves of labour, organise the balanced distribution of manpower between undertakings and arrange for area and inter-area manpower compensation ;

(b) assist nationally-owned and assimilated undertakings in recruiting labour ;

(c) co-operate in the direction of young workers ;

(d) arrange for the placement of seriously disabled or physically handicapped persons fit to undertake employment ;

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[1] *Gezetzblatt der Deutschen Demokratischen Republik*, No. 96, 15 Aug. 1951, pp. 753-758.
[2] *Ibid.*, No. 86, 18 July 1951, pp. 687-689.

(e) prepare registration cards for persons seeking employment, fix days on which they must report, and institute a registration system for the supervision of persons drawing unemployment benefits. In rural areas the district council may entrust such supervision to the burgomasters of the communes ;

(f) ensure, so far as their sphere of duties is concerned, that the legislation is observed.

According to Article 6, " the Ministry of Labour of the Democratic Republic of Germany shall impose such tasks as are necessary for the execution of the manpower programmes prepared by the State Planning Committee and for the supply of manpower needed for projects of particular importance to the national economy ".

45. The First Executive Regulations, already mentioned[1], explain the scope of the expression " labour reserves " in Article 3, stating that it covers persons seeking employment, young persons not covered by the Young Workers' Recruitment Plan, persons drawing relief under the Ordinance of 1 February 1947 on compulsory unemployment insurance, or receiving assistance benefits, and persons who are partially incapacitated. Under paragraph (2) of Article 3, all persons of working age (*i.e.*, men between 14 and 65 and women between 15 and 50 years of age) are required to register, though under paragraph 5 *(a)-(f)* of the same Article, some persons are exempted, (*i.e.*, members of the liberal professions, self-employed persons engaged in industry, commerce and handicrafts, schoolchildren and students, clergymen, women with children under six and, more generally, with persons in their households who are in need of their attention and, finally, persons unfit for work owing to some mental or physical infirmity. Paragraph (10) lays down that " persons seeking employment shall be required to register with the labour department. Should they fail to comply with this requirement, they shall be summoned to report. "

46. The Ordinance dated 12 July 1951 mentioned above [2], lays down in Article 2 (1) *(b)* that it is the duty of the labour departments " to assist nationally-owned and assimilated undertakings in recruiting labour ". As has been mentioned earlier [1], the First Executive Regulations under this Ordinance permit persons to be assigned to work.

Requisition Ordinance of 21 July 1948.[3]

47. This Ordinance provides for the requisitioning of property, rights and services for the reconstruction and development of the economy. Such requisitions are subject to the limitations imposed by paragraph 2 of Article 1, the text of which reads as follows :

Requisitions shall be effected only in so far as is necessary to secure a specific economic purpose, the achievement of which is in the general economic interest or which is required for the execution of planning measures. Such requisitions shall be effected only if the purpose cannot otherwise be achieved without an excessive disproportion between the means and the end and without impairing the rational utilisation of all available economic resources. The requisition may not exceed the capacity, objectively determined, of the person required to comply with it.

The Ordinance envisages two cases in which services may be requisitioned, first, where " the owner, manager or other authorised person in charge of an undertaking or of part thereof ... may be required to perform specified services for others, or to enter into legal arrangements with others, which are in keeping with the type

[1] See above, paragraph 43.
[2] See above, paragraph 44.
[3] *Zentralverordnungsblatt*, No. 33, 28 Aug. 1948, pp. 367-372.

of business carried on by him ", and other similar services (Articles 6 and 7) and, second, where auxiliary services may be required, under paragraph 2 of Article 8, which states—

If personal or material services, concessions or omissions should be necessary as preliminary or accessory to the accomplishment of the purpose of a requisition (development, utilisation of auxiliary resources, access to premises, packing, transport, etc.), such services may also be required of the person affected and his employees, or of others whose trades or professions are connected with such services. The person affected by the principal requisition and his employees shall be bound to carry out such measures, even if not expressly required to do so, if it can be reasonably presumed that the accomplishment of the purpose would otherwise be unduly hampered or delayed or would involve unduly great expenditure.

According to paragraph 1 of Article 8, " requisitions shall be complied with in the same way, and shall give rise to the same responsibilities, as contractual obligations ". The Ordinance lays down the detailed procedure to be followed in the event of requisitions being necessary and, in Article 30, stipulates that " persons contravening the requirements and prohibitions contained in Articles 8, 10 and 13, shall be punishable under the penal regulations in force ".

48. Apart from the requisitions mentioned in the previous paragraph, Article 25 of the Ordinance makes provision for certain " emergency " requisitions. This article reads as follows :

(1) To deal with or avert emergency situations affecting sections of the population, to meet any sudden vital need of sections of the population or to satisfy any other urgent public requirements, particularly those of normal public administration, any property or right whatsoever may be requisitioned under Articles 2 to 4, *mutatis mutandis*, from business undertakings and other corporate bodies and physical persons. For the same purposes, any industrial undertaking and any agricultural or forestry undertaking may be required to perform specified services, including services outside their normal sphere of activity, if the said services can be performed with the resources of the undertaking.

(2) The provisions of Article 1, paragraph 2, second and third sentences, and of Article 10 shall apply, *mutatis mutandis*, to the requisitions referred to in this paragraph.

49. Requisitioning procedure is described in greater detail in a set of Executive Regulations dated 4 August 1948 [1], which lay down in Article 3 (1), that " requisitions by the German Economic Commission have priority over other requisitions ".

Labour Reserves, Economic Planning and Restrictions on the Freedom of Workers.

50. The Act of 1 November 1951 concerning the Five-Year Plan for the expansion of the national economy of the German Democratic Republic (1951-1955) [2] provides in Article 11 for a series of measures to be taken in connection with the recruitment and training of labour, the raising of its productivity and the increase of wages. It further stipulates that the number of persons to be employed in the national economy is to reach 7,100,000 in 1955 and that every citizen of the Republic " is in duty bound to do his utmost in this great, historical, constructive work ". (Article 23, paragraph 5).

[1] *Zentralverordnungsblatt*, No. 33, 28 Aug. 1948, pp. 373-374.
[2] *Gesetzblatt der Deutschen Demokratischen Republik*, No. 128, 8 Nov. 1951, pp. 973-991.

51. Several texts published prior to the appearance of the Five-Year Plan contain general provisions relating to an expansion of the labour force and to increased production in various branches of the national economy, though always in connection with the fulfilment of economic plans or programmes. Examples may be found in the following texts : an Ordinance dated 15 June 1948 on the establishment of control commissions attached to the German Economic Commission and in the *Länder* of the Soviet zone of occupation[1], an Ordinance dated 30 March 1949 on the National Economic Plan for 1949, the first year of the Two-Year Plan[2], an initial set of Regulations dated 6 June 1949 containing instructions concerning the execution of the building programme for machinery lending stations[3], an Ordinance dated 20 November 1948 on supplies for colliery workers[4], an Act dated 27 September 1950 on the protection of mothers and children and the rights of women[5], which refers to women in employment, a Labour Act dated 19 April 1950 to encourage and protect the labour force, increase the productivity of labour and continue the improvement in the material and cultural conditions of employees and workers.[6] This Act deals with the systematic expansion of labour productivity and the planned use of manpower ; it stipulates that measures are to be taken to recruit women who are not gainfully employed and that " all undertakings and administrations shall fill posts as far as possible with women " (Article 27, paragraph 1). It also lays down that the vocational training of young men and women is to be governed by separate legislation.

The Situation in Practice

Existence of Compulsory Labour.

52. The representative of the *American Federation of Labor* referred to allegations made by Dr. Fritz Löwenthal, a former member of the German communist party, to the effect that forced labour existed in the Soviet zone of Germany. Dr. Löwenthal has produced a document entitled " Forced Labour in Eastern Europe and the U.S.S.R. A Partial Survey by the Commission of Inquiry into Forced Labour "[7], and also a book the English translation of which was published in 1950.[8]

*53. In the first of these documents, Dr. Löwenthal states that " forced labour in general has assumed huge proportions throughout the Russian occupation zone. It is used principally in dismantling plants for shipment to Russia, and in building dams and harbours which have strategic as well as industrial value to the Soviet Union. " It is also, and more particularly, used for the extraction of pitch-blende. Dr. Löwenthal states that " like the forced labour in Hitler's armament industries during the war, work in the mines is arranged through placement orders of the labour officials, without consideration for the workers' health, occupation, or family circumstances ".

54. Dr. Löwenthal's publication *News from Soviet Germany* asserts that forced labour is a legalised institution in Eastern Germany and maintains that it is generally the German authorities who forcibly recruit the workers, who are subse-

[1] *Zentralverordnungsblatt*, No. 21, 29 June 1948, pp. 240-241.
[2] *Ibid.*, No. 27, 16 Apr. 1949, pp. 221-225.
[3] *Ibid.*, No. 56, 2 July 1949, pp. 492-494.
[4] *Zentralverwaltungsblatt*, No. 57, 15 Dec. 1948, pp. 557-558.
[5] *Gesetzblatt der Deutschen Demokratischen Republik*, No. 111, 1 Oct. 1950, pp. 1037-1041.
[6] *Ibid.*, No. 46, 28 Apr. 1950, pp. 349-355.
[7] Submitted to the Economic and Social Council on 24 Feb. 1950.
[8] F. LÖWENTHAL : *News from Soviet Germany*, translated by E. Fitzgerald (London, 1950), 344 pp.

quently assigned to labour directed either by the Soviet occupation authorities or by the German administration itself. It reproduces several placement orders issued by the German or Soviet authorities, requiring German citizens for forced labour in various parts of the country, particularly in Aue.[1]

55. During his statement at the Tenth Session of the Economic and Social Council[2], the representative of the *United States of America* referred to an article published by the *Rheinische Zeitung* on 10 January 1950 under the heading " The Slaves of Aue—On the Mining of Uranium for Soviet Atomic Weapons ". This article deals mainly with the way the uranium deposits are being worked in the Aue region and states that in the guise of voluntary enlistment there is a veritable system of compulsory recruitment for the Aue mines. The article points out that it is merely summarising a booklet published by the German Social Democratic Party.

56. During his statement at the Eleventh Session of the Economic and Social Council[3], the representative of the *United States of America* referred to a document on the Aue mines published by the German Social Democratic Party and also quoted the text of an assignment order for work in Aue. The document in question is apparently a booklet published by the *SOPADE Informationsdienst.*[4] It mentions that the men, women and young people working in the Erzgebirge mines are either drafted, mostly under Order No. 3 of 17 January 1946, issued by the Allied Control Council for Germany[5], or engaged on the basis of contracts of employment. The pamphlet further alleges (page 55) that, until the end of 1948, women were also forcibly recruited for the mines.

57. References are also made in the material submitted to the Committee to the deportation of Germans to the Soviet Union for forced labour. Dr. Löwenthal's book *News from Soviet Germany* maintains that German specialists, technicians, engineers, etc., have been forcibly recruited and sent to the U.S.S.R., the deportation of specialists on a large scale having begun in the autumn of 1946. The booklet *Der Uranbergbau in der Sowjetzone* alleges that 700 workers, accused of various offences, have been deported to forced labour camps in the Soviet Union. The document " Deportations for Forced Labour to the Soviet Union "[6] speaks of the deportation to the Soviet Union of " thousands of Germans, especially women, from the territories now under Polish administration, from East Prussia, West Prussia, Upper Silesia and Lower Silesia ".

58. The *Committee of Free Jurists* has submitted photostat copies of three documents in the case of a man assigned to work in the Aue mines under the Ordinance of 2 June 1948. The first document, dated 28 March 1950, was issued by the labour office at Löbau, Saxony, and records the rejection of the worker's appeal against his assignment order by the appeals board of the labour office. The second, issued by the same authority, is dated 30 March 1950 and informs the worker of the board's decision, ordering him to report for the employment to which he has been assigned. The third document records the judgment of a court passed at Ebersbach, Saxony, on 23 January 1951, sentencing the worker to four weeks'

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[1] See *News from Soviet Germany*, pp. 176-181.
[2] UNITED NATIONS, Economic and Social Council, 10th Session, 366th meeting : *Official Records*, paragraph 3.
[3] *Idem*, 11th Session, 413th meeting : *Official Records*, paragraph 29.
[4] *Der Uranbergbau in der Sowjetzone* (Hanover).
[5] See above, paragraph 34.
[6] Submitted by the *International Confederation of Free Trade Unions* (see United Nations document E/AC. 36/4).

imprisonment under Control Council Order No. 3 of 17 January 1946 and the Ordinance of 2 June 1948 for failing to comply with an assignment order.

59. Another photostat copy submitted by the *Committee of Free Jurists* is that of a Circular-Order No. 8/VI(1949) issued by the Minister of Justice of the Brandenburg *Land* Government on 22 December 1948. This document reminds the judicial authorities of the penalties to which offenders against certain labour Ordinances are liable, particular mention being made of the penalties prescribed by Article 31 of the Ordinance of 2 June 1948.

60. A number of photostats have also been submitted by the *Committee of Free Jurists* reproducing documents which refer to the direction of labour under the Ordinance of 12 July 1951. One, produced by the Greifswald Labour Office on 1 August 1951, and addressed to the head of an undertaking, states—

> Under Article 6 of the Ordinance of 12 July 1951 ... the Ministry of Labour of the Democratic Republic of Germany and the Central Labour Departments of the *Länder* are empowered to require undertakings to release workers for purposes of particular importance to the national economy. To meet the July and August target, your undertaking is required to release two fully employable and healthy workers for the basic materials industry.... The Labour Office will visit every undertaking both to assure itself of the progress being made in the recruitment and also to direct it.

Another of these photostats, also referring to Article 6 of the Ordinance of 12 July 1951, is a copy of a note sent to the head of an undertaking by the labour department of the district council of the Gotha *Land* District. It is dated 4 September 1951 and, while pointing out the aim of Article 6 of the Ordinance and indicating the number of workmen required of the undertaking, explains that : " The meeting of manpower requirements in the basic materials industry is an outstanding contribution to the maintenance of peace. It is the duty of the heads of undertakings to release men to fulfil their personal, national obligations and to convince them of the need for labour in the basic materials industry. " Similarly, another photostat, the original of which was, according to the letter-head, sent to the director of an undertaking on 2 August 1951 by the Gotha Labour and Social Welfare Office explains in the same context that : " In the struggle for peace, the basic materials industry, headed by the Wismut Company, is performing a national duty of the utmost significance ".

61. Another photostat copy submitted by the *Committee of Free Jurists* reproduces a document dated 19 July 1950 bearing the heading of the Gotha Labour and Social Welfare Office. This document contains an extract from the labour plan of the Thuringian *Land* Government prepared in execution of the Act of 1 April 1950. This plan provides for an employment survey to be made " in order to effect economies in the able-bodied male labour force and to release men for employment in the key industries and, more particularly, the mines". It is stated that labour so released " is to be placed at the disposal of the Labour and Social Welfare Office. The vacancies created are to be filled by women and by men not fully employable."

Existence and Location of Camps.

62. The First Executive Regulations, dated 23 December 1950, under the Ordinance to transfer the operations involved in the execution of sentences to the Ministry of the Interior of the Democratic Republic of Germany[1], list a number

[1] *Sammlung von Gesetzen und Verordnungen aus der Sowjetischen Besatzungszone Deutschlands* compiled by the Federal Ministry for Matters concerning Germany as a Whole, No. 8, Feb. 1952, p. C IV.

of "labour camps and places of detention" transferred to the Ministry of the Interior on 1 January 1951.

63. In his book *News from Soviet Germany*, Dr. Löwenthal mentions a number of labour camps in the five Eastern German *Länder*. He locates them at Hohenschenau, Frankfort-on-the-Oder, Jamlitz near Lieberose, Forst, Torgau, Roitsch-Bitterfeld, Muehlberg-on-the-Elbe, Bautzen, Altenhain, Stern-Buchholz near Schwerin, Buchenwald, Ketschendorf near Beeskow and elsewhere. He maintains that there are 13,000 prisoners in a camp at Neubrandenburg and 16,000 in the camp at Muehlberg. Dr. Löwenthal states that the forced labour he describes covers the regions of Oberschlema, Schneeberg, Aue, Zschorlau, Marienberg, Brambach, Kunersdorf, Schmiedeberg, Annaberg, Buchholz, Gronau, and Johanngeorgenstadt. He estimates the number of workers in the uranium mines at many thousands.

Additional Material

Addition to Paragraph 28.

An Act concerning the organisation of the courts of the Democratic Republic of Germany (Court Organisation Act) dated 2 October 1952[1] gives the following definition of the tasks of the judiciary in Article 2 :

(1) The application of the law by the courts of the Democratic Republic of Germany shall serve the building up of socialism, the unity of Germany and peace.

The objects of the application shall be—

(a) to protect the social and State order founded on the Constitution of the Democratic Republic of Germany, and its legal order ;

(b) to protect and foster the foundations of the socialist economy, especially socialist property and the national economic plans ;

(c) to protect the constitutional interests of political, economic and cultural organisations ;

(d) to protect the lawful rights and interests of citizens.

(2) Through their application of the law, the courts of the Democratic Republic of Germany shall educate all citizens to behave responsibly and observe the law conscientiously in their work and private lives.

.....

An Act concerning the procedure followed in criminal cases in the Democratic Republic of Germany (Code of Criminal Procedure) dated 2 October 1952[2] states in Article 2 that—

Criminal procedure shall be an education in respect for socialist law, in respect for socialist property, in labour discipline and in democratic vigilance.

Addition to Paragraph 31.

Article 336 of the new Code of Criminal Procedure[3] reads—

(1) The execution of penalties shall be the concern of the German people's police. The Public Prosecutor shall supervise the execution of penalties.

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[1] *Gesetzblatt der Deutschen Demokratischen Republik*, No. 141, 9 Oct. 1952, pp. 983-988.
[2] *Ibid.*, No. 142, 11 Oct. 1952, pp. 996-1029.
[3] See preceding paragraph.

(2) The Public Prosecutor shall institute the execution of a penalty on the ... of a certified copy of the sentence, to be communicated by the registrar, accompa... by a certificate that the penalty is executable.

(3) The implementation of all types of penalties (their execution) shall be gover... by the Rules for the Execution of Penalties.

Addition to Paragraph 32.

According to the new Code of Criminal Procedure, " under accelerated pro... dure, a court may order deprivation of liberty for a maximum of one year or cor... tive labour " (Article 232). On the other hand, the same Code makes provi... for punishment to be imposed by order of a judge. The relevant articles read as follows :

254. *Premises.*

(1) On the written demand of the Public Prosecutor, a district court may, wit... conducting a full hearing, issue an order inflicting punishment in the form of depriva... of liberty for a maximum of six months or corrective labour, in the case of crimes, a... in the case of minor offences, corrective labour and a fine.

(2) The demand shall be presented only if there is no serious doubt as to t... commission of the deed and the guilt of the offender.

(3) In addition to the main penalty, it shall be permissible to order the confisca... of articles, a fine, a restriction of place of residence and the publication of the deci...

. . . . . .

256. *Content of the Order inflicting Punishment—Appeal.*

(1) The order inflicting punishment shall indicate—

(a) the crime or offence ;

(b) the penal law applied ;

(c) the evidence ;

(d) the penalty imposed.

The order shall further indicate that it becomes executable if the accused, wi... a week of being notified of it, does not submit an appeal to the district court, either... writing or by an entry in the record of the registrar.

(2) The right to appeal may be relinquished before the period has expired.

. . . . . .

258. *Procedure subsequent to an Appeal.*

(1) If an appeal is submitted in due time, the district court shall arrange for a... hearing. Until it opens, the accused may withdraw his appeal.

(2) In its decision, the court shall not be bound by the judgment embodied in ... order inflicting punishment.

. . . . . .

For minor offences, the German people's police are also empowered to im... various penalties. Under Article 328—

(1) In respect of minor offences, the authorities of the German people's p... shall be empowered to order the imposition of a penalty for which provision has ... made in penal law.

(2) The German people's police may only impose fines up to a maximum ... 150 DM or, in substitution for a fine which cannot be collected, corrective labou... to a maximum of three weeks and the confiscation of individual articles.

(3) The order inflicting punishment must indicate—

(a) the offence;

(b) the penal law applied;

(c) the evidence;

(d) the penalty imposed.

It shall further contain an indication of what legal remedy is open.

(4) The following shall be the legal remedies against orders inflicting punishment issued by the German people's police, the choice being left to the person penalised:

(a) a complaint, as authorised by administrative law, lodged with the higher authorities of the German people's police;

(b) an application for a judicial decision by a district court.

(5) As regards the interruption of limitation, an order inflicting punishment shall operate like a judicial action.

Article 5 of the Introductory Act to the new Code of Criminal Procedure [1] provides that—

Until such time as a new Penal Code is issued, detention for a maximum of six weeks shall be ordered in substitution for the corrective labour for a maximum of three weeks for which provision has been made in Article 328 of the Code of Criminal Procedure.

The Committee has no evidence that a new Penal Code has entered into force.

Addition to Paragraph 53.

A Notice dated 30 December 1952, containing provisions governing technical safety measures and the protection of workers engaged in mining and quarrying was promulgated on 3 February 1953.[2]

It contains numerous provisions ensuring improved protection and satisfactory health conditions for workers engaged in mining and quarrying.

HUNGARY

Summary of Allegations and of the Material Available to the Committee

I. Allegations

1. Allegations relating to Hungary were submitted to the Committee in memoranda or made in oral statements during its Second and Third Sessions by—

(1) the *International Confederation of Free Trade Unions*, in a memorandum dated 30 April 1952 and in a statement by its representative at the Second Session of the Committee;

(2) the *International Federation of Free Journalists*, in memoranda dated 4 October 1951 and 24 March 1952, in memoranda submitted at the Third Session of the Committee, and in statements by its representatives at the same session;

[1] *Gesetzblatt der Deutschen Demokratischen Republik*, No. 142, 11 Oct. 1952, p. 995.
[2] *Ibid.*, No. 15, 3 Feb. 1953, pp. 209-248.

(3) the *International League for the Rights of Man*, in memoranda dated 1 April, 18 June and 5 November 1952 and in statements by its representatives when heard by the Committee ;

(4) the *Christian Democratic Union of Central Europe*, in a memorandum dated 28 May 1952 ;

(5) the *Hungarian National Council*, in a memorandum dated 29 May 1951 and in statements by its representatives at the Second Session of the Committee ;

(6) a private individual in a letter to the Committee dated 24 March 1952.

2. In addition, the Director-General of the International Labour Office brought to the attention of the Committee a communication dated 22 October 1951 which he had received from the *General Confederation of Labour of the Argentine Republic* relating to conditions in Hungary.

3. Briefly, it is alleged in these documents and statements that—

(a) forced labour exists in Hungary both *de facto* and *de jure* and can be exacted either by the administrative authorities from persons whom they hold in custody or in detention or by virtue of a decision taken by a court of law ;

(b) such forced labour has two aims : (i) to correct the political views of persons who are opposed to the régime, or even to achieve their gradual extermination and (ii) to help fulfil the country's economic plans ;

(c) apart from the forced labour which exists inside the country, forced labour is exacted from Hungarians resident outside its present frontiers ;

(d) mass deportations have taken place in Hungary, their object being (i) to transfer Hungarian citizens to the Soviet Union for forced labour, and (ii) to transfer Hungarian citizens from one place of residence to another, forced labour being required of them in the majority of cases ;

(e) many forced labour camps have been opened ;

(f) forced labour has assumed considerable proportions, tens and even hundreds of thousands of citizens being affected ;

(g) free workers have been subjected to a number of restrictions which have in fact, transformed all work into forced labour.

4. The main allegations are summarised below.

Forced Labour in General and the Aspects it Assumes

5. The *International Confederation of Free Trade Unions* referred to Act No. II of 1939 and Decrees Nos. 8130 M.E. and 760 B.M. of 1939 which empower the police to take persons into custody or internment without court proceedings. It further stated that these texts codified certain earlier Decrees and Acts.

6. The *International Federation of Free Journalists* stated that " work and services were exacted from people under the threat of punishment " though they had " not offered their services voluntarily ". It further alleged that—

> The Council of Minister's Order issued on 2 February 1951 appoints work conditions for internees and for persons condemned to loss of liberty by special court order....
>
> Various judgments of court orders prove that people condemned for short or long periods of loss of liberty for having committed otherwise insignificant offences are those who are considered the enemies of the régime or have an alien attitude towards it. The intention to get cheap labour from these layers of society is obvious....

Public administration in the Hungarian People's Democracy tries to increase the number of forced labourers in the following ways :

(a) When recruited for compulsory military training, politically untrustworthy elements are sent to work-brigades instead of to the armed forces.

(b) Desertion of the working-place or slack work accomplishment are punishable by court order with loss of freedom or reformatory work. According to a decision made by the Budapest Highest Court some time this year judges are not compelled to refer to any law or legal Order when passing judgment on such offences. The above mentioned are in themselves punishable deeds.

(c) For slack work accomplishment or anti-democratic attitude juveniles are often condemned to several months of forced labour....

(d) Persons deported by public administration are either directly (*e.g.*, in the Hortobagy work camp) or indirectly (in order to secure their own living) forced to do agricultural work.

The Federation also states that—

Most of the forced labour workers reach the forced labour camps without any court sentence. The police arrest them, then intern them. The internment order pays little attention to chapter and verse. Old Decrees of the Ministry of the Interior are used.

7. The *International League for the Rights of Man* referred to a number of legal texts introducing what it called " confinement without trial ". Some were issued before the First World War (*e.g.*, Law No. XLIII of 1912 on extraordinary dispositions in case of war (Section 6) and Law No. L of 1914 (Section 10) amending this Law, and numerous Decrees issued between 1912 and 1922 in connection with this legislation). The organisation mentioned Law No. II of 1939 on home defence, which was promulgated on 11 March 1939 and superseded Law No. XLIII of 1912 and its amendments. It also referred to Section 150 of Law No. II of 1939, Decree No. 8130 of 1939 M.E. on local banishment and police surveillance or police custody and Decree No. 760 of 1939 B.M. of the Minister of the Interior. It alleged that—

... a perusal of available sources of Hungarian law discloses no specific Act of the Hungarian Government issued after the Armistice of 1945 which would provide expressly for arrest and confinement without trial and would involve only police authorities. Nevertheless, no Decree has been issued to repeal the pertinent provisions of Law No. II of 1939.

The organisation further stated that, after the Second World War, a number of Decrees mentioned police surveillance and police custody (internment) as existing institutions and quoted the following texts :

(a) Decree No. 3280 of 1946 M.E. on the supervision of flour mills connected with public supply (Section 6 (3) of which refers to police surveillance or custody (internment)) ;

(b) Decree No. 7000 of 1945 of the Prime Minister (Section 24 (5) of which refers to police custody (internment)) ;

(c) Decree No. 4000 of 1945 M.E. of the Prime Minister on the regulation of compulsory work for reconstruction purposes (Section 25 (5) of which refers to police custody (internment)) ;

(d) Decree No. 7460 of 1945 M.E. of the Prime Minister on the election of members of the Municipal Assembly of the capital city of Budapest (Section 5 (5) of which refers to police custody (internment)) ;

(e) a summons appended to Decree No. 3800 of 1946 U.M. of the Minister of Reconstruction to enforce Decree No. 7000 of 1945 M.E. (which refers to police custody (internment));

(f) Decree No. 274000 of 1949 B.M. of the Minister of the Interior on changing the organisation of the police forces (Section 3 (1) of which refers to police surveillance and police custody (internment));

(g) Ruling No. 11 of the Supreme Court of the Hungarian People's Republic (which refers to persons being taken into custody by the police authorities (internment) and to police surveillance); and

(h) Decree Law No. 31 of 1950 on the election of local councils (Section 5 *(c)* of which refers to police custody (internment) or police surveillance).

In addition, the League made the following statement:

The provisions of all the Decrees on internment leave no doubt that the imposition of police custody is a matter within the discretion of the police authorities, and that the Minister of the Interior is the last resort in such cases. There has never been any provision for recourse to the regular courts. There are no specific rules of procedure. There is no provision for the maximum period of custody. Internment proceedings have always been directed against persons who have not committed any specific offence but have only been under suspicion. This is clearly shown by the text of the statutes. The multitude of newly created crimes in post-war Hungary provides ample opportunity to imprison those not in sympathy with the spirit of the People's Democracy.

There is no doubt that the institution of internment has not ceased to exist in Hungary as the exclusive weapon of the police and its head, the Minister of the Interior, because a statute referring to internment (Decree Law No. 31 of 1950 on the election of members of local councils) was promulgated as recently as 6 August 1950.

The representative of the League alleged that—

The internment camps were legalised as far back as 1939 when wartime measures were adopted. In 1939, partly by reason of the war and partly by reason of growing nazi influence, the previous laws were codified in Law No. II of 1939.... After that, two implementary Decrees were published... Decree No. 8130 of 1939... [and]... Decree No. 760 of 1939.

This latter Decree was quoted as being—

... the rule of the present deportations and concentrations. ... The concentration camps thus established were not intended to be forced labour camps, but merely detention camps, but now, under the same law, forced labour is superimposed on detention.

8. The *Christian Democratic Union of Central Europe* referred to a resolution passed by the Supreme Court of Hungary in January 1952 whereby " those who violated labour discipline without harbouring any harmful intentions are to be sentenced to corrective forced labour ".

9. The *Hungarian National Council* stated that several hundreds of thousands of persons were subjected to forced labour in Hungary at the present time. It also asserted that the régime detained persons in forced labour camps without a court sentence. It referred to the different types of persons liable to forced labour, viz., those sentenced to forced labour by a court of law, those punished with forced labour for some minor disciplinary mistake, and lastly " internees ", persons evicted from their homes and " internal deportees ", all compelled to work as a result of decisions by the administrative or police authorities. In support of these allega-

tions it referred to various legal texts, *e.g.*, Section 10 of Law No. 7, 1946, Section 2 of Decree No. 4, 1950, a Decree of 10 March 1952 (No. 3781) ordering the total mobilisation of manpower, as well as to numerous press articles and other Hungarian publications. The Council also mentioned a news item sent from Budapest on 7 August 1951 and published on 8 August 1951 in the Paris edition of the *New York Herald Tribune*. This reported the official attitude of the Hungarian Government as given in a radio commentary and in an editorial in *Szabad Nép*, the organ of the Hungarian Workers' (Communist) Party. The *New York Herald Tribune* stated that : " the Hungarian Government... used the laws passed by the Horthy régime in 1939, which empowered the Government to banish from the capital persons who were regarded as a ' hazard to public safety and order ' ".

Purpose of Forced Labour

10. The *International League for the Rights of Man* referred to forced labour, which, disguised as " correctional work ", is imposed to rectify " the political opinions or ideological deviations of those who differ from the Government of the State at a particular time ". It also stated that forced labour had been introduced to meet " the insatiable demands of the State economy ", a close relationship being established in this way between the forced labour system and the Five-Year Plan. It asserted that forced labour was originally introduced as a means of punishment and political oppression, but that since 1950-1951 it had become " a factor of production to be reckoned with ".

The League also alleged that the Five-Year Plan as drawn up for Hungary on 2 April 1949 was designed to increase industrial production to 130 per cent. of the pre-war level and that " the increase in production called for by the Plan [which was brought into force on 1 January 1950] was directly related to the coerced direction of labour, because an unprecedented increase in the number of workers was required to achieve the new production goals ". It was further stated that " early in January, Zoltán Vas, head of the Hungarian Planning Bureau, himself set the target for 1951 : the recruitment of 200,000 new industrial workers ".

11. The *Hungarian National Council* stated that many persons were sentenced to forced labour for political crimes and that peasants were directed into factories and compelled to work.

It referred to the aims of the new Five-Year Economic Plan and stated that forced labour was largely employed for its fulfilment. It also emphasised that anyone who " seeks to alter the present form of government without violence, by way of free elections, by constitutional means which are indisputably free to every citizen in the free world, anyone who criticises the existing system... can be sentenced to from five to ten years' forced labour ". It also referred to workers sent to forced labour for " corrective purposes ". Almost all " internees ", " internal deportees " and persons evicted from their homes for political reasons were obliged to work.

Forced Labour outside Hungary

12. The *Hungarian National Council* stated that, as far as Hungary was concerned, there were two main categories of forced labour, one inside the country and the other outside. Referring to forced labour outside Hungary, it asserted that, out of a total of 620,000 Hungarians (325,000 prisoners of war and 295,000 civilians) deported to the U.S.S.R. by the Red Army, only 251,000, comprising both civilians and prisoners of war, had been repatriated, which meant that 369,000 still remained

outside the frontiers of Hungary. Allowing for deportees of Hungarian nationality living outside the present boundaries of Hungary (whose numbers were estimated at 150,000), there still remained 110,000 prisoners of war and 109,000 civilians detained in the U.S.S.R. Referring more specifically to the territory of "Carpatho-Ukraine", the Council stated that 80,000 Hungarians, or about two-thirds of the total Hungarian population of the area, were deported in the first two months of Russian occupation and that, by now, there were no Hungarians left at all. It asserted that about 5,000 Hungarians had been deported from former Hungarian territory now under Czechoslovak administration. It also mentioned "a very serious situation among the Hungarians in Transylvania", stating that "16,000 Hungarians from Transylvania were deported to do forced labour" mostly to the mouth of the Danube to build the new Danube-Black Sea canal. It also referred to the material contained in a publication which contains what purport to be accounts of the experiences of Hungarians in detention in the Soviet Union.[1]

13. The *International Federation of Free Journalists* made a similar allegation.

14. The *General Confederation of Labour of the Argentine Republic* referred to mass deportations of Hungarian workers to the Soviet Union.

Internal Deportations

15. The *International Federation of Free Journalists* referred to the mass evacuation of citizens from Budapest and, later on, from all parts of the country which allegedly started on 21 May 1951. It cast doubts upon the figure of 924 aristocratic and fascist families quoted by the Hungarian Government on 17 June 1951 as representing the number of persons who had been deported, and spoke of "about 50,000 newly evicted and interned persons since 31 May 1951", stating that all classes of society had been affected by these measures.

16. The *International League for the Rights of Man* stated that "the policy of liquidating 'kulaks', right-wing socialists, middle-class members, former State employees, ex-soldiers and aristocrats reached a new stage in May 1951, when mass deportation was begun. Until 1 July 1951, the number of deportees approximated 35,000 and is now estimated at 76,000."

17. The *Hungarian National Council* referred to political detention, stating that 17,200 persons had been detained in March 1951, and that, by August, the number had risen to 44,000. In addition, 30,000 persons living on the Yugoslav border had been moved to other areas. The Council also maintained that, up to the present time, about 80,000 persons regarded as being politically unreliable, particularly citizens from Budapest, had been sent away to the smaller towns and villages. In addition, 60,000 persons had been moved from the rural areas to the cities and 100,000 others were due to follow them in 1952. Information on the deportations, the living conditions of the deportees, etc., is given in a booklet called *Genocide by Deportation*[2], which reproduces several articles and press reports taken, for example, from *The Economist* of 4 August 1951 (pages 31-32 and 88), the *Daily Telegraph* of 29 August 1951 (pages 48-49), the *New York Times* of 16 June 1951 (pages 82-83), 20 June 1951 (pages 83-84), 10 July 1951 (pages 84-85) and 2 August 1951

[1] *White Book concerning the Status of Hungarian Prisoners of War illegally detained by the Soviet Union and of Hungarian Civilians forcefully deported by Soviet Authorities*, published by the P.W. Service of Hungarian Veterans, edition Hungária (Bad Wörishofen, Germany, 1951), 116 pp.

[2] *Genocide by Deportation, An Appeal to the United Nations to Enforce the Law*, published by the Hungarian National Council (New York, 1951), 131 pp.

(pages 85-86), the *Washington Post* of 3 August 1951 (pages 86-88), the *Manchester Guardian* of 7 July 1951 (page 89), the *Neue Zürcher Zeitung* of 28 June 1951 (page 90), etc. All this material relates to the deportations which, allegedly, began in May 1951 and ended in July the same year, " bringing the total number of expulsions to 65,000 " according to the *New York Times* of 2 August 1951. The publication *Genocide by Deportation* also reproduces official statements made by Western statesmen on these deportations (pages 56 *et seq.*). The Council also referred to a publication[1] which reproduces a map of " Deportational communities in Hungary ".

Forced Labour Camps

18. The *International Federation of Free Journalists*, the *International League for the Rights of Man*, the *Christian Democratic Union of Central Europe* and the *Hungarian National Council* all referred to the number and location of forced labour camps in Hungary.

19. The *International Federation of Free Journalists* alleged that—

In all parts of the country, forced labour is done in four kinds of institutions : (1) in regular prisons ; (2) in internment camps ; (3) in temporary work-camps established according to necessity ; (4) in villages or camps where deportees have been accommodated.

The Federation further produced the names of some prisons and camps where forced labour was allegedly performed.

Number of Forced Labourers

20. The *International Federation of Free Journalists* asserted that—

According to expert and reliable estimates, at least 250,000 to 300,000 persons languish in Hungary today in direct forced labour, in prisons, internment camps, in temporary work-camps, on the territory of villages for deportees or camps for them.... This number, of course, does not include those who perform reformatory work in their old places of work, which is also a form of forced labour. Without exaggeration, it can be stated that the greater part of the population really performs forced labour.

21. The representative of the *International League for the Rights of Man* stated that " a very moderate estimate " for the number of forced labourers in Hungary was about 120,000.

22. The *Hungarian National Council* stated that several hundreds of thousands of persons were subjected to forced labour ; this number included most of the " internees " and the vast majority of the 70,000 persons deported from Budapest. In addition, it alleged that a large number of peasants were being forced to work in factories. It furthermore maintained that there were 314,000 forced labourers in Hungary, of whom 206,000 were " new additions ", *i.e.*, persons subjected to forced labour since May 1951. Their numbers included 15,000 persons sentenced by the courts, 35,000 and possibly 40,000 " internees ", and 50,000 deportees, not to mention the 30,000 persons evicted from the Yugoslav border. In addition, 3,000 persons had been ordered to perform corrective labour, 36,000 high-school

[1] *Black Book concerning the Mass-deportations in Hungary*, published by the P.W. Service of Hungarian Veterans, edition Hungária (Munich, 1951), 56 pp.

and 20,000 university students had been assigned to four months' forced la... 60,000 peasants had been sent to work in factories, and their number was ... increased to 100,000.

Restrictions Imposed on Workers

23. The *International Federation of Free Journalists* mentioned the transf... workers to other districts and the introduction in 1945 of obligatory labour ser... for all men between 18 and 60 years of age and for all women between 18 and ... It also referred to the promulgation of a new Labour Code in 1951, which institu... compulsory labour service for all citizens aged between 14 and 50. It stated—

> According to Decree 161/1951, issued by the Council of Ministers, a workman ... leaves his place of employment of his own volition may take up a new job only thro... an employment agency, whether he seeks employment immediately after quitting ... within six months. Also any person who persuades a worker to exchange his pres... job for another is guilty of a criminal action and is subject to imprisonment of u... six months.

24. The *Christian Democratic Union* stated that, since the present régi... wanted to employ about 230,000 workers in industrial production, the rural coun... had been instructed by a confidential Decree (No. 3781/51/52) to register ... persons living in rural districts so that " surplus agricultural workers " could ... sent into the factories. It further stated that workers were legally bound to t... workshops; Decree No. 2000/1950 had imposed the first restrictions on t... workers' right to change their jobs, while another Decree on the recruitment ... manpower issued in February 1951 had curtailed their right to choose their pla... of employment. According to Decree 161/1951, workers leaving their workpl... of their own volition were only allowed to find new jobs through an of... employment agency, and persons who persuaded workers to abandon th... employment were, under the Decree, to be considered guilty of a crime and li... to imprisonment.

II. Material Available to the Committee

25. The Hungarian Government has not replied to the Committee's quest... naire.[1]

26. Documents have been presented by the *International Confederati... Free Trade Unions*, in letters dated 12 October 1951 and 30 April 1952; the *I... national Federation of Free Journalists*, when heard at the Third Session; ... *International League for the Rights of Man*, together with its memoranda; ... *Christian Democratic Union of Central Europe*, in a letter dated 24 October 1... the *Hungarian National Council*, when heard at the Second Session, and also ... letter dated 20 August 1952; a private individual, in a letter dated 24 March 1...

27. The Committee has also assembled and examined a certain amount ... information related to the allegations mentioned under Part I above.

28. The material available to the Committee is summarised below.

[1] See United Nations document E/2276/E/AC. 36/13, paragraph 13.

Labour Imposed under Sentence of a Court of Law

29. The material available to the Committee draws a distinction between two forms of compulsory labour, either of which may be imposed under the sentence of a court of law : *(a)* labour to be performed by persons serving a sentence of deprivation of liberty, and *(b)* compulsory labour without deprivation of liberty ordered by a court in substitution for imprisonment.

Labour to be Performed by Persons serving a Sentence of Deprivation of Liberty.

30. Under Article 29, paragraph 1, of Act V/1878—

Persons sentenced to rigorous imprisonment shall be obliged to perform such work as may be determined and assigned by the prison governors and shall be kept in solitary confinement by day and night for the period specified in Article 30 [beyond that by night only].

31. Act VII/1946 on the penal defence of democratic public order and the Republic lays down in Article 10 that death or rigorous imprisonment for life are to be the penalties for certain types of political offences. The relevant passages of this Act, which appear under the heading " Acts designed to overthrow the democratic public order and the Democratic Republic " are reproduced below—

Article 1 : (1) It shall be an offence for any person to commit any act designed to overthrow the democratic public order and the Democratic Republic as established by Act I of 1946 or to initiate, direct or lend substantial material support to any movement or organisation pursuing such an end.

(2) It shall likewise be an offence for any person actively to participate in or further any movement or organisation covered by paragraph 1 above.

Article 6 : It shall likewise be an offence for any person to conspire with another for the purpose of committing any of the offences defined in Articles 1 and 5, to perform any act preparatory to the commission of such offences, to incite or aid others to commit them or to offer or undertake to commit them himself.

Article 10 : (1) The penalty for offences within the terms of Article 1, paragraph 1, and Article 5 shall be death or rigorous imprisonment for life, the latter being commutable to imprisonment for life in case of physical disability, or rigorous imprisonment for not less than five years, commutable in case of physical disability to imprisonment for from five to 15 years.

(2) The penalty for the offences covered by Article 1, paragraph 2, Article 6 and Article 7, paragraph 1, shall be rigorous imprisonment for not less than five years, commutable in case of physical disability to imprisonment for from to five 15 years.

Compulsory Labour in Substitution for Imprisonment.

General Principles of the New Penal Code.

32. A new Penal Code was introduced in Hungary in 1950.[1] In its introduction the Code lays down the general principles to be applied in future : " The new general provisions of the Penal Code reflect the economic, social and political changes which have taken place in the country since the Liberation, give legal sanction to the fundamental principles of penal law underlying socialism and provide for the protection of social property". Article 1 (1) explains that " The purpose of penal

[1] Act II of 1950 concerning the general provisions of the Penal Code (*Magyar Közlöny*, 18 May 1950, pp. 112-121).

law is to protect society against socially dangerous acts". Paragraph (2) defines socially dangerous act as "any action or omission which injures or endangers either the public, social or economic order of the People's Republic of Hungary or the persons and rights of Hungarian citizens".

33. In paragraph (3) an offence is defined as "any socially dangerous act for which a specified penalty is provided by law".

34. In Article 50 the Code states the aims of penal sanctions, viz:

(1) The penalty must be applied, in the interests and for the protection of the workers, in such a way as to correct and educate the offender and also to produce a general deterrent effect on other members of society.

(2) Without losing sight of the general purpose of the punishment, the penalty imposed must, within the framework of the law, be commensurate with the menace to society presented by the offence or the danger to society constituted by the person of the offender, due account being taken of the degree of the offender's guilt, of other circumstances in his favour or against him, as well as of the harm caused by the offence (aggravating and extenuating circumstances).

Corrective and Educative Labour.

35. The new Penal Code makes provision for corrective and educative labour without deprivation of liberty. Article 30 lists the various penalties applicable in Hungary as: "1. Death; 2. Imprisonment; 3. Fines; 4. Partial or total confiscation of property; 5. Deprivation of civic rights; 6. Prohibition against the exercise of a specified profession; 7. Prohibited residence". Corrective and educative labour is covered in a separate chapter. Article 48, the opening article of this chapter reads as follows:

(1) If the offender's social status, the motives for the offence, and, generally speaking, the circumstances of the case justify the belief that the purpose of the punishment may be attained without deprivation of freedom, the court may, instead of imposing a penalty of imprisonment, sentence the offender to carry out a specified type of labour for a period of one month to two years.

(2) Any person required to perform corrective and educative labour shall do the work prescribed at the place to which he is assigned. His freedom shall be restricted only to the extent required for the purpose of the penalty and of the proper accomplishment of the work prescribed.

(3) Any person required to perform corrective and educative labour shall receive reduced wages for his work. The court shall determine the proportion of this reduction which may not be less than one-tenth or more than one-fourth of the normal rate of pay. The reduction shall not apply to any allowances to which the members of the family of a person so sentenced may be entitled.

(4) If a person required to perform such labour does not, without a valid reason, discharge the obligation imposed upon him, or if his attitude seriously endangers labour discipline, he shall be imprisoned for a period equal to the period of corrective and educative labour which he still has to serve.

(5) Corrective and educative labour measures may not be applied if the law prescribes for the offence committed a term of imprisonment in excess of five years.

Labour Imposed by the Administrative Authorities

36. The documents available to the Committee contain a certain amount of information relating to labour imposed either in connection with administrative measures taken for political or security reasons or as a means of fulfilling certain

economic tasks or plans. The texts relating to these two aspects of compulsory labour are summarised below.

Administrative Measures taken for Political or Security Reasons.

37. Most of the allegations on this point refer to legislation dating from 1939 and which, allegedly, the present Government retained and extensively applied after the cessation of hostilities.

38. Article 150 of Act No. II of 1939 on Home Defence [1] lays down the measures which the administrative authorities can take against certain types of persons; it further allows such persons to be forced to work in certain circumstances. The text of the Article reads as follows :

The Cabinet may decree that persons whose presence in a certain locality or in certain parts of the country is liable to endanger public order and security or other important interests of the State, or is prejudicial for economic reasons, may be banished from that locality or part of the country, even if it is their place of origin. Such persons may also be placed under police surveillance or, if necessary, taken into police custody, either at their place of residence or in another place in the country.

Persons taken into police custody in accordance with the present Section may be compelled to work according to their abilities.

If persons subjected to local banishment on the basis of the present Section and placed under police surveillance or held in police custody cannot support themselves from the income of their assets or from their earnings, and if they have no relatives obliged and able to support them, they shall be supported by the State ; in such cases, persons who are not in custody may be compelled to work according to their abilities.

39. Decrees Nos. 8130 of 1939 M.E. [2] and 760 of 1939 B.M. [3] were promulgated under Act No. II of 1939 and were intended to implement the principles which it stated. Whereas the first of these Decrees is no more than a very brief restatement of the principles laid down in Article 150 of the Act of 1939, Decree No. 760 of 1939 contains a wealth of detail, as its title indicates (" Decree... to establish detailed rules for local banishment as well as for police surveillance and police custody ").

40. This Decree is principally concerned with *(a)* police surveillance, *(b)* local banishment, and *(c)* police custody, *i.e.*, administrative measures, some of which may be coupled with compulsory labour. According to Article 1, paragraph 1, of the Decree, these measures are ordered " by the lower police authorities—in Budapest by the chief of the Royal Hungarian police of Budapest—and upon aliens by the National Centre for the Control of Aliens ". The second paragraph further states that " the Minister of the Interior may also act directly in any case ". Article 2, which covers appeals against such measures, reads—

(1) Appeals against decisions made on the basis of Section 1 (1) shall be submitted to the appellate authority immediately.

(2) Decisions imposing local banishment shall be submitted to the Minister of the Interior even though no appeal has been lodged.

41. Police surveillance is an administrative measure involving restrictions on the liberty of those subjected to it. It may be exercised both over persons who continue living in their normal place of residence and also over persons who

[1] See *Corpus Juris Hungarici, Magyar Törvénytár*, Milleniumi Emlékkiadás (Budapest, 1940), p. 88.
[2] See *Belügyi Közlöny*, Budapest, 3 Sept. 1939, p. 1046.
[3] *Ibid.*, p. 1067.

have been assigned a different place of residence (in the event of local banishment). Where police surveillance is not coupled with local banishment, the person concerned would not appear to be required to work; this may be seen from Article 3 *(d)* of Decree No. 760 of 1939 B.M., which states that the restrictions placed on persons subject to police surveillance " shall be determined in such a manner as not to hamper the person under police surveillance more than necessary in the exercise of his regular occupation and in earning his living ".

42. According to Article 6 (1) of the above Decree, local banishment[1] is preceded by a period of temporary detention until the decision becomes final and/or is executed.

43. Under Article 5 of the Decree, persons subjected to local banishment may be called upon to work " if they are unable to support themselves from the income of their assets or from their earnings, and there is no relative obliged and able to support them ".

44. The purpose of police custody (internment) is the detention of the type of persons described in Article 150 of Act No. II of 1939 in " localities designated by the Minister of the Interior ". Articles 11, 12 and 13 of Decree No. 760 of 1939 B.M. describe the procedure to be followed in such matters—

Article 11: Persons taken into police custody (internees) shall, if possible, be transported in groups with a police or gendarme escort or, if necessary, an armed guard.

Article 12: (1) Persons may be held in police custody (internment) only in localities designated by the Minister of the Interior. Large buildings (internment camps) which are suitably located and can be locked, at least at night, shall preferably be used for this purpose. Where such buildings are not available, persons may be held in custody in groups assigned to smaller buildings.

(2) Only where it is unavoidable shall internees be accommodated singly.

(3) When internees are being assigned, due care shall be taken to ensure that members of a common household are accommodated near the head of the family.

(4) Essential articles which internees have been allowed to keep must be registered and the register countersigned by the commander of the camp.

(5) The buildings or parts of buildings in which internees, or persons temporarily placed in the internment camp, are housed, shall be kept locked at least at night.

Article 13: (1) The internment shall be carried out with such forbearance as is indicated by the circumstances. Care shall be taken that no person without a criminal record is kept in the same room with persons having such a record. As far as possible the cultural and social standard of the internees shall be considered in assigning them to their accommodation.

(2) No restriction or force shall be exercised against the internees, except such as is necessary in order to prevent escape or a conspiracy, jeopardising of the object of the internment, and for maintaining order and discipline in the camp.

(3) As far as is compatible with good order in the place of internment, the internees may, at their own expense, enjoy the comforts corresponding to their social standard.

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[1] Local banishment is one of the penalties laid down in the Penal Code, being listed in Article 33 after the various other penalties applicable in Hungary. Details of the penalty are given in Articles 45 and 46, where local banishment is described as follows:

" *Article 45:* (1) In cases expressly provided for by law, an offender may, whatever his previous place of domicile, be subjected to local banishment from one or more specified rural localities (or cities) or from any specified part of the territory, the penalty carrying with it a prohibition against staying in such places even temporarily.

" (2) Local banishment may be pronounced for a period of six months to five years; in computing this period, the provisions governing the deprivation of civic rights shall be applicable by analogy."

and financial circumstances. They shall be entitled, more particularly, to use their own clothing and linen.

The Decree also makes provision for the maintenance of internees.

45. The Decree does not appear to set specific limits on the length of time for which persons may be held in custody. Article 18 (1) stipulates, however, that " the competent authorities shall review all cases of internment after six months " and that " if the grounds for internment have ceased to exist or if, considering the circumstances, the internment is no longer necessary ", they are to cancel it. In addition, the Decree provides for certain cases to be brought up for review even before the six months have expired, provided the review is called for " on the basis of evidence not used during the original proceedings " (Article 18 (3)).

46. Persons taken into custody (internment) are required to work, as is evident from Article 16 of the Decree, which states that " internees shall do work corresponding to their abilities, but not physically harmful ".

47. The post-war legal texts referred to above [1] were submitted to the Committee to show that Article 150 of Act No. II of 1939, as well as Decrees No. 8130 of 1939 M.E. and No. 760 of 1939 B.M., are still in force.

Labour Imposed for Economic Purposes.

48. A number of documents submitted to the Committee mention labour imposed by the administrative authorities either with the object of executing economic plans or projects or in connection with the reconstruction work undertaken after the war ended.

49. Compulsory labour of this kind was introduced immediately after the Liberation of the country. A document published by the International Labour Affairs Section of the Hungarian Ministry of Foreign Affairs [2] states that, in the first months after the Liberation, labour was so scarce that the local authorities did not hesitate to use conscription. In a section entitled " The Organisation of Employment " (pp. 33-36), it explains that " to make such measures orderly and systematic, the Government published Ordinance No. 4000/1945 M.E., dated 28 June 1945, which imposed a limit of four days a month for the amount of compulsory labour for public works which could be required of any man between 18 and 60 years of age and any woman between 19 and 42 ". It is explained, however, that exemption from such labour could always be obtained on payment of a tax. The document goes on to mention Ordinance No. 7000/1945 M.E., dated 18 August 1945, which developed and extended the compulsory labour system.

50. Under this latter Ordinance, compulsory labour could be required of the same groups of citizens as those mentioned in the previous paragraph. Persons liable under the Ordinance could be : (1) ordered to continue working in the position they already occupied ; (2) drafted, after being requisitioned, into different employment ; (3) given vocational training to prepare them for another trade ; (4) required for occasional jobs as members of a gang of workers.

51. A system of temporary labour service has been instituted by the new Labour Code introduced in Hungary in 1951 [3] (Chapter XVI). Such service may be required in the event of a natural disaster or to circumvent some other danger

[1] See paragraph 7.

[2] *Politique Sociale de la Hongrie démocratique* (Budapest, 1946), 66 pp.

[3] Decree Law No. 7 of 1951, issued by the Presidium of the People's Republic to introduce the Labour Code (*Magyar Közlöny*, 31 Jan. 1951, Nos. 17-18, p. 55).

threatening the economy or the country (Article 139). Under Article 140, exce... are granted to children under 14, women over 50, expectant women, ... mothers, or women with children under six years of age, where there is ... else available to care for them, men over 60 and the sick and the disabled.

Execution of Economic Plans and Restrictions on Freedom of Employment

Execution of Economic Plans.

52. In several allegations attention was drawn to a relation betwee... country's various economic plans and projects on the one hand and the pra... of compulsory labour on the other. A number of allegations were also ma... connection with the various restrictions placed upon the freedom of employ...

53. Under the Five-Year Plan of the Hungarian People's Republic [1] Hung... industry is to absorb 480,000 new workers and employees over the period co... by the Plan; this figure includes 250,000 skilled workers, 92,000 semi-sk... workers, 85,000 unskilled workers and 53,000 intellectual workers of dif... professions (Article 5 (2)). The Plan provides for the training of apprenti... be expanded, and for semi-skilled and unskilled workers to be turned into sk... workers, so as to ensure the replacement of skilled labour. It is further stat... Article 5 (3) that—

> In all branches of the people's economy, the number and proportion of wo... workers have to be increased, and equal working conditions and pay have to be ass... to them.
>
> Part of the seasonal agricultural working population will have to be drawn ... industry, where they will receive constant employment and pay.

54. The Plan also stipulates, in a chapter headed "Final Measures" t... "it is absolutely necessary ... that the broadest masses of toilers, workers, peas... intellectuals and the working people should work self-sacrificingly, conscientio... and with discipline for the implementation of the Plan, ... that every patriotic ... creative force of the nation should unite, and that the alliance of the working c... and the working peasantry should be indissoluble, in the common work of buil... the country, against reaction, exploiting elements and imperialist agents".

55. Decree No. 4 of 1950 on the penal defence of the planned economy [2] ... the various offences possible in connection with the implementation of the econ... plan and lays down the penalties to be imposed upon offenders. Articles 1 an... of the Decree read—

> *Article 1:* It shall be an offence punishable by up to five years' rigorous impri... ment for any person to jeopardise the implementation of the national economic p... or any part thereof by wilfully damaging any property, by rendering it unfit fo... appointed use, or by destroying it.
>
> *Article 2:* It shall be an offence punishable by up to five years' rigorous impri... ment if any person, with intent to harm and, more particularly, with intent to compro...

[1] Introduced by the First Five-Year Plan Act of the Hungarian People's Republic, 1 Jan... 31 Dec. 1954 (see "The Five-Year Plan of the Hungarian People's Republic", published in the H... rian Bulletin, Budapest, 1950, 53 pp.).

[2] *Törvények és Rendeletek Hivatalos Gyüjteménye. I. Törvények, Törvényerejü Rendeletek és M... tanácsi Rendeletek, 1950* (Budapest, 1951), p. 46.

the implementation of the national economic plan or any part thereof or otherwise to jeopardise the interests of the national economy—

1. causes a stoppage or reduction in the activities of an undertaking (or factory), does a job, or has it done, in or for an undertaking (or factory) in an inadequate, dilatory or defective manner;
2. carries on production in such a manner that undue waste of material, energy or manpower is incurred or in such a manner that the said production fails to meet existing or expected needs, is not available when such needs arise or generally fails to comply with the requirements of soumd management;
3. fails to make use of the capital available to the undertaking (or factory) for its needs, whether that capital is its own or has been loaned to it.

56. Article 1 of Cabinet Council Decree No. 37/1952[1] lays down that—

Any person who, in violation of an agricultural labour contract with a State farm, experimental farm, model farm or machine station, neglects to report for or abandons his work for no good reason—in so far as his act is not subject to severer penalties, in particular those prescribed by Decree 1950/4 on the penal defence of the planned economy —commits a misdemeanour and is liable to a fine of up to 3,000 forints.

Article 2 of the Decree states—

Proceedings against the misdemeanours defined in Article 1 shall be conducted by the police acting as a criminal court.

Restrictions on Freedom of Employment.

57. The new Labour Code places certain restrictions on freedom of employment. Under Articles 30 and 32, workers are entitled to terminate contracts of employment concluded for an indefinite period only subject to certain specified conditions. The text of these two Articles reads as follows—

Article 30: (1) A worker may give notice of the termination of an employment relationship entered into for an indefinite period—

(a) if he becomes entitled to an old-age pension under the social insurance scheme;

(b) if he is admitted to a secondary or higher educational establishment;

(c) if, by reason of his family circumstances, state of health, or other personal considerations or for any other serious reason, it is essential for him to work in another area or undertaking.

(2) To ensure the continuity of production, an employment relationship may not be terminated as envisaged under *(c)* unless the director of the undertaking has given his consent. Should this be refused, the worker may place the matter before the conciliation board.

Article 32: (1) A worker may break a contract without notice if the maintenance of his employment relationship jeopardises his life, health or bodily integrity.

(2) In the case envisaged in the preceding paragraph, the undertaking shall be informed of the termination of an employment relationship in writing. The reason for the termination shall be indicated in the notice. The existence of the reason shall be substantiated by an official certificate.

58. According to Article 36 (1), a worker terminating his employment relationship for no reason recognised in law, or in circumstances not conforming with

[1] *Magyar Közlöny*, No. 42, 4 May 1952.

the law, is considered to have left his work without permission. Under Article ... of Ordinance No. 30 of 1951 issued by the Council of Ministers on 31 January 1... to apply the Labour Code, civil action can be taken against workers leaving ... this way. On starting a new job, they have their sickness insurance benefits redu... and their leave entitlement curtailed ; furthermore, in finding a new job, they ha... to use the placement service.

59. Under Article 133, a worker may be moved, either at his own request ... in the interests of the national economy, from one workplace to another with... a given undertaking, and also from one undertaking to another, one area to anoth... or one type of employment to another. In the event of workers being moved fr... one undertaking to another in the interests of the national economy, the order f... their transfer must be issued by the joint authority responsible for the immedia... supervision of the two concerns involved or, where no such authority exists, b... the two Ministers responsible. Article 135 lays down the time limits within wh... such transfers must be made. In principle, a worker is allowed eight days in wh... to appeal to the conciliation board against his transfer. His appeal has the eff... of suspending the order for his transfer only where it involves his moving from o... area to another or taking up a lower post, or where he is continuing his studies a... university or other educational establishment specifically mentioned in the Co... In any event, the decision of the conciliation board is final and, if it confirms t... transfer, the worker is obliged to abide by its decision, any refusal on his part bei... regarded as unauthorised departure without notice (Article 136 (4)).

60. The Labour Code has also introduced a compulsory system of work book... and no undertaking may employ a worker who does not hold such a boo... (Article 131).

61. According to paragraph 1 of Article 132, " persons leaving trade schools o... finishing up-grading courses shall be required to join the undertaking which th... competent Minister appoints and shall remain there for a period of compulsor... practical experience with the object of acquiring or increasing their practica... knowledge of the trade. In the selection of the undertaking, the wishes of th... person concerned shall be taken into account as far as possible ". The length o... this further training period ranges from six months to two years according to th... type of training which the worker has received. Under paragraph 4 of the sam... Article, " the contract of a worker undergoing a period of compulsory practica... experience may not be broken (see Articles 28-36) unless the competent Ministe... has given his consent. The Minister may delegate this authority."

62. According to Article 1, paragraph 2, of Cabinet Council Orde... No. 2000/1950[1] " Workers who leave State-owned factories without good reas... and the permission of the management shall for two years receive only six days ... annual holidays with pay at their new workplace and for one year shall have the... sickness insurance benefit reduced to 50 per cent., on the principle that he wh... shows no concern for the interests of production and the people's economy sha... not share in the social benefits extended to workers active in socialist construc... tion ".

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[1] *Törvények és Rendeletek Hivatalos Gyüjteménye. I. Törvények, Törvényerejü Rendeletek és Minis... tanácsi Rendeletek, 1950* (Budapest, 1951), p. 451.

63. Decree No. 28/1952[1] M.T. states—

It shall be an offence prejudicial to sound manpower management and punishable by up to five years' imprisonment, for any person—

(a) to employ workers systematically and extensively if they have no work book, or

(b) to recruit workers wittingly, without passing through a placement office, if they have left their previous employment without good reason or have been dismissed as a disciplinary measure, since, under existing regulations, such workers may be recruited only through a placement office.

The Situation in Practice

64. In addition to a number of written testimonies, the material on the *de facto* situation submitted to the Committee includes photostat copies of administrative decisions, extracts from the Hungarian press and documents reporting statements made by Hungarian authorities. The main items which constitute this material are dealt with in the paragraphs which follow.

65. According to an article published in the Budapest newspaper *Népszava* on 3 January 1952, reporting a sentence passed by the Hungarian Supreme Court, two tractor drivers were sentenced to two years' imprisonment for absenteeism and repeated cases of unauthorised departure from their workplaces. The sentence points out that such a breach of labour discipline constitutes an offence under Decree No. 4 of 1950 on the penal protection of the planned economy. It further states that " those who commit breaches of labour discipline without intent to commit sabotage are, as a general rule, to be sentenced to corrective and educative labour ". It also explains that under Act II of 1950 (the Penal Code) such labour may be ordered for periods ranging from one month to two years, the convicted person serving the sentence at his workplace.

66. Another newspaper article published in *Népszava* on 10 January 1952 tells how four workers were sentenced by the Budapest Central Court to corrective and educational labour "for grave violation of labour discipline" (five to 13 days' absenteeism). The court passed sentences of corrective labour ranging from four to five months, coupled with 20 to 25 per cent. stoppages of pay. The sentences make no explicit reference to the Penal Code, but add that, if the convicted persons continue to commit breaches of labour discipline, the court can substitute a prison sentence for the remainder of the sentence of corrective and educative labour, if the Public Prosecutor so advises. Two other articles published in *Népszava* on 10 and 13 July 1952 quote the penalties imposed on "harvest-sabotaging 'kulaks'" (imprisonment up to 15 months, coupled with fines and the confiscation of property), without mentioning whether these penalties may be replaced by corrective and educative labour.

67. A police warrant dated 17 July 1948 submitted to the Committee in photostat orders the joint proprietor of a threshing machine to be taken into police custody (internment) on a charge of conduct highly prejudicial to the economic order of the country. The order was issued by a police colonel under Decrees Nos. 8130/1939 M.E. (paragraph 1) and 760/1939 B.M.

68. The photostat copy of a police warrant issued in August 1949, in which reference is made to Decrees Nos. 8130/1939 M.E. and 760/1939 B.M., orders a

[1] *Magyar Közlöny*, No. 34, 8 Apr. 1952.

person to be taken into police custody (internment) on the grounds that [illegible] " behaves like a 'kulak', exploits his employees, failed to conclude the compulsory collective agreement and refused to pay his farm-hand the wages fixed by collective agreement. He engages locally in right-wing politics, does not work and stirs up the people against democracy. Since it may be assumed from the above that he will attempt to obstruct the delivery of the harvest, it has proved necessary to take him into custody. There is good reason to believe that, if left at large, he would engage in activities both prejudicial to public order and security from the standpoint of important State interests and harmful to the economy. "

69. The *Black Book concerning Mass-deportations in Hungary*[1] reproduces a local banishment order form based on legal and administrative texts dating from 1939 and 1948 (pages 7-8). This form, which is not dated, reads as follows:

Ministry of the Interior
No.

Decree

I.

Effective immediately ..., resident of Budapest, ... street ..., number ..., as well as all individuals living in the same household, are banished from the territory of Budapest in accordance with Decrees Nos. 8/1939 M.E. and 760/1939 B.M. Future residence shall be ... county, ... town, commune. Should above person wish to be transferred to another commune (where relatives or acquaintances are living), an appeal may be submitted to the respective county council after being moved to the commune mentioned above. This appeal must be supported by written declaration from the person who accepts to provide accommodation for the person transferred. This declaration must be seen and approved by the authorities of the local council.

II.

In accordance with the provisions of Decree No. 6000/1948, the apartment evacuated due to the present Decree shall be requisitioned and must be handed over within 24 hours.

Budapest, — Date —

70. An article published on 17 June 1951 in the Budapest newspaper *Szabad Nép* reproduces a statement issued by the Ministry of the Interior to the effect that a number of " undesirable characters " had been expelled from Budapest.

71. A report published in *Szabad Nép* on 14 July 1950 speaks of " forced resettlements from the southern border district " and states that " it is not the southern Slav population but notorious fascists, Arrow-Cross Party members, 'kulaks' and previously convicted bandits who have been expelled from the border district, where until now they had been supporting Titoist provocations and co-operating with Tito's spies ".

72. The Committee has received an extract from the periodical " Public Education "[2], which maintains that 36,000 high-school students have been recruited to participate in large-scale agricultural and construction projects. The extract discusses the constructive work to be undertaken by these students, its educative nature, and so on, but does not appear to regard it as a form of compulsory labour, particularly since it speaks of " work teams formed at the time of signing the contract ".

[1] *Op. cit.*
[2] *Köznevelés*, 1 June 1952.

LATIN AMERICAN COUNTRIES

Summary of Allegations, of Replies to Allegations, and of the Material Available to the Committee

Introductory note : *This memorandum contains a summary of the allegations relating to several countries of Latin America. They are phrased in such a way that it has not been possible to prepare an individual summary for each of the countries concerned. A common memorandum has, therefore, been prepared for all the countries of Latin America mentioned in these allegations.*

I. Allegations

1. In the course of the debates in the Economic and Social Council (Eighth to Twelfth Sessions) allegations were made concerning Latin America in general, as well as regards the following Latin American countries : Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Venezuela.

2. At the Eighth Session of the Economic and Social Council, the representative of the *U.S.S.R.* stated—

In Peru, Paraguay and Bolivia there were laws permitting the conscription of the population to repair roads and public monuments. In Colombia and Venezuela the authorities resorted to force to obtain the labour necessary to harvest rubber and sugar cane. The working conditions of Bolivian miners recalled those of Mexican workers of 40 years back. In some mines, the workers were lodged in camps so remote from the towns that they were forced to buy their food in the stores of the company which employed them ; as a result they became indebted to the company ; that was particularly true of United States companies operating in Latin America.

According to articles which had appeared in the Chilean press in 1947, there existed in Chile what were virtually concentration camps in which workers were interned. The camps were surrounded by barbed wire and had only one exit, guarded by the police....[1]

3. The representative of *Poland*—

He quoted statements from *Chile : Land and Society* by George McCutchen McBride to the effect that great numbers of Chilean farm tenants were not allowed to seek employment outside their farms or to engage in money-making enterprises.[2]

4. The representative of *Poland*—

He understood that 40 per cent. of the population of Bolivia lived in a state of peonage, and the same was no doubt true of other Latin American countries.[3]

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[1] United Nations, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 169.

[2] *Ibid.*, 244th meeting : *Official Records*, p. 172.

[3] *Ibid.*, 262nd meeting : *Official Records*, p. 456.

5. The representative of *Poland*—

Peonage was also rife in Latin America as the result of foreign oppression. For example, 40 per cent. of all the miners in Bolivia were the slaves of United States capitalists, as were many other workers in Latin America.[1]

6. The representative of the *World Federation of Trade Unions*—

Numerous forms of forced labour, which were relics of the semi-colonial and semi-feudal era, persisted in Latin America, although slavery and servitude were expressly or tacitly prohibited by the Constitutions of the Latin American Republics. The situation had been aggravated in countries such as Chile and Brazil by the influx of foreign capital, which took advantage of the economic and social backwardness of those countries for purposes of imperialist expansion. Forced labour varied from practices which were typical servitude or slavery to practices which were sanctioned by law or local customs, but which were in fact violations of the principles of the United Nations Charter.

Forced labour in Latin America was to be found in agriculture, mining, domestic work and the construction of public buildings and roads and chiefly affected the Indian and Negro populations. One type of forced labour had its origin in the traditional right exercised by the landowners over agricultural workers throughout Latin America; the existing system of *pongaje, colato [colonato], huasicamia* and others forms of agricultural and domestic servitude were examples of that type; a second type of forced labour had its origin in the ownership of the land or of the means of production. The system of *peonaje*, which dated from the colonial régime, appeared in modern capitalistic agriculture and mining, which were thus provided with a source of cheap manpower and hence of profits.

The forms of forced labour in Latin America included *pongaje [pongueaje]*, which existed in Peru and Bolivia and which consisted of compulsory unpaid labour on the landowner's land for five days a week; *huasicamia*, which existed in Bolivia, Ecuador and Peru and consisted of compulsory unpaid work for the landowner; personal services of various kinds, which were tantamount to servitude; *aparceria* under which the peasant was obliged to deliver to the landowner part of his harvest in return for the use of his land, a system known as *conuco* in Venezuela and *porambia* in Colombia; *yanaconazgo*, under which Indians were taken from their communities to work in groups on large country estates; *siriguaje [siringuaje]*, which was practised in Bolivia, Peru, Colombia, Venezuela and Brazil. Conditions tantamount to slavery existed in the coffee, sugar, tobacco and banana plantations of Central America, the West Indies, Colombia, Venezuela, Argentina and Paraguay, which affected not only the Indian population, but the Negro, mixed and even the white population.

Another form of forced labour was *acasillage*, or payment in kind, which was practised in the forest areas of Argentina and Paraguay and in the *yerba mate* plantations of Paraguay. Various forms of forced labour involving the compulsory execution of public works for certain periods without pay existed under titles which varied from country to country. According to an I.L.O. report on the living and working conditions of the Native populations, those populations had become the most important reserve of unpaid manpower for the execution of public works in the majority of Latin American countries.

Throughout Latin America agricultural work was not governed by legislation or where such legislation existed, it was not carried into effect. Social services were non-existent and in some countries trade union legislation existed, which prevented agricultural workers from organising in the defence of their rights.

Impartial scholars such as Professor Moisés Poblete Troncoso had recognised that such practices represented a violation of fundamental human rights. It was clear that a considerable proportion of the national production of the Latin American countries was based on various forms of forced labour. While some legislative measures had been

[1] UNITED NATIONS, Economic and Social Council, 9th Session, 321st meeting: *Official Records*, p. 553.

taken with a view to its abolition, they had rarely been carried into effect. The need for effective measures to eliminate forced labour was thus evident.[1]

7. In the course of a hearing before the *Ad Hoc* Committee on Forced Labour the representative of the *Anti-Slavery Society*, stating that his information was based on the report of the International Labour Office submitted to the Conference at Montevideo in 1949 on Latin American countries[2], alleged that in some urban South American centres or localities Indians were required to clean the squares and streets free of charge. He claimed that articles of their clothing were taken away from them by the police to be redeemed only on the performance of their task. He also alleged that in some Latin American countries conscription was imposed for the purpose of road building, compelling the inhabitants to do two or three days' personal work free of charge in building or repairing roads. He affirmed that the indigenous population was providing the principal source for this unpaid manpower.

II. Replies to Allegations and Material Available to the Committee

8. At the 471st meeting of the Council the representative of *Peru* replied as follows to the allegations :

... he would not have replied to the slanderous accusations made against his country by the representative of the World Federation of Trade Unions at the previous meeting if the latter had not also cast aspersions upon the other countries of Latin America. Since his country represented the interests of Latin America in the Council, however by virtue of the principle of geographical distribution, it felt in duty bound to defend its neighbours against those accusations.

He had already had occasion, both in plenary meetings and in the Council Committee on Non-Governmental Organizations, to unmask the true character of the World Federation of Trade Unions. That organisation was abusing the consultative status granted to it ; instead of collaborating constructively with the Council on economic and social matters, it took advantage of its seat at the Council table to spread tendentious political propaganda in accordance with its own political bias.

The report submitted by the W.F.T.U. furnished a striking example of the tactics employed by that organisation. The accusations made in the report were a tissue of lies. In point of fact, none of the practices denounced by the W.F.T.U. existed anywhere in Latin America.

He recognised that the countries of Latin America had undoubtedly inherited from the colonial régime, which had preceded the era of their independence and which men of all the races on the Continent had fought to overthrow, some vestiges of the feudal system. By the middle of the nineteenth century, however, the last traces of feudal servitude had been abolished by law. The progress made during the twentieth century, both in communications—in destroying the isolation of the outlying regions from the great centres of population—and in education, had ensured the uniform application of legislative provisions safeguarding the freedom of the citizens.

Contrary to the accusations made by the W.F.T.U., peonage did not exist in Peru, nor did any other practice contrary to human rights. Moreover, access to his country was entirely free, so that anyone who so wished could easily visit the country and observe the conditions prevailing there. Peru had highly progressive social legislation, which included provision for social insurance, paid vacations, and many hospitals for workers. As for the *métayage* system, which was the traditional method of cultivating the

[1] United Nations, Economic and Social Council, 12th Session, 470th meeting : *Official Records*, paragraphs 33-38.

[2] Fourth Conference of American States Members of the International Labour Organisation, Montevideo, April 1949, Report II : *Conditions of Life and Work of Indigenous Populations of Latin American Countries* (Geneva, I.L.O., 1949), pp. 95-96.

lands of the Peruvian coastal plain, that system represented a perfectly legitimate fair labour contract. Similar systems existed on their Continents. The *métayers* were in no way enslaved by the proprietors, but were free men conscious of their rights and interests.

Equally absurd accusations had been made against other Latin American countries such as Venezuela. Some of those accusations were pure inventions, while others referred to practices long since abolished and forgotten. The French Government might equally well be accused of maintaining the practice of the *corvée*, abolished on the night of 4 August 1789.

In conclusion, he pointed out that it was not by chance that his country had been singled out for attack by the representative of the W.F.T.U. The violence of the attacks was undoubtedly due mainly to the energetic opposition shown by the delegation of Peru to the tactics employed by the W.F.T.U. in the Council Committee for Non-Governmental Organizations.[1]

9. The following Latin American countries have replied to the Committee's questionnaire: Brazil[2], Chile[3], El Salvador[4], Guatemala[5], Peru.[6]

10. The Committee examined the above-mentioned replies, as well as the laws quoted therein. The Committee also examined a number of documents relating to working conditions in Latin America, which included, *inter alia*—

(1) Constitutional texts, laws and regulations enacted in some of the countries of Latin America to protect indigenous workers.

(2) Extracts from Report II submitted by the I.L.O. to the Fourth Conference of American States Members of the International Labour Organisation, Montevideo, April 1949: *Conditions of Life and Work of Indigenous Populations of Latin American Countries* (Geneva, I.L.O., 1949).

(3) Extracts from the General Report submitted by the I.L.O. to the Committee of Experts on Indigenous Labour, first session, La Paz, January 1950: *Indigenous Workers in Independent Countries* (Geneva, I.L.O., 1950).

(4) Extracts from documents of the Economic and Social Council.

(5) Extracts from *América Indígena* by the Inter-American Indian Institute[7], Vol. VIII (Mexico, D.F., 1948).

(6) Extracts from the *Boletín Indigenista* of the Inter-American Indian Institute, Vol. X, No. 3: *The Problems of Slavery and Servile Work Studied in the United Nations* (Mexico, D.F., Sept. 1950).

(7) Extracts from *Indians of the High Andes*, report of the Commission appointed by the Committee on Co-operation in Latin America[8] (New York, 1946).

(8) Extracts from the following books and publications by individual authors:

J. CASTRO: *Cómo viven "los de abajo" en los países de América Latina* (Montevideo, 1949).

J. COMAS: *Realidad del trato dado a los indígenas* (Mexico, D.F., Oct. 1951).

A. COMETTA MANZONI: *El problema del Indio en América* (Buenos Aires, 1949).

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[1] UNITED NATIONS, Economic and Social Council, 12th Session, 471st meeting: *Official Records*, paragraphs 30-36.

[2] United Nations document E/AC.36/11, Add. 7.

[3] United Nations document E/AC.36/11, p. 27.

[4] United Nations document E/AC.36/11, Add. 17.

[5] United Nations document E/AC.36/11, p. 53.

[6] United Nations document E/AC.36/11, Add. 23.

[7] The Inter-American Indian Institute is the co-ordinating body of all the Indian Institutes in Central and South America, the principal object of which is to protect the aborigines.

[8] The Committee on Co-operation in Latin America is an organ of the National Council of Churches set up to co-ordinate the Council's activities in Latin America.

L. A. DESPONTIN : *El derecho del trabajo—Su evolución en América* (Buenos Aires, 1947).
A. GARCÍA: *Regímenes indígenas de salariado, América Indígena*, Vol. VIII (Mexico, 1948).
R. R. CAPRILES and C. ARDUZ EGUÍA : *El problema social en Bolivia—Condiciones de vida y de trabajo* (La Paz, 1941).
R. REYEROS : *Caquiaviri* (La Paz, 1946).
R. REYEROS : *El pongueaje—La servidumbre personal de los indios bolivianos* (La Paz, Bolivia, 1949).
W. LA BARRE : *The Aymara Indians of the Lake Titicaca Plateau, Bolivia* (New York, 1948).
A. ARGUEDAS : *Pueblo enfermo* (Santiago de Chile, 1937).
G. MCCUTCHEN MCBRIDE: *Chile: Land and Society*, with a foreword by Don Carlos Davila. (New York, American Geographical Society, 1936).
J. FRIEDE : *El indio en lucha por la tierra* (Bogotá, 1944).
M. SÁENZ : *Sobre el indio ecuatoriano y su incorporación al medio nacional* (Mexico, 1933).
G. RUBIO ORBE : *Nuestros indios* (Quito, 1947).
G. RUBIO ORBE : *El indio en el Ecuador*, Vol. IX, No. 3, *América Indígena* (Mexico, D.F., June 1949).
A. BUITRÓN and Bárbara BUITRÓN : *El campesino de la provincia de Pichincha* (Quito, 1947).
A. SIVIRICHI : *Derecho indígena peruano* (Lima, 1946).
F. PONCE DE LEÓN : *Situación jurídico-penal de los aborígenes peruanos* (Cuzco, 1948).
M. POBLETE TRONCOSO : *Condiciones de vida y de trabajo de la población indígena del Perú* (Geneva, I.L.O., 1938).
H. CASTRO POZO : *Del Ayllú al cooperativismo socialista* (Lima, 1936).
J. COMAS : *La realidad del trato dado a los indígenas de América entre los siglos XV y XX*, Vol. XI (Mexico, 1951).
M. SÁENZ : *Sobre el indio peruano y su incorporación al medio nacional* (Mexico, 1933).
H. CASTRO POZO : *Nuestra comunidad indígena* (Lima, 1924).
M. H. KUCZYNSKI GODARD : *La condición social del indio y su insalubridad—Miradas sociográficas del Cuzco* (Southern Institute of Public Health and Social Welfare) (Lima, 1945).
F. PONCE DE LEÓN : *Al servicio de los aborígenes peruanos* (Cuzco, 1946).

11. The Committee noted that the International Labour Organisation has for many years studied the working conditions of indigenous populations in Latin American countries, and has set up a Committee of Experts on Indigenous Labour, which held its first session in La Paz in January 1951.

12. In consideration of the work undertaken in this field by the International Labour Organisation, the Committee has not examined in detail, at this stage, each one of the forms and/or practices of labour mentioned in the allegations. The Committee understands that many of the Latin American Governments concerned are supplying information in that respect to the I.L.O. It will consider any further information which may become available in this connection or otherwise.

13. The Committee will finally assess the relevance of the above-mentioned allegations to its terms of reference, and their value, in the light of any further information which the Governments concerned may wish to submit and of a more detailed study of the above-mentioned material.

Comments and Observations of the Peruvian and Bolivian Governments

Peru

The Chairman of the *Ad Hoc* Committee on Forced Labour has received the following letter, dated 9 April 1953, from the Minister of External Relations of Peru:

Sir,

I have the honour to refer to your letter of 2 April, in which you draw attention to your previous communication of 22 November last and request an early reply.

It should first be stated that this Ministry has no record of your letter of 22 November last. Now that a copy of the circular in question is available, this department is in a position to make a reply refuting the charges that have been levelled against Peru in the Economic and Social Council of which you are Chairman and subsequently circulated to Governments for their information and comment.

I must strongly emphasise that, as indicated in the communication to which this constitutes a reply, the Committee on Forced Labour, at its Second Session, " expressed the opinion that governments should be informed of allegations regarding the existence of forced labour and that letters transmitting these allegations should indicate the supporting evidence and documentation, particularly the laws and regulations involved ". The allegations received by the Committee, however, are not supported by any documents, nor are they accompanied by any evidence or any references to, or quotations from, laws or regulations.

The rule which the Committee has set for itself in considering allegations is a guarantee that its proceedings will be reliably conducted. In no case should allegations be received and transmitted when they have no grounds other than in the authors' imagination.

The allegations transmitted in your communication of 22 November and formulated against the Governments of Peru, Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay and Venezuela by the representatives of communist governments such as those of the Union of Soviet Socialist Republics and Poland and by representatives of the World Federation of Trade Unions (W.F.T.U.), the creed and activities of which are known to be communistic, do not fulfil the conditions prescribed for such allegations. Unsupported as they are by any evidence, the allegations could well have been ignored.

I feel bound to draw attention to the strange form in which they were submitted. Not one of those pertaining to Peru states that forced labour conditions exist in our country at the present time. All the allegations are in the past tense. Thus made by the representative of the U.S.S.R., for example, states: " In Peru, Paraguay and Bolivia, *there were* laws permitting the conscription of the population to repair roads and public monuments ". The representative of Poland states: " Peonage *was also* rife in Latin America... " and the representative of the World Federation of Trade Unions asserts that: " The forms of forced labour in Latin America include peonage, *which existed* in Peru and Bolivia and *which consisted*... ".

Since the allegations are in the past, and not in the present tense, no further comment or reply should be necessary.

In order, however, to remove any suspicion that full freedom of employment may not exist in Peru, I should like to refer to the reply which was duly sent to the questionnaire prepared on this subject by the Secretary-General of the United Nations at the request of the Director-General of the I.L.O., a copy of which is appended

hereto.[1] I should also like to refer to the reply given by the representative of Peru at the 471st Session of the Economic and Social Council, whom the record will show to have stated and proved that the allegations of the World Federation of Trade Unions were nothing more than a tissue of falsehood and that none of the alleged practices actually existed in Latin America.

Peru has signed and ratified many of the Conventions dealing with labour relations which have been discussed and framed by the I.L.O.

Under its Constitution and laws, human rights are respected, including the freedom of labour. Its laws and practices regarding freedom of association and the defence and protection of workers and labourers through social security and the provision of other benefits and safeguards, are among the most advanced in the world. It is precisely because of the fact that such freedom and progressive social and labour legislation exist and are actually implemented, that we are not in the least surprised or perturbed by the communist allegations.

I have pleasure in enclosing a copy of our draft Labour Code which embodies our laws and practices governing relations between capital and labour as well as the safeguards and freedoms which protect the latter in accordance with our constitutional standards.

This Labour Code reflects the progress achieved by Peru in little over a century of independence, during which it has, not without effort, successfully discarded the vestiges of its colonial past when slavery and other forms of servitude were prevalent, and established complete liberty and justice in its labour relations.

I have the honour to be, etc.,

(Signed) Ricardo RIVERA SCHREIBER,
Minister of External Relations.

BOLIVIA

The Chairman of the *Ad Hoc* Committee on Forced Labour has received the following letter, dated 28 April 1953, from the Bolivian Under-Secretary for External Relations :

I have the honour to give below the text of the letter sent to you by this office on 26 March last, which, to judge by your cable of the 24th inst., did not reach its destination :

Sir,

With reference to your letters of 22 November and the 2nd inst., regarding forced labour, I reproduce below the text of the reply of the Ministry of Labour and Social Welfare :

> ... I shall be obliged if you will inform the Committee that our national legislation contains no provision for the imposition of forced labour on persons convicted of criminal or political offences, and that the present Government has the utmost respect for human rights. It would therefore be inappropriate for me to submit my comments and observations upon this request....

I have the honour to be, etc.

(Signed) Renan Castrillo JUSTINIANO,
Under-Secretary for External Relations.

[1] Published as United Nations document E/AC.36/11/Add.23.

POLAND

Summary of Allegations and of the Material Available to the Committee

I. Allegations

1. Allegations with regard to Poland have been made by the following non-governmental organisations :

(1) The *International Confederation of Free Trade Unions*, in a letter dated 30 April 1952, and in a statement by its representative at the Second Session of the Committee.

(2) The *International League for the Rights of Man*, in memoranda dated 15 April, 18 June and 5 November 1952, and in statements by its representatives at the Second and Third Sessions of the Committee.

(3) The *Christian Democratic Union of Central Europe*, in a memorandum dated 28 May 1952.

(4) The *International Federation of Free Journalists*, in memoranda dated 4 October 1951, 24 March 1952 and 5 October 1952, and in statements by its representatives at the Third Session of the Committee.

(5) The *Polish Association of Former Soviet Political Prisoners*, in a memorandum dated 21 October 1952 and in statements by its representatives at the Third Session of the Committee.

(6) The *Polish National Democratic Committee*, in a memorandum dated 29 May 1952.

2. These allegations relate to—

(a) the existence, both *de facto* and *de jure*, of forced labour designed to combat those who are opposed to the régime, or to fulfil the country's economic plans ;

(b) the procedure whereby forced labour is imposed ;

(c) the existence and location of concentration and labour camps, their number and population ;

(d) the numerous restrictions imposed on Polish workers.

The main allegations are summarised below.

Existence of Forced Labour

3. In its letter, the *International Confederation of Free Trade Unions* enclosed three documents entitled *Slave Labour and Slave Labour Camps in Poland, Digest—Index of East European Law—Poland Digest*, and *Forced Labour—Poland* ; these all refer to the existence of forced labour in the country.

4. In addition to its memoranda dated 4 October 1951 and 24 March 1952, the *International Federation of Free Journalists* submitted a memorandum on 5 October 1952, in which it states—

The first law instituting the penalty of forced labour " for an indefinite time " was the Decree of the Polish Committee of National Liberation of 4 November 1944

on protective measures in regard to traitors of the nation. (*Dziennik Ustaw*, No. 11, item 54).

This Decree provided, on order from the prosecutor of a special criminal court, for immediate " arrest, confinement for an indefinite time in a place of detention (camp) and subjection to forced labour " of all Polish citizens who, during the German occupation, had enjoyed the rights and privileges restricted at the time to Germans.

The order of the prosecutor was subject to confirmation by " a special criminal court " sitting in closed session. There was no legal redress on the decision of the court.

In accordance with the executive order made under the above-mentioned Decree of 30 November 1944 (*Dziennik Ustaw*, No. 14, item 75), " places of confinement " (camps) were administered by the director of the public security department (paragraph 8), while the general supervision was exercised by the prosecutor of the special criminal court (paragraph 9). Although the Decree of 4 November 1944 applied to special and limited categories of persons and was originally an extraordinary and temporary measure, the system of forced labour camps (" places of confinement "), once set up and administered by the public security department and supervised by the prosecutor's office, was kept in operation and even considerably developed....

Under the Decree of 16 November 1945 (*Dziennik Ustaw*, No. 53, item 302), a special commission to combat abuses and economic destructiveness was appointed to " detect and institute proceedings for offences injurious to the interests of the economic and social life of the State, and particularly, appropriation and looting of public property, or property under public administration, corruption, bribery, speculation and black market "....

The Decree of 14 May 1946 (*Dziennik Ustaw*, No. 23, item 149) amended the Decree of 16 November 1945, defining that the direction to forced labour camps signifies " detention of the offender in a labour camp " and laying down additionally that the proceedings relating to the direction of the offender to the labour camp must be conducted without the participation of the counsel for the defence.

The Decree of 20 July 1950 (*Dziennik Ustaw*, No. 38, item 350) once more amended the above-mentioned Decree of 16 November 1945. It extends the powers of the Special Commission by bringing under its jurisdiction the offences defined in the Decree as " causing panic in order to injure the interests of the working masses "....

The Decree of the Council of State of 12 October 1950 (*Dziennik Ustaw*, No. 47, item 429) extended further the powers of the Special Commission, authorising it to determine (with an augmented complement of five members, the normal complement being three persons, the Soviet *troika*) " all other cases which the prosecutor in view of special circumstances will direct to the Commission ". In this way, the powers of the Special Commission became in practice unlimited....

The Order issued by the Minister of Labour and Social Welfare on 30 May 1950 (*Dziennik Ustaw*, No. 26, item 238) provided for the compulsory confinement of vagabonds and beggars in forced labour homes. The Order claims to be an extension of the Decree of the President of the Polish Republic of 14 October 1927 on combating vagabondism and begging. But it must be pointed out that the latter applied to beggars and vagabonds in the strict sense of the word, while in " People's Poland " everyone is considered a beggar or a vagabond who has no permanent employment or is not registered with the police. In these conditions, the Order is of a particular significance. The refusal by the police to register an applicant, and this is done not infrequently, may turn him into a " vagabond " liable to be directed administratively to a forced labour home for an indefinite period.

The court may also order the confinement of a convicted person in a forced labour home as an educational and preventive measure (Article 342, paragraph 1, subparagraph G, of the modified Code of Penal Procedure—see *Dziennik Ustaw*, 1950, No. 40, item 364)....

... the Penal Code provides two kinds of penalty of deprivation of liberty: arrest and imprisonment....

The periods under arrest may range from one week to five years, and those of imprisonment from six months to 15 years or for life. In either case, the prisoner is compelled to work. When under arrest, he is in principle entitled to choose work " unless the chosen work is detrimental to the good order of the institution ", in which case

he is directed to " suitable work ". With regard to the inmates of prisons, the adm... tration selects work for them which may be done not only within the prison wall... also outside.

It should be stressed that Article 14 of the Law of 20 July 1950 modifying the C... of Penal Procedure (*Dziennik Ustaw*, No. 38, item 348) provides for the punishm... of detention in a forced labour camp for an indefinite time to be imposed by ordin... courts of justice. In such a case, the forced labour camp is treated on an equal fo... with a forced labour home.

It would seem that in the present state of affairs the difference between ar... confinement in a forced labour home and confinement in a forced labour camp is pu... formal and that, in accordance with the " basic trend of legislation in People's Polan... forced labour camps become the dominant form of deprivation of liberty.

It should be pointed out that the Law of 20 July 1950 on the powers of the Gen... Public Prosecutor of the Polish Republic, in Point 6, Article 3, instructs the Gen... Public Prosecutor to exercise supervision over the execution of punishments in peni... tiary institutions....

The Law of 4 February 1950 on the general obligation of military service (*D... nik Ustaw*, No. 6, item 46) provides for so-called " substitute military service " wh... so far was not known in Poland. According to Article 49, " substitute military ser... consists of performing work necessary for the defence of the State and for the realisa... of national economic plans". The regional recruiting commissions are empowered, direct to substitute military service lasting two years any called-up young man of... age of 20 years and also men put on the reserve list not before they complete 28 ye... of age.

In practice those called up for substitute military service are the so-called " pol... cally unreliable elements ", which gives the service a preventive and repressive flavo... Out of those called up for the service, workers' brigades are formed, organised on... lines of forced labour camps, the only difference being that the former are more mob...

Of the same character are penal units to which are directed members of the arm... forces under disciplinary proceedings (see Article 6, Law of 18 January 1951. *Dzien... Ustaw*, No. 6).

Irrespective of forced labour in labour camps, penal units, etc., the present legislat... of People's Poland provides for forced labour without depriving the person concern... of his liberty.

The Law of 19 April 1950 on the promotion of socialist discipline at work (*Dzien... Ustaw*, No. 10, item 168) provides that when—

(1) a person despite disciplinary punishment stays away from his work for a to... of four or more days in a year without justification, or

(2) stays away from his work for four or more consecutive days without just... cation

a court may order him to stay in his employment for three months with remunerati... reduced by 10 to 25 per cent.

5. In one of its memoranda, the *International Federation of Free Jour... lists* alleged that—

People are directed to forced labour camps following decisions of the Special Co... mission for fighting economic sabotage and abuses, or following a verdict of a co... of law. The Special Commission was formed by the Decree of 16 November 1945 wh... was later modified on 14 May 1946 and, most recently, by the Law of 20 July 1950..

The Code of Penal Procedure, after its modification under the Bill passed on... July 1950, provides for sentences of forced labour to be passed by ordinary courts... justice....

Unpublished prison regulations as well as instructions of the Ministry of Inter... Security (to which all prisons are subordinate) introduced forced labour for prisone... not only within prison walls, but also outside.

The law on penal-administrative jurisdiction which came into force on 1 Ap...

1952 provides for administrative punishment of up to three months' corrective labour. This punishment can be inflicted with reduced wages for work, or without any pay.

Military units also can be used for forced labour. The law on general conscription provides for the so-called " substitute military service " *(Zastepcza sluzba wojskowa)* which means that some recruits, after formal enrolment in the army and a short period of military training, are directed to factories or mines to work there under a régime of strict military discipline. Penal military units are also used for such work. The existence of these units was confirmed by the Law of 18 January 1951 on the responsibility of soldiers for disciplinary offences.

6. When heard by the Committee, the representative of the Federation stated—

Poland... had a slightly different situation in all these matters. The régime in Poland tried to hide in the very beginning, during the first few years, the real character of forced labour. It was first introduced against people who committed economic sabotage or so-called " abuses " against Decree No. 302 of 16 November 1945. According to this legislation, peasants were accused as *kulaks*, workers as black-marketeers or wasteful workers, white-collar workers for buying additional meat on the free market; everybody could be condemned and sent to forced labour camps....

... a Decree of the Minister of Labour and Social Welfare provided for the compulsory confinement of vagabonds and beggars in forced labour camps. This is a very delicate problem, because, from the other point of view, the police legislation prescribes that people must have the addresses given to the police institution. Everybody is obliged to be registered with the police ; but supposing, for instance, a worker is changing his place of work, going to another place (which is now a big crime against the efficiency of work), the police in other localities, for instance, cannot accept his registration for this reason. He is considered as a vagabond and a beggar and can be put in a concentration camp....

Another form of forced labour in Poland is the organisation Service to Poland, introduced on 25 February 1948.... All young men and all young girls must pass through the cadre of this organisation—young men till they reach the age of military service. The work in the Service to Poland involves six hours a day, plus political education. The organisation Service to Poland is now connected with the economic plan ; the period of two months which was obligatory for the members of this organisation has now been extended to five months.

7. In its memorandum, the *International League for the Rights of Man* states that at least one million people are " slaving under the forced labour systems legally established in the countries of Bulgaria, Czechoslovakia, Hungary, Poland and Rumania ". It refers to " millions condemned to forced labour " and also mentions forced labour which, disguised as " correctional work " is imposed to rectify " the political opinions or ideological deviations of those who differ from the government of the State at a particular time ". It further states that forced labour has been introduced to meet " the insatiable demands of the State economy ".

Procedure whereby Forced Labour is Imposed

8. In the document *Slave Labour and Slave Labour Camps in Poland*, enclosed by the *International Confederation of Free Trade Unions* in its letter dated 30 April 1952, reference is made to a " Special Commission to fight abuses and economic sabotage ", organised in accordance with a Decree dated 16 July 1945, as supplemented by an announcement from the President of the Council of Ministers on 31 August 1950 (*Dziennik Ustaw*, No. 41, item 374) and an Order by the Council of State dated 12 October 1950. The document gives a description of this legislation and points out that the purpose of the Special Commission in

Poland, as in the Soviet Union, is to speed up nationalisation, ensure the "spe liquidation" of persons and groups that are inconvenient to the régime and create "a 'labour reserve' in compulsory labour camps". It is further str that there is no appeal against the decisions of this Commission which, it is asser is exclusively composed of persons who are loyal to the régime, and "a per arrested this noon may find himself, tomorrow morning, 'already judged', sentenc and confined in a forced labour camp", all simply on the strength of an anonym denunciation.

9. The *Preliminary Report on Forced Labour Camps in Poland*, submitt by the *International League for the Rights of Man*, alleges that persons can be se into forced labour camps either on the strength of a decision by a Special Commissi set up to fight "economie misuse" and "economic harm" or as a result of ord proceedings. The document explains that "a worker can be placed in a camp disobeying the rules of the socialist discipline of labour" and that "econom misuse" does not necessarily imply an act, but "merely a passive attitude towa the régime", though such an attitude is not regarded as an offence according the Penal Code. The document goes on to state that "a sentence passed by t Commission, according to the Criminal Code, is usually for two years' work in forced labour camp. But it often happens that a prisoner, having completed th sentence, is re-arrested on a different charge and sentenced for two more years.

10. In its memorandum dated 5 October 1952, the *International Federation Free Journalists* also mentioned a Law of 15 December 1951 on penal administrat jurisdiction (*Dziennik Ustaw*, No. 66). The memorandum states—

> This law decrees that, in penal administrative procedure, sentences to "correcti labour" from one day to three months, or to a fine from three to 3,000 zloty may issued either by collective bodies appointed by national councils or by administrati orders. Forced labour, in this case "corrective", may be performed either in the ente prises of nationalised economy, if the persons concerned work there, or in the pla indicated by the presidium of the national council which is exeeuting the sentence. T person punished may be directed either to paid work at reduced rates of remuneratio or, instead of to paid work, to work without wages and, in the latter case, one day work without wages is accepted as an equivalent to three or five days of paid wor

Existence and Location of Concentration and Labour Camps

11. At the Third Session of the Committee, the representative of the *Inter tional Federation of Free Journalists* produced a map purporting to show the loc tion of labour camps, as well as "the great significance of these labour camps i Poland". He stated that all these camps were located in industrial areas, *i.e.*, in Silesia, in the coal-mining areas, in the district of Warsaw, and near the Balti

The Federation also produced two lists containing the names of 74 and 1 camps respectively. Detailed information on the alleged living conditions in thes camps was also given. Referring to the number of camps and their inmates, th representative stated—

> In 1948 the official publication of the Polish Government mentioned only th existence of two forced labour camps with 5,000 people ; now, on the information received by the Union of Polish Journalists in London, one can judge that there are abou 175 forced labour camps in Poland, with a population of from 150,000 to 170,000 peop

12. The *Preliminary Report on Forced Labour Camps in Poland*, submitte by the *International League for the Rights of Man* refers to the existence o

forced labour camps and points out that " the geographical locations of the camps coincide with the various industrial projects under way in present-day Poland ". It is asserted that " the workers of camps are employed in heavy industry or in building communication systems. There is also a close correlation between the location of the camps and the construction of strategic communications that fit Soviet military plans. " According to the document, these camps can be divided into two main groups, viz. " movable " and " stable ". It goes on to list 21 places where forced labour camps allegedly exist and gives the names of five other areas in which " according to unconfirmed reports, there are also forced labour camps ". It adds that, in Warsaw, apart from the one camp already mentioned in the list, there are four others, " the prisoners of which are employed in clearing away destruction and in rebuilding Warsaw ". It points out that it is difficult to determine the exact number and location of such camps but adds that " it has been estimated that there are approximately 20 to 30 camps, with an average of 1,200 to 3,000 prisoners in each ".

The League also submitted an " incomplete list of forced labour camps " when its representative was heard at the Second Session of the Committee.

13. In its memorandum dated 28 May 1952, the *Christian Democratic Union* provided an " incomplete list of forced labour camps in Poland ", giving the names of 12, together with the number of prisoners in seven of them. The figures quoted for these seven camps represent a total of 24,500 prisoners.

14. In his statement at the Third Session of the Committee, the representative of the *Polish Association of Former Soviet Political Prisoners* referred to an alphabetical list of corrective and compulsory labour camps in Poland, numbering 226 in all, of which 151 were for men, 64 for women, and 11 were special camps. The representative of the Association added that this list was " far from complete ". He also produced a map of the camps.

Restrictions Imposed on Polish Workers

15. In its letter dated 30 April 1952, the *International Confederation of Free Trade Unions* enclosed documents prepared by the Law Library of the Library of Congress. These are headed *Digest—Index of East European Law—Poland Digest* and *Forced Labour—Poland*, and contain numerous references to legal texts restricting the freedom of employment, and especially to Laws of 7 March and 19 April 1950. The *Polish National Democratic Committee* also referred to these laws, as well as to other texts restricting the freedom of employment.

16. The memorandum dated 28 May 1952 submitted by the *Christian Democratic Union* alleges that the new régime " had already begun in 1944 to deprive the working class systematically of all social rights. First, strikes were banned in 1945 and, later on, methods of so-called competitive work (Stakhanovism), piecework pay, etc., were gradually imposed. These steps were preliminary to the introduction of a system of slave labour, fully realised only in 1950. " The memorandum states that two laws, one to prevent the dissolution of workers' cadres and another on socialist labour discipline, " form the legal basis of this system ".

According to the memorandum, " the workers are deprived of the right to choose their place of work and are bound to a workshop chosen by the State by the Law of 7 March 1950 which transforms factories and production plants into compulsory labour camps ". The memorandum further maintains that the Law of 19 April 1950 is directed " against individuals who, by impairing the discipline of work, lower the efficiency of the self-denying labours of their co-workers ". It alleges

that a long list of penalties has been prepared " for the least infringement of labour discipline, running from admonitions to a reduction of pay of up to 25 per cent together with a prison sentence ". It adds that " on 1 April 1952, a new law was promulgated permitting the police courts to impose forced labour camp sentences of up to three months, mostly for cases of violations of socialist labour discipline ".

II. Material Available to the Committee

17. The Polish Government has not replied to the Committee's questionnaire. [1]

18. No material with a bearing on forced labour has been submitted to the Committee by the Polish or any other Government.

19. On the other hand, documents have been presented by the non-governmental organisations listed in paragraph 1 above. The Committee itself has also collected a certain amount of information relating to the allegations summarised above.

20. This material is dealt with in the paragraphs which follow.

Labour Imposed by a Court of Law

21. The material available to the Committee contains information on three different forms of labour, which may either be imposed by the sentence of a court of law or result from the execution of a sentence.

Labour Accompanying a Penalty.

22. The Polish Penal Code of 11 July 1932 makes no provision for forced labour as an independent penalty, and no reference is made to it in Article 9 which lists the various punishments which can be ordered. According to this Article, the main penalties are: *(a)* death; *(b)* imprisonment; *(c)* detention *(areszt)*; *(d)* fine.

23. Under Articles 39 and 40 however, persons undergoing detention or imprisonment are required to engage in work of various kinds. The Articles in question read as follows:

Article 39: (1) The minimum duration of a sentence of imprisonment shall be six months, and the maximum 15 years, save where a life sentence is provided for by law.

(2) A prisoner shall be required to perform labour in accordance with the instructions of the administration of the penal institution. He may be used for work outside the institution.

Article 40: (1) The minimum sentence of detention shall be one week and the maximum five years.

(2) A person under detention shall be required to engage in work of his own choice if the work chosen interferes with the internal order of the institution, or if the person under detention does not wish to engage in any work, the administration of the institution shall assign him suitable work.

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[1] United Nations document E/AC.36/13, paragraph 13.

24. A Decree dated 4 November 1944[1] issued by the Polish Committee of National Liberation on the protective measures to be taken against traitors to the nation states—

Article 1 : Any Polish citizen who, during the German occupation of the territory of the so-called General-Government and of the Bialystok voievodeship, either declared himself to be of German nationality *(Deutsche Volkszugehörige)* or German origin *(Deutschstämmige)*, or actually enjoyed the benefits of the rights and privileges deriving from his German nationality or German origin, shall be liable, apart from any criminal responsibility, to be detained, placed in an isolation centre (camp) for an indefinite period and subjected to compulsory labour.

Article 2 : (1) Detention and direction to an isolation centre (camp) shall be ordered by the prosecuting officer of a special criminal court.

25. Regulations[2] issued under this Decree on 30 November 1944 by the Chiefs of the Departments of Justice, Public Security and National Economy and Finance supply some information on the isolation centres. Paragraphs 8 and 9 read—

Paragraph 8 : Isolation centres (camps) shall be the responsibility of the Chief of the Public Security Department.

Paragraph 9 : Supervision of isolation centres (camps) shall be carried out by the prosecuting officer of the special criminal court.

26. An Act dated 20 July 1950 to amend the provisions of the Code of Penal Procedure[3] deals with the procedure followed in placing criminals in forced labour camps or institutions for incorrigibles. Article 14, paragraph 3, of this text reads—

Where the court, in the light of the results of proceedings held in the absence of a defendant who has been heard on the basis of having been granted legal assistance *(pomoc sadowa)*, finds that he should be given a heavier sentence than that indicated in paragraph 1 or directs that the accused be placed in a forced labour camp or an institution for incorrigibles, the proceedings shall thereupon be suspended or adjourned and an order given for the defendant to be produced.

On the other hand, according to Article 347, paragraph 3 of the consolidated text of the Code of Penal Procedure[4] " a sentence *in absentia* may not be used for ordering placement in a forced labour home, or in an institution for incorrigibles or for the application of reformatory or educational measures ". Article 342, paragraph 1, of the same text reads—

Decisions concerning—

.....

(b) the application of educational measures in lieu of placing the juvenile person in an institution of correction ;

.....

(g) the placing of a criminal in a forced labour home or in an institution for incorrigibles ;

shall be embodied by the court in a verdict (Article 330).

Labour in Substitution for a Fine.

27. Apart from the work which is required of all persons sentenced to be deprived of liberty, labour can also be ordered by a court under Article 43 of the

[1] *Dziennik Ustaw*, No. 11, 13 Nov. 1944, item 54.
[2] *Ibid.*, No. 14, 11 Dec. 1944, item 75.
[3] *Ibid.*, No. 38, 1 Sept. 1950, item 348.
[4] *Ibid.*, No. 40, 13 Sept. 1950, item 364.

Penal Code of 1932. This Article provides that, if an offender cannot pay a fine or it would ruin him financially to do so, the court may order him to work, either in a compulsory labour institution or outside. Should he refuse, or should it be impossible for him to work, the court may order his detention in substitution for the fine. The offender may at any time exempt himself from further labour or detention by paying the remainder of the fine. Should he pay some fraction of the fine, the labour or detention is proportionately reduced.

Labour Imposed for a Breach of Labour Discipline.

28. An Act of 19 April 1950 to ensure socialist labour discipline [1] introduces compulsory labour as a penalty for breaches of labour discipline and, more particularly, absenteeism. The penalty can take two forms: *(a)* that of a disciplinary measure taken by the director of the undertaking, and *(b)* that of a punishment inflicted by the courts.

29. When punished by a court of law, a worker is obliged to remain in his employment for a stipulated time; a percentage of his pay is also stopped.

30. The Act of 19 April 1950 stipulates that this penalty is to be ordered "in cases of malicious or obstinate breaches of labour discipline". It opens in Article 1 by stating that—

> Every manual or intellectual worker, irrespective of the post he occupies and of the nature of the work he does, if employed in a socialised undertaking or institution or public department, shall be held responsible under the present Act for any breach of labour discipline or unsubstantiated absence.

The following are considered to be malicious or obstinate breaches of labour discipline: *(a)* four or more instances of unsubstantiated absence in a single year despite the disciplinary punishments inflicted; *(b)* four or more consecutive days' unsubstantiated absence (Article 7).

31. The punishments the courts impose for malicious or obstinate breaches of labour discipline involve "an obligation [for the worker] to remain for a maximum of three months in the job he has hitherto been doing, combined with a 10 to 25 per cent. reduction in his wage" (Article 8, paragraph 1).

32. This penalty is ordered by the courts. Under Article 8, paragraph 2, the municipal courts are also competent in this respect. Their sentences are passed after an appropriate recommendation has been placed before them by the director of the undertaking, institution or official department involved. Under Article 10, paragraph 1, "the director shall come to his decision [to submit the matter to the courts] after having heard the worker's explanations and consulted the works committee (or its representative) or the representative of the works trade union body".

33. All traces of a sentence of this kind can be obliterated if the conditions laid down in paragraphs 2 and 3 of Article 11 are fulfilled. These clauses read—

> (2) The record of a worker's being sentenced by a court of law (Article 8) shall be deleted from the register of convicted offenders, if the worker so requests, after a year of irreproachable work.
>
> (3) The fact that he has worked irreproachably shall be certified by the director of the undertaking, institution or public department by agreement with the works committee (or its representative) or with the works trade union body.

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[1] *Dziennik Ustaw*, No. 20, 5 May 1950, item 168.

34. A worker who fails to carry out the work imposed upon him by a court is liable to punishment. Article 13 stipulates that—

Any person who in any other way offends against the provisions of the present Act or fails to serve the court sentence pronounced under Article 8 above shall be liable to detention for a maximum of six months.

35. Article 12 also lays down penalties for the directors of undertakings and other persons disregarding certain of their obligations in connection with the enforcement of the Act.

Labour Imposed by the Administrative Authorities

36. Under Polish law, three forms of labour can be imposed by the administrative authorities: *(a)* corrective labour without deprivation of liberty, imposed by a special administrative collegium; *(b)* labour in a camp, imposed as a penalty by a special administrative body (the "Special Commission"); and *(c)* general or special compulsory labour service in the interests of national reconstruction, to which all Polish citizens are liable, particularly certain types of specialists. These three forms of labour are analysed below.

Corrective Labour without Deprivation of Liberty Imposed by a Special Collegium.

37. Apart from the work which may be imposed on prisoners sentenced to imprisonment or detention by an ordinary court of justice, a new Act on penal administrative jurisdiction[1] recognises the punishment of corrective labour without deprivation of liberty. This penalty is imposed by a special collegium appointed by national councils, or by administrative orders. The period of this penalty may vary between a day and three months. According to Article 10 of this Act—

(1) The sentence of corrective labour shall be carried out without the convicted person losing his liberty; from the wages due to him for the work he is doing as corrective labour, 20 per cent. shall be deducted for the State.

(2) The persons employed in socialised undertakings, government or public departments, and State or public establishments, shall perform their corrective labour at the place of their employment.

(3) Other persons shall perform their corrective labour at the place indicated by the presidium of the national council which is executing the sentence. The presidium of the National Council may, for the purpose of carrying out a sentence of corrective labour, direct the convicted person, instead of doing paid work, to work without payment, one day of unpaid work being taken as the equivalent of three to five days of paid corrective labour.

(4) An Order of the Council of Ministers shall determine the principles and procedure governing corrective labour.

38. Under this new law, corrective labour may not only be an independent penalty, but may also be imposed for a failure to pay fines. The relevant Articles are quoted below—

Article 14: (1) If a fine cannot be collected, the chairman of the collegium shall substitute punishment by corrective labour for the fine, one day of corrective labour being taken as the equivalent of a 10 to 40 zloty fine.

[1] *Dziennik Ustaw*, No. 66, 29 Dec. 1951, item 454.

(2) Where a fine is replaced by corrective labour, the term of punishment by corrective labour may not exceed three months, or, if the fine has been imposed by an administrative order, three days.

Article 17: The grounds for starting proceedings shall be constituted by a report from a government or public department, a State or public institution, a socialised undertaking, the injured party or any other person.

Article 29: (1) In cases where, in view of the trivial social harmfulness of the offence, there is no need to impose a heavier punishment than a reprimand, a fine of 150 zloty or three days' corrective labour, the chairman of the collegium or his deputy may pronounce sentence within the above-mentioned limits by penal order without holding a hearing on the case ; this may be done exclusively on the basis of information supplied by government or public departments and State or public institutions.

(2) In village communities and towns having up to ten thousand inhabitants, such a penal order can only be issued by a collegium.

39. A Special Order of the Council of Ministers of 15 December 1951, concerning the principles and procedure governing the serving of corrective labour sentences [1], was issued on the basis of Article 10, paragraph 4, of the Act quoted above. According to Article 2 of the Order, " persons employed in socialised enterprises, State or public offices, institutions and establishments shall serve their corrective labour sentence at their place of employment " (paragraph 1). The same is true of persons employed in private undertakings, though " the presidium of the People's Council may designate another place unless the undertaking itself or the work performed by the offender therein are of greater economic importance " (paragraph 2). Unemployed persons serve their sentences as directed by the presidium (paragraph 3). The place appointed must normally be within five kilometres of the offender's place of residence (Article 3) ; otherwise, the undertaking must provide for his accommodation (Article 4). Under Article 5, the choice of workplace must as far as possible be guided by the offender's qualifications. The enterprise in which the offender serves his sentence is responsible for assigning him his tasks (Article 8), for seeing that his sentence is correctly served and for reporting any irregularities of attendance to the presidium of the People's Council (Article 9). Under Article 10, paragraph 1, the presidium may " assign the offender to unpaid work instead of work with pay, one day of unpaid work being counted as three to five days of paid work " ; under paragraph 2, " the equivalent of the remuneration to which the offender would have been entitled... shall be paid to the State ".

Labour in a Camp, Imposed by a Special Administrative Body (the " Special Commission ").

40. On 31 August 1950 a Notice [2] was issued by the Prime Minister to promulgate a consolidated text of a Decree of 16 November 1945 " concerning the creation and jurisdiction of a special commission for combating abuses and economic sabotage ". Under this Decree, as annexed to the Notice, a special system of administrative procedure was instituted to combat certain offences endangering the country's social and economic life. One of the punishments which the administrative authorities may inflict on persons committing such offences is detention in a labour camp. The Decree [3] is summarised below.

[1] *Dziennik Ustaw*, No. 66, 29 Dec. 1951, item 457.
[2] *Ibid.*, No. 41, 19 Sept. 1950, item 374.
[3] See also the Order issued by the Council of State on 12 Oct. 1950 " on the internal organisation, method of functioning and procedure of the Special Commission for combating abuses and economic sabotage " (*Dziennik Ustaw*, No. 47, 21 Oct. 1950, item 429).

Grounds for the Imposition of Labour.

41. The Decree of 16 November 1945 institutes various penalties, including detention in a labour camp, for persons committing " offences detrimental to the economic or social life of the country, in particular the misappropriation of public property, corruption, bribery, speculation, and the creation of panic designed to harm the interests of the working masses" (Article 1).

42. The Decree also covers " cases where the offender's actions are prompted by an aversion to work or may lead to abuses or economic sabotage".

43. Under Article 2 of the Order of 12 October 1950, the Decree does not apply to " cases against minors who, at the time when the offence was committed, were not 17 years of age".

Nature and Duration of Labour.

44. Article 7 of the Decree provides for the following penalties to be imposed : *(a)* detention of the offender in a labour camp for a maximum of two years or a fine not exceeding 5 million zloty or both ; *(b)* confiscation of the goods involved in an offence committed by a business establishment owned by the offender, of objects derived directly or indirectly from the offence and owned by the offender, or of tools which were used or were intended to be used for committing the offence ; *(c)* closure of the offender's business and withdrawal of his licence to engage in trade or manufacture, as well as to occupy the business premises ; *(d)* a prohibition, imposed for a maximum of five years on the offender, from residing in the province in which he had his domicile.

45. According to Article 7, paragraphs 2 and 3, detention in a labour camp is not only a direct and independent penalty ; it may, in certain circumstances, be substituted for an unpaid fine or even for a prohibition imposed on an offender, from residing in a given province, in the event of his failing to observe it. The following is the text of these two paragraphs :

(2) Where a fine has been imposed and cannot be collected, the Special Commission or its agencies may, at their discretion, in lieu of the fine imposed, send the offender to a labour camp for a term not exceeding two years, irrespective of the decision already taken to send the offender to a labour camp.

(3) Any person infringing the ban of residence laid down in paragraph 1 *(d)*, of this Article, may be directed by the Special Commission or its agencies to a labour camp for a term not exceeding two years.

46. Article 8 of the Decree makes detention in a labour camp to some extent dependent on the length of time for which the person has been held in custody, in that it provides for the period of temporary custody to be taken into account when the period of confinement in a labour camp is fixed. The Article is worded in the following terms :

In instances where a sentence has been passed ordering confinement in a labour camp, the Special Commission or its agencies may credit all or part of the period of temporary custody against the term of confinement.

47. Provision is made for certain relaxations under paragraph 4 of Article 11 ; this states that detainees may : *(a)* be released before completion of sentence ; *(b)* have their sentences suspended ; or *(c)* have the enforcement of their sentences postponed. Decisions in such matters are taken by the Prosecutor-General of the Republic, acting " in accordance with the Code of Criminal Procedure concerning the enforcement of sentences ". Release before completion of sentence is only

granted, however, when " the person confined to a labour camp has served at least one-third of the term imposed in the sentence ". In addition, a sentence may be postponed only with the consent of the chairman of the Special Commission.

48. Under Article 25 of the Order, the length of the penalty may be shortened as a measure of clemency.

Organisation of the Special Commission.

49. The penalties laid down in the Decree are ordered by a " Special Commission for combating abuses and economic sabotage ", normally referred to quite simply as the " Special Commission " (Article 1). Its organisation is outlined in Articles 2 to 4, which read—

Article 2: (1) The Special Commission shall consist of a chairman, his deputy, and members.

(2) The Council of State shall appoint and dismiss the chairman of the Special Commission, his deputy, and the members.

Article 3: Provincial agencies of the Special Commission shall function under the offices of the presidia of the provincial people's councils and of the people's councils of the cities of Warsaw and Lodz.

Article 4: Provincial agencies of the Special Commission shall consist of a chairman and members appointed and dismissed, with the approval of the chairman of the Special Commission, by the presidia of the provincial people's councils and, in the cities of Warsaw and Lodz, the presidia of the people's councils in those cities.

Further details of the organisation and operation of the Special Commission and its agencies are given in Articles 4 *et seq.* of the Order.

50. The members of the Special Commission "give a pledge in the same manner as judges and public prosecutors " before assuming their official duties (Article 24). In addition, the Code of Criminal Procedure is applied by the Commission and its agencies in matters of clemency and when a case is reconsidered (see paragraph 57 below). Under Article 5, paragraph 2, of the Decree " the Special Commission and its provincial agencies shall function in a forum consisting of three members "[1], while under Article 10, paragraph 3, of the Order " the decisions of the Special Commission shall be taken by a simple majority".

51. The competence of the Special Commission and its agencies is defined in Articles 11 and 16, which read—

Article 11: The Special Commission shall decide—

(a) cases of corruption, bribery, and the creation of panic designed to harm the interests of the working masses ;

(b) cases in which the public prosecutor introduces a motion to ban the offender from taking up residence in the province where he has hitherto been domiciled ;

(c) other cases which the public prosecutor refers to the Special Commission on account of particular circumstances.

Article 16: (1) Provincial agencies shall decide on cases as specified in Article 1 and Article 6 of the Decree with the exception of cases reserved for the decision of the Special Commission.

(2) It shall be the particular function of provincial agencies to take decisions in cases of misappropriation of public property, speculation, clandestine slaughtering, illegal tanning of hides and clandestine distilling.

[1] Except in the case covered in Article 11, paragraph 3, of the Decree (*i.e.*, where a sentence passed by the Special Commission is amended on the recommendation of the Prosecutor-General of the Republic) ; the members are then five in number.

Procedure of the Special Commission.

52. The Decree of 16 November 1945 and the Order of 12 October 1950 lay down the procedure to be followed by the Special Commission in punishing offences, but Article 12, paragraph 2 of the Decree provides that " the Council of State shall determine the internal organisation, the method of functioning and the procedure of the Special Commission, more particularly with reference to the provisions governing the adoption of the decisions of the Special Commission ".

53. Article 9 of the Decree states that " Proceedings regarding the direction of an offender to a labour camp shall be conducted without a defence counsel being present ".

54. Under Article 11, paragraph 1, " no legal recourse shall lie from the sentences of the Special Commission and its provincial agencies ". The sentences may be suspended or postponed in certain cases ; it is also possible for release on probation to be granted.

55. Certain types of cases may also be reviewed, Article 11, paragraph 2 stating that " by way of supervisory control, the Special Commission may amend a sentence passed by a provincial agency of the Commission and may reserve exclusively for consideration by itself certain types of cases or the decision to direct an offender to a labour camp ".

56. In addition, under Article 11, paragraph 3, " the Special Commission, sitting in extended forum, may, on the motion of the Prosecutor-General of the Republic, amend a sentence passed by the Special Commission under Article 5, paragraph 2 ", *i.e.*, when it has acted with a membership of three.

57. The Special Commission may, in certain specified cases, follow the Code of Criminal Procedure. These cases are *(a)* the granting of clemency to persons sentenced under the Decree (see Article 25 of the Order) and *(b)* the reopening of a case (see Article 26 of the Order). The decision to review a case is taken by the Special Commission " sitting in a forum consisting of three members " when it is called upon to dispose of an application to reopen a case decided by the provincial agencies and " sitting in a forum consisting of five members " when it is required to review cases decided by the Special Commission.

General or Special Compulsory Labour Service.

58. A number of texts have been issued in connection with the reconstruction of the country ; some have instituted a general system of compulsory labour service for which all Polish citizens are liable, while others have imposed specific obligations on young persons or certain groups of specialists. These texts, which are enforced by the administrative authorities, are summarised below.

General Compulsory Labour Service.

59. Under a Decree dated 8 January 1946 respecting registration and compulsory labour service[1] all Polish citizens and persons domiciled in Poland who are unable to show that they are of non-Polish nationality, aged between 18 and 55 years in the case of men and 18 and 45 years in the case of women, are required to register with their local employment offices. Certain exceptions to this rule are made in Article 2 of the Decree, which reads—

Article 2 : (1) The following persons shall not be required to register :
(a) members of the Polish National Council ;

[1] I.L.O. : *Legislative Series*, 1946—Pol. 3.

(b) persons in full-time military service ;

(c) judges, public prosecutors, assistant judges, and barristers serving their qualifying period for assistant judgeships *(aplikanci sadowi)* ;

(d) Government and local authority officials, and employees of undertakings and establishments owned by the State or managed by the State or local authorities ;

(e) professors, lecturers and the auxiliary teaching staff of Polish universities and academies, whether public or privately-owned ;

(f) members of the liberal professions, provided that they are registered as practising such profession with the appropriate professional chamber or, in default thereof, have obtained the consent of the general administrative authority of second instance to their practice of the profession ;

(g) persons earning their living by agriculture, forestry, stockbreeding or market gardening, together with members of their families employed in the undertaking concerned ;

(h) the clergy and pastors of all legally recognised confessions ;

(i) persons registered under other Decrees concerning compulsory labour service.

(2) The Minister of Labour and Social Welfare shall make an Order, in agreement with the Minister of Public Administration, prescribing the documents to be produced to authorities and courts for the purpose of proving exemption from the obligation to register.

60. The lists of persons registered under the Decree have to be kept up to date and any person who is registered must " give notice of any change of domicile to the employment office which effected the registration ... ". Failure to do so is punishable under Article 8, paragraph 2. Article 9 also institutes penalties for the provision of inaccurate information. Other offences are punishable under Article 10.

61. This system of registration has been instituted in order to facilitate the work of the authorities in directing those who register into employment. Under Article 4—

> An employment office may direct registered persons, according to their qualifications, to employment in any branch or type of employment for a period not exceeding two years, without regard to the persons' domicile or place of residence.

In principle, everyone is liable for labour service of this kind. Certain groups of citizens, however, are exempt ; these are set down in Article 5 as follows : persons not liable to registration (see paragraph 59 above), teachers in private schools, owners and employees of industrial, handicraft and commercial establishments where the establishment or type of work has been recognised as of national or local economic utility, pupils in secondary schools and students in higher educational establishments, persons unfit for work as a result of chronic illness or physical infirmity, pregnant women, women who are nursing a child or who have the care of one or more children under 14 years of age, and married women keeping house for a family of three or more persons, at least one of whom is not liable for registration or compulsory labour service.

62. Those called upon for labour service are allowed a certain amount of latitude in choosing both their type of work and also, where the service has to be performed elsewhere than at their domiciles, their workplace (which may be in one of a number of localities). Under Article 6, paragraph 2, of the Decree " the remuneration and allowances payable to persons directed to employment shall not be less than the remuneration and allowances paid to other persons employed in the same posts and in the same branch of employment ".

63. Any person failing to comply with a direction order is liable to detention for a maximum of five years. Article 11 stipulates—

Article 11: If any person fails to report in pursuance of a direction order (Section 4) within the prescribed time limit, he shall be liable to a term of detention not exceeding five years and to a fine, or to one of the said penalties alone ; and the court may in addition condemn the offender to loss of public rights and honorary civil rights.

(2) Proceedings in respect of an offence under paragraph 1 shall be instituted on application being made therefor by an employment office.

64. Under Article 12, persons guilty of offences under the Decree may be called upon to work without being entitled to the advantages mentioned in paragraph 62 above.

Special Compulsory Labour Service.

(1) *Training of Young Persons.*

65. The training of young persons was instituted under an Act of 25 February 1948 " on the universal compulsory vocational, physical and military training of youth, and the organisation of physical culture and sports activities "[1], in order " to channel the creative enthusiasm of the younger generation into work for the expansion of the might and wealth of the nation, and extend national education ... beyond the years of compulsory school attendance" (Article 1, paragraph 2). The Act announces that its purpose is " to organise the participation of youth in the realisation of plans for the reconstruction and the building up of the democratic People's Poland " (Article 1, paragraph 2). It explains that vocational training is co-ordinated with physical and military training (Article 2, paragraph 1), and it makes provision for a special organisation called " Service to Poland " to be set up for the vocational, physical and military training of young persons (Article 3, paragraph 2).

66. The Act further states that the obligation to undergo vocational, physical and military training is incumbent upon young persons of both sexes between 16 and 21 years of age and also upon persons under 30 years of age who have not been called up for military service (Article 32).

67. In addition to the courses given, the vocational training includes work to be done for a specified period as well as work to be done occasionally (Article 47, paragraph 1).

68. The fixed-term work lasts for a maximum of six months for young persons under age for military service ; for those of age or over age, the maximum period is equivalent to that of military service (Article 47, paragraph 2). Such work is done in special units (Article 48, paragraph 1).

69. The amount of occasional work required may not exceed three days a month (Article 47, paragraph 3).

(2) *Compulsory Placement of Young Specialists.*

70. An Act of 7 March 1950 " on the planned employment of graduates of vocational secondary schools and higher schools "[2] orders that " the People's State ... shall on planned lines direct the stream of graduates from these institutions [i.e., vocational and higher schools] to socialised enterprises and afford young

[1] *Dziennik Ustaw* No. 12, 12 Mar. 1948, item 90.
[2] *Ibid.*, No. 10, 30 Mar. 1950, item 106.

people the opportunity of immediate participation in socialist construction". The Act also states in Article 1—

> Graduates of vocational seeondary schools and higher schools may be bound to do work falling within their special qualifications in a specified State or local government institution or in another specified socialised enterprise. The duration of the above obligation shall not exceed three years.

And in Article 4—

> The Chairman of the State Economic Planning Commission shall prepare yearly, by 1 April, a general plan for the employment of graduates, compiled on the basis of proposals made by the Ministers concerned.

(3) *Obligation to Remain in Certain Trades or Occupations.*

71. As a result of legislation passed to strengthen the economy of Poland, workers have become liable to certain obligations and may be punished for failing to comply with them.

72. Under the Act of 7 March 1950 to counteract the fluidity of labour in professions and trades particularly important for the socialised economy[1] persons qualified in professions and trades particularly important for the socialised economy may be obliged to remain in their jobs or to accept others corresponding to their aptitudes (Article 1).

73. No worker may be compelled to remain in his employment in this way for longer than two years (Article 3, paragraph 2).

74. The Council of Ministers is empowered to issue Orders specifying the occupations, professions and types of persons covered by the Act (Article 2). It can also prohibit all workers in certain particularly important occupations from leaving their employment for a maximum of two years (Article 5).

75. An Order requiring a worker to remain in his employment or to take up similar employment suspends his right to terminate his contract. It does not, however, change the contract to the worker's disadvantage (Article 4, paragraph 1).

76. Failure to obey an order is punishable with detention for a period of up to six months or a fine of up to 250,000 zloty, or both (Article 6).

77. Two Orders to enforce the Act were issued by the Council of Ministers on 17 April and 13 September 1950 respectively.[2]

Substitute Military Service.

78. Another type of compulsory labour was introduced by an Act dated 4 February 1950 on compulsory military service.[3] Article 48, paragraph 1, provides for " substitute military service ", to last two years. Article 49 reads—

> Substitute military service shall consist of military training and of the performance of work necessary for the defence of the State and for the realisation of national economic plans.

Labour Imposed on Beggars and Vagabonds.

79. Under an Order of the President of the Republic dated 14 October 1927[4], beggars and vagabonds are liable to be ordered into forced labour homes. This

[1] *Dziennik Ustaw*, No. 10. 30 Mar. 1950, item 107.
[2] *Ibid.*, No. 18, 26 Apr. 1950, item 153, and No. 43, 30 Sept. 1950, item 388.
[3] *Ibid.*, No. 6, 28 Feb. 1950, item 46.
[4] *Ibid.*, No. 92, 25 Oct. 1927, item 823.

Order would still appear to be in force, since it is mentioned in an Order of the Minister of Labour and Social Welfare dated 30 May 1950 on the compulsory placement of beggars and vagabonds in forced labour homes.[1] Paragraph 1 of the Order reads—

The provisions of the Order of the President of the Republic dated 14 October 1927 concerning the combating of beggary and vagabondage (*Dziennik Ustaw*, No. 92, item 823), relating to the compulsory placement of vagabonds and beggars in forced labour homes, shall be put into execution over the whole area of the Republic.

Restrictions on Freedom of Residence

80. The Decree of 16 November 1945, as reproduced in an annex to the Notice by the Prime Minister dated 31 August 1950 [2] places certain restrictions on the freedom of residence of the persons whom it covers, and it prohibits an offender from residing in a given province for a maximum of five years.

81. The procedure followed in imposing such restrictions is the same as that for detaining persons in a labour camp.[3]

Comments and Observations of the Polish Government

The *Ad Hoc* Committee on Forced Labour has received the following communication, dated 27 March 1953, from the Polish Delegation to the United Nations:

The Delegation of the Polish People's Republic to the United Nations herewith returns a report containing the slanderous accusations against Poland of the so-called *Ad Hoc* Committee on Forced Labour.

TERRITORIES ADMINISTERED BY PORTUGAL

Summary of Allegations, and of the Material Available to the Committee

I. Allegations

1. Allegations concerning the non-metropolitan territories administered by Portugal were submitted by—

(1) the representative of the *Byelorussian S.S.R.* and the representative of the *World Federation of Trade Unions (W.F.T.U.)* during the discussions in the Economic and Social Council;

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[1] *Dziennik Ustaw*, No. 26, 3 July 1950, item 238.
[2] See above, paragraph 40.
[3] See above, paragraphs 52 *et seq.*

(2) the *Anti-Slavery Society*, London, in a memorandum of 22 February 1952 as well as at a hearing of the Society's representative at the 29th meeting of the Committee, on 16 October 1952.

2. The allegations referred to—

(a) compulsory labour in the non-metropolitan territories administered by Portugal;

(b) recruitment of labour in Angola, particularly for the sugar plantations;

(c) labour conditions in the Island of San Tomé;

(d) recruitment of labour in the territory of Mozambique for the mines in the Union of South Africa.

3. The allegations appeared in the following statements:

Compulsory Labour in the Non-Metropolitan Territories Administered by Portugal

In its memorandum of 22 February 1952 the *Anti-Slavery Society* makes the following statement:

The I.L.O. publication entitled *The Recruiting of Labour in the Colonies and in other Territories with Analogous Labour Conditions*, Report IV, published in 1935, says (page 99): "The 1928 Code abandoned the principles of the moral and legal obligation to work which had formerly been the underlying principle of Portuguese Native labour law and substituted for it that of the moral obligation, to procure the means of subsistence by labour and thereby to promote the general interests of mankind". This appears to be a distinction without a difference, and is, in fact, so interpreted by the Portuguese Administration in Africa. The writer is informed... that "an African (in a Portuguese African colony) must offer his services for one whole year in every three to the Government". An I.L.O. publication of 1929 entitled *Forced Labour, Report and Draft Questionnaire* stated (paragraph 142, page 118): "There are in the Portuguese colonies two types of labour exacted under compulsion. Type 1 is forced labour for general or local public purposes imposed generally on all Natives. Type 2 is the compulsory labour for general or local public purposes or for private employers imposed solely on Natives who fail to perform their obligations to labour and who lead a life of idleness." And in paragraph 271 (page 206) of the same publication it is stated: "Compulsory labour for private employers may be imposed on Natives who do not conform to their 'moral and legal obligations to labour', the principle of which, it will be remembered, was laid down in the General Native Labour Regulations...". It thus appears that in the Portuguese colonies there is in existence compulsory labour for private employers of type 2.

Recruitment of Labour in Angola, particularly for Sugar Plantations

The representative of the *W.F.T.U.* made the following statement to the Economic and Social Council:

It [forced labour] similarly existed in the Portuguese colonies. As the *Anti-Slavery Reporter* for April 1949 indicated, tens of thousands of Africans were forcibly recruited each year for work in the sugar plantations of Angola.[1]

In its memorandum of 22 February 1952, the *Anti-Slavery Society* states—

... some information has leaked out, which is both reliable and extremely disquieting, but for the security of the informants, its source must be anonymous. It shows that

[1] UNITED NATIONS Economic and Social Council, 12th Session, 470th meeting: *Official Records*, paragraph 31.

tens of thousands of Africans from the highlands of Angola are compulsorily recruited annually to work on the sugar plantations on the low coastal belt, and that very few of these unfortunates survive to return to their families in their Native villages.

The memorandum, in an Addendum, refers to the conditions at the beginning of 1952 as follows :

... almost every day one sees groups of Africans waiting outside the Government offices in Angola, Portuguese West Africa, each with a bag containing his effects. Then Europeans come out and call the Africans, and bind the bargain by presenting to each African a shirt and a pair of shorts. This is contract labour, a system of compulsory labour imposed on the Africans of Angola. It is preceded by a request, addressed to each chief, to furnish a specified number of contract labourers. The chief presses men into this service by persuasion, threats or trickery, and they set out for a year in some place remote from their homes.... There has been great industrial development in Angola in recent years, both in the mines and in agriculture, and it makes exacting demands on the available manpower.

In one district... this form of forced labour has been extended for the past three years to boys from the age of eight years. Formerly, they were made to work for six months. Now they have to work for a year.... Even little girls are dragged into the system and made to work for six months.... The scarcity of labour is resulting in nearly continuous forced labour, since men are allowed to return to their homes only for six months or even a few weeks, and are then required to enter on a new period of forced labour.

Labour Conditions in the Island of San Tomé

The representative of the *Byelorussian S.S.R.* to the Economic and Social Council " quoted an article from the *New York Herald Tribune* dated 15 February 1948 concerning forced labour in the Island of San Tomé which had been called 'The island from which there was no return' ".[1]

In its memorandum, the *Anti-Slavery Society* makes the following comments on this question :

It [the information which has leaked out, see above] also shows that for several years past there has been a reversion to the compulsory export of Natives of Angola to the islands of San Tomé and Principe to work under a so-called " contract " system on the cocoa plantations there—a return to the very abuse which William Cadbury, Joseph Burtt and Henry Nevinson exposed 43 years ago. The latest information is that this export of people has recently been suspended, but that is no guarantee that it will not be resumed.

The I.L.O. publication of 1935, cited above, shows (page 102) that of the total population of San Tomé of 53,969, only 19,751 were Natives of the island, and 32,817 were immigrant workers from Angola, Mozambique and the Cape Verde Islands and 1,401 Europeans. In 1907 Senhor Jeronimo Paiva de Carvalho, a former Portuguese curator on the island of Principe, resigned his position and published his revelations of labour conditions in that island. He wrote : " Owing to my position as curator in Principe, where I saw and came into personal contact with the labourers, I understood the life of the colony. The existence of slavery in the islands is an actual fact, although it appears to the public to be a system of free labour. The very nature of it involves a compulsion that makes the Negro renew the contract again and again, till it constitutes forced labour for life. The lack of a law making repatriation compulsory leads to slavery ; such a law has been systematically averted by the Government [and the] planters. The method of obtaining Negroes is a grave offence and constitutes an attack on liberty. I am not

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 119.

referring to labourers from Cape Verde or Mozambique, as in their case the law is faithfully kept. I speak of the labourers born in Angola. They are actual slaves. Caught in the interior or sold to Europeans by their chiefs, they come down to the coast like any other sort of merchandise."

That was written in 1907, but the following, written in 1950, shows that there has been no change. A traveller wrote in December 1950 : " When we went out to Angola on a Portuguese steamer, we stopped at San Tomé. I witnessed a scene of the most depressing kind. The ship anchored a mile from the shore. About 250 men were being repatriated to Mozambique. They were brought out in lighters. Each carried a bag full of his personal belongings. The lighters went down and up with the sea, perhaps a swing of ten feet. These old men were unaccustomed to the sea and were terrified. A sturdy sailor stood on the ladder, and as the lighter rose would grab a man with his bag and put him on the ladder, up which he climbed. After we sailed I talked with some of them who spoke Portuguese. They said that they had been in San Tomé 25 years. Two men said, ' We came here as boys. Now we go back as old men. Our relatives have forgotten us. We are as dead men. Our lives have been used up '. The African man's loyalty is to his family. His condition is much worse than that of a man without property. These men from Mozambique had been robbed of everything that makes life worth while. In their idiom, they had been eaten.... "

Recruitment of Labour in the Territory of Mozambique for Mines in the Union of South Africa

Giving evidence before the Committee, the representative of the *Anti-Slavery Society* made this statement—

The Government of Mozambique, Portuguese East Africa, has a contract with the Rand mines of South Africa, to supply a number not exceeding 100,000 labourers a year for the South African mines, and the Government of that colony receives a capitation fee, and I was informed that the inhabitants of that colony have to give one year's service in three to the Portuguese Government. They then are directed to go into the Union of South Africa in performance of this agreement. A similar agreement that existed in Liberia was attacked by the League of Nations Commission which examined Liberian labour, and the agreement between Mozambique and the Union of South Africa might be attacked on similar grounds.

II. Material Available to the Committee

4. No documents have been received by the Committee from governments, non-governmental organisations or private individuals.

5. The Portuguese Government did not reply to the Committee's questionnaire.

6. The following information had thus been compiled from material collected by the Committee itself.

Compulsory Labour

7. The Native Labour Code of 6 December 1928 [1] contains a number of provisions concerning compulsory labour. The texts are as follows :

3. The Government of the Republic shall neither impose upon the Natives of its colonies nor allow others to exact from them any kind of compulsory or forced labour

[1] I.L.O. : *Legislative Series*, 1928—Por. 3.

for private purposes, without prejudice to the discharge by the said Natives of the moral obligation incumbent upon them to procure the means of subsistence by labour and thereby to promote the general interests of mankind.

4. The Government of the Republic shall ensure the Natives of its colonies full liberty to choose the work which suits them best, whether on their own account on their own land or on the land which the Government assigns to them for this purpose on a large scale in all the colonies, or under a contract to serve another if they prefer this, provided that the Government shall reserve to itself the right to encourage them to work on their own account to a reasonable extent in order to improve their means of subsistence and conditions of life, and to exercise benevolent supervision and tutelage in respect of their work under contracts of employment.

.....

CHAPTER X. FORCED AND PENAL LABOUR

Division I. Forced Labour

293. Compulsory, forced or obligatory labour shall mean all work which any Native is compelled to perform either by means of threats or violence on the part of the person imposing it upon him or merely by an order from the public authorities.

294. Forced labour for private purposes shall be absolutely prohibited, and persons imposing it on others shall be punished as provided in Sections 328 and 344.

Sole subsection. Forced labour for public purposes shall be allowed by way of exception in certain urgent and special cases, but only under the conditions laid down in this chapter.

295. The power to decree the use of forced labour for public purposes and to issue regulations for its use shall be vested exclusively in the Government of the mother country, and it shall be absolutely prohibited for the Governors of the colonies to adopt any legislative measures or issue any ordinary notices, whether oral or in writing, which in any way direct or authorise this, except in the special cases enumerated in the next section and subject to strict observance of the principles laid down in this chapter.

296. Recourse to forced labour for public purposes shall be allowed only in the following cases :

1. when owing to urgency or for some other sufficient reason it is impossible to secure the requisite number of voluntary Native workers for the carrying out of Government or municipal public works ;
2. when help must be rendered in cases of emergency or public calamity, such as fire, floods, damage done by storms or convulsions of the elements, plagues of locusts or other pests and epidemics ;
3. for work as follows :
   (a) the cleaning and sanitation of Native villages or quarters and the vicinity thereof, and of the accommodation for cattle or open spaces connected with the said villages or suburbs ;
   (b) the cleaning and maintenance of springs, wells, ponds and other reservoirs of water intended for the use of the Native population or their cattle ;
   (c) the clearing of paths between Native villages in cases where the said paths are not used mainly for vehicles driven by motors or drawn by animals and used by settlers or the Government ;
   (d) the hunting and extermination of creatures dangerous to the health and existence of the Natives or their cattle, or to their crops and the preservation of their harvests ;
   (e) the cultivation of certain lands reserved for Natives in the vicinity of their villages, the produce of which accrues exclusively to the persons who cultivate them or in accordance with Native custom to a specified Native community.

297. Forced labour for public purposes shall always be remunerated or subsidised as follows :

1. in the cases mentioned under No. 1 above, the Natives called up for employment on public works shall receive the same wages as voluntary workers, or larger wages if they are worth more owing to their qualifications, and shall be entitled to the same rations, housing, clothing, transport, medical attendance and other advantages granted to persons who have voluntarily entered into contracts, and shall be deemed to be on the same footing as these persons in respect of the enjoyment of all these advantages, and also to be under special benevolent supervision which allows them to make the best use thereof ;
2. in the cases mentioned under No. 2 above they shall be supplied with rations and housing if the duration of the employment necessitates this, and in any case shall be granted a reward on the completion of the work ;
3. in the cases mentioned under No. 3 above, the Government through the local authorities and public departments shall grant the workers subsidies in the form of materials, tools or seed which the natives cannot obtain on their own account and which it is reasonable to supply to them in order to ensure a better result from their labour for their direct advantage.

298. It shall always be borne in mind in having recourse to forced labour that the sole interest of the Government is in the carrying out of the work for which the said labour is permitted, and not in any case in the carrying out of the said work free of charge or by cheaper methods at the cost of sacrificing the Native population thereto.

299. The administrative authorities for the areas of residence of Natives shall be the only authorities competent to impose labour upon them for the public purposes enumerated in Section 296, and even these authorities shall not have recourse to coercive measures unless the persuasive methods adopted by them to levy the Natives for the performance of the work in question prove insufficient.

Sole subsection. In employing both the persuasive methods and coercive measures which they consider necessary, they shall act in every case through the tribal chiefs, and shall allocate work and select workers in agreement with them, giving preference in the selection to the Natives whose idleness is most excessive and who can be employed on public works without prejudice to their own economic activities or with comparatively little prejudice thereto.

300. Action taken by the authorities or public servants to compel Natives to take up or resume work for which they have voluntarily entered into a contract, in cases where without any cause approved by the curator or his agent as sufficient they refuse to take up the said work or leave it before the expiry of the contract, shall not be deemed to be the imposition of forced labour.

301. A public authority shall not in any case impose the forced labour permitted by Section 296 on the following persons :

1. Natives above the age of sixty years or under the age of fourteen years ;
2. sick and disabled persons ;
3. policemen employed by the State or by private persons authorised to keep them, and persons who have enlisted in any regular force responsible for public or police duties ;
4. Natives under contract who are working for private persons or the Government;
5. tribal chiefs recognised as such by public authority ;
6. Natives repatriated from Portuguese or foreign colonies, within the six months following the date of their return home ;
7. women, for the work mentioned under No. 1 of Section 296, or for any other work outside the area where they reside.

CHAPTER XII. PENALTIES

.....

328. If any official or employee of the State imposes upon Natives forced labour in the service of any private persons, or directs his subordinates to act in a way which obviously constitutes such imposition, he shall be sentenced to the disciplinary penalty of temporary retirement for more than one year or dismissal.

Sole subsection. In addition to the disciplinary penalty imposed upon him for the offence consisting in the action itself, he shall be punished in accordance with the Penal Code for any violence of which he has been guilty towards Natives if the imposition of forced labour was accompanied by violence.

329. The following actions shall constitute the imposition of forced labour :

1. any order coupled with threats of punishment which is given to Natives for the purpose of calling them up to enter into contracts of employment with a particular private person ;
2. any physical violence towards Natives to compel them to work in the employment of any private person ;
3. any order coupled with threats of punishment or with physical violence which is given to tribal chiefs requiring them to compel Natives under their authority to work for any private person.

Sole subsection. The actions mentioned in Sections 36, 37 and 300[1], and mere advice and other benevolent persuasive measures employed with Natives to induce them voluntarily to find work either on their own account or in the employment of a private person, and orders and other measures necessary for the purpose of forcing Natives to carry out any lawful contract into which they have voluntarily entered with a private person, shall not be deemed to be the imposition of forced labour.

8. The Organic Charter of the Portuguese Colonial Empire of 19 April 1947[2] contains the following provisions :

240. The State will not impose or permit the imposition upon the Natives in its colonies of any form of forced or compulsory labour for private purposes, and at the same time will not neglect their need to earn their living by their labour.

241. The State shall only have the right to compel Natives to work if they are employed upon public works of general interest to the community, in occupations where they themselves enjoy the results of their work, in pursuance of judicial decisions of a penal character or for the purpose of discharging liability in respect of taxes.

242. All work performed by Natives in the service of the State or administrative bodies shall be paid for.

243. No system—

1. whereby the State undertakes to supply any undertaking conducted for profit with Native workers ;
2. whereby the Natives in a given territorial division are compelled to work for any such undertaking in any capacity ;

shall be permitted.

244. The system of contracts for the employment of Natives shall be based upon individual liberty and the right to fair wages and assistance, the public authorities intervening solely for the purpose of supervision.

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[1] Section 300 is quoted above, and Sections 36 and 37 are quoted below, in paragraph 12.
[2] I.L.O. : *Legislative Series*, 1947—Por. 2.

Sole subsection. The freedom of the Natives of the Portuguese colonies to choose whatever work they think best, whether on their own account or on account of another, on their own land or on land set aside for the purpose in the territories of the Empire, shall be guaranteed. The State reserves the right to act as their guardian by attempting to guide them towards methods of work on their own account which will improve their individual and social condition.

9. In a report to the International Labour Office received on 20 February 1950, the Portuguese Government made the following comments on these provisions :

Among the various legislative provisions governing indigenous labour, we would point first to the Colonies Charter (Sections 15 *et seq.*), the provisions of which are considered to be part of the political Constitution of the Portuguese Republic under the terms of Article 133 of the Constitution. Secondly we would mention the Organic Charter of the Portuguese Colonial Empire (Sections 240 *et seq.*) and, lastly, the Native Labour Code approved by Decree No. 16199 of 6 December 1928.

These three legislative texts constitute the essential basis of the legislation in force. Under their provisions forced or compulsory labour or labour under constraint is strictly forbidden for private purposes. For public purposes, compulsory labour is permitted as an exceptional measure in certain special and urgent cases, but then only subject to the conditions laid down in Chapter X (Sections 293 *et seq.*) of the Native Labour Code. The Metropolitan Government is alone competent to decree and regulate the use of compulsory labour for public purposes. It is strictly forbidden for Governors of colonies, whether by means of legislation or simple administrative decisions, whether orally or in writing, to take measures imposing or authorising such use of compulsory labour in any manner whatsoever apart from the special cases expressly mentioned or unless they abide strictly by the provisions of the above-mentioned chapter.

Five years later, the administrative reform of the oversea possessions, approved by Section 617 of Decree No. 23229 of 5 November 1933—a unique case in the annals of Portuguese legislation—authorised the provincial and local administrative authorities to require that every adult and able-bodied member of the indigenous population should provide up to five days' labour a year for public works directly benefiting the indigenous population, such labour being redeemable.

In general, it may be said that the legislation in force in the Portuguese colonies on this subject has not been surpassed by Convention No. 29 and that, in certain respects, it may even be considered more favourable to the indigenous population. Thus, the use of the indigenous population for the transport of official or private persons is absolutely forbidden and can be tolerated only in the event of illness or in similar cases. The indigenous population is not liable for the compulsory transport of goods or merchandise not belonging to it, except for short distances.

Recruitment of Labour in Angola

10. In Sections 24 to 86, the Native Labour Code of 6 December 1928, quoted above[1], contains detailed regulations for the recruitment of Native labour. According to Section 25, no one may recruit Native workers without official authorisation. Nevertheless, this Section allows a certain number of exceptions to the rule. Section 26, states—

Licences to recruit workers may be issued as follows :

1. for recruiting for the recruiter's own service ;
2. for agents of companies recruiting workers for employment within the colony ;
3. for general agents recruiting workers for employment by others in their own colony ;

[1] See above, paragraph 7.

4. for agents of companies authorised to recruit workers for employment outside the colony ;
5. for assistant recruiting agents or private recruiting agents.

11. Certain recruiting methods are prohibited under Section 30, as follows :

30. A holder of a licence shall not—

1. undertake recruiting operations in the area of any agency of the curator other than that through which the licence was issued, without attending before the agent of the curator concerned for visa and registration ;
2. take recruited Natives to the place of employment without having previously brought them before the competent authority that it may co-operate in the drawing up of the contracts if the Natives in question are to be employed outside the area where they were recruited ;
3. recruit for persons for whom he is not authorised by his licence to do so, or transfer to another the workers whom he has recruited, without their consent and the approval of the authorities of the recruiting area ;
4. divert Natives in any way which is not permitted by law or justifiable from the purpose for which they were recruited or for which they entered into contracts ;
5. lead Natives or their Native chiefs to believe that he represents public authority in any way or that he is recruiting by order of public authority or for any Government employment ;
6. wear clothes or insignia identical or liable to be confused with military uniform or with the uniform of any civil authority or official ;
7. make any sales on credit or any advances to Natives which entail on them the obligation to pay for the value received by means of work which can only be done under a contract compulsorily subject to the co-operation or ratification of the authorities, except as regards the advances specified in the contract and made in the presence of the authorities which are permitted by this Code ;
8. trade with the Natives whom he has recruited or with whom he has entered into contracts ;
9. resort to any fraud, threats or violence to compel Natives to enter into contracts of employment ;
10. maliciously hinder in the exercise of their calling any other recruiting agents whom he encounters during recruiting operations in the same area.

12. The role of public authorities in recruiting operations is defined in the following provisions :

36. All authorities which exercise jurisdiction over the Native population or in the exercise of their functions come into direct contact with the said population shall be bound to facilitate the operations of all persons wishing to recruit workers, provided that the persons engaged in this calling procure Natives to enter into contracts of employment by lawful means and in an honest manner.

37. The facilities to be granted to recruiting agents shall be limited to the following :

1. pointing out to them the places where owing to greater density of population, less need for the Natives to attend to their agricultural work or other incidental reasons, recruiting can be carried on more easily ;
2. not hindering them in any way in the exercise of their calling, except by strict obedience to the provisions of the law or justifiable correction of a tendency to commit abuses ;
3. advising tribal chiefs and Natives either in the presence of recruiting agents or otherwise to obtain employment, but explaining to them in all cases that they are not in any way under an obligation to enter into a contract of employment with the recruiting agents in question ;

4. checking rumours and propaganda which in any way instil into the minds of the Natives false statements tending to prejudice the honest work of the recruiting agents and employers, and taking proceedings in accordance with the law against the persons who set on foot or propagate such false statements ;
5. in any emergency affording them all the moral and material assistance which it is right and customary to give to persons travelling in the interior of the colony, provided that such assistance shall not be embodied in actions which may be interpreted by the Natives as coercion by the authorities to compel them to enter into contracts of employment with the recruiting agents in question.

38. The following action shall be absolutely prohibited for the authorities mentioned in Section 36 :

1. to recruit Native workers for the employment of private persons, either directly or through any officials or public employees who are subordinate to them ;
2. to accompany recruiting agents or delegate their subordinates to accompany them on the journeys made by the said agents through the Native villages and districts in search of workers, provided that this prohibition shall not apply to cases in which the authorities or their subordinates travel by chance in the company of recruiting agents, so long as they do so without any intention to coerce the Natives by their presence to enter into contracts or for the purpose of watching and supervising their activities ;
3. to supply recruiting agents with Native police or other public employees to accompany them during their recruiting operations or to watch over Natives during the journey from the place where they are recruited to the place of employment ;
4. to require a recruiting agent to pay any duty, fee, deposit or charge the levying of which is not authorised by law, or any gift or bonus either for themselves or their subordinates or for the tribal chiefs and Natives ;
5. to prevent recruiting agents from offering any gifts to Natives whom they are endeavouring to recruit or to their tribal chiefs, unless the said offers are made on condition of repayment of the value received if the contracts are not accepted, or on condition that the tribal chiefs compel the Natives to enter into contracts ;
6. to act in any other way not specified above which manifestly constitutes coercion of the Natives or may be deemed to be an intentional infringement of the liberty of action granted to recruiting agents to engage lawfully and honestly in their calling.

Sole subsection. Persons guilty of failure to observe the provisions of this section shall be sentenced to the disciplinary penalties applying to them under this Code or the disciplinary regulations in force, provided that in cases where the said penalties are not imposed by the curator or his agents on their subordinates they shall not be imposed otherwise than as laid down explicitly in Section 366 and the subsections thereof.

13. In Sections 95 to 163 the Code defines the system of contracts of employment. According to Section 95—

95. The Government shall not co-operate in the conclusion of contracts of employment for any other purpose than that of ensuring the Natives freedom to contract for employment with the person with whom they wish to do so and of supervising the carrying out of the contracts, while extending to the Natives the protection which they need.

Section 96 provides that—

96. Contracts may be entered into either with or without the co-operation of the authorities.

Under Section 120—

120. Contracts concluded with the co-operation of the authorities shall be drawn up in the presence of the curator or his agents and countersigned by them after they

have ascertained that the contracting parties mutually and without any coercion accede to each and all of the clauses of the contract and that none of the said clauses is contrary to the provisions of this Code.

Section 127 provides that—

127. Contracts concluded without the co-operation of the authorities may be entered into in writing or orally. Whichever method is adopted the employer shall in all cases be bound to perform the duties incumbent upon him under this Code and the terms (whether express or implied) of the contract entered into, but the right to compel the worker to carry out the terms of the contract shall not be conferred upon the employer unless the contract has been duly ratified by the competent authority.

14. The Code includes special provisions for contracts for employment outside the colony (Sections 137 to 155), contracts with workers belonging to a foreign country or colony (Sections 156 to 158), renewal of contracts and extensions of the period of employment (Sections 159 to 163).

15. Other chapters of the Code deal with the transport of workers, wages, rations, housing and clothing, relief for workers, industrial accidents and social welfare.

Labour Conditions in the Island of San Tomé

16. In 1926 and 1927 *modi vivendi* were concluded between the colonies of San Tomé and Principe on the one hand, and the colonies of Mozambique, Angola and Cape Verde on the other, with a view to supplying labour to the first of those territories.

17. The *modus vivendi* with the colony of Mozambique (Decree of 9 March 1926)[1] provides for the recruitment of 3,600 workers a year through the San Tomé and Principe Emigration Company or its representatives (Sections 1 and 2). For each worker engaged the Company must pay the Government of the province of Mozambique a fee of 50 escudos, and for the renewal of contracts a fee of 25 escudos per worker (Section 14). The Company is responsible for the repatriation of workers on the expiry of their contract (Section 27).

In addition, the agreement contains provisions relating to the families of recruited workers (Sections 4 to 6), to the normal working hours (9 to 10 hours a day) (Section 7), Sunday rest (Section 8), accommodation (Section 9), compensation due for industrial accidents (Section 19), and other specific questions concerning the status of recruited workers.

Section 10 provides for a 50 per cent. deduction from the wages of every worker to be paid by the authorities of the province of Mozambique on the occasion of the return of the worker to his country of origin.

18. This *modus vivendi*, as was the case with similar agreements with the colonies of Angola and Cape Verde, was modified and supplemented by a Decree of 2 October 1936[2], which provides that the length of the contract shall be four years without prolongation (Section 1). On the expiry of the contract, the worker must be repatriated at the expense of the employer (Section 3).

Section 2 provides that " a worker shall not be entitled to remain in the Islands of San Tomé and Principe for a period exceeding four consecutive years in all, even if he clearly and explicity states his wish to do so, unless he settles there ".

[1] I.L.O. : *Legislative Series*, 1926—Por. 1.
[2] I.L.O. : *Legislative Series*, 1936—Por. 4.

Section 5 provides for a minimum wage and specifies that one-quarter of the wage is to be placed on deposit for the purposes of repatriation, the remaining three-quarters being paid to the worker. Section 6 exempts recruited workers from the payment of the Native tax from the date of the conclusion of the contract until their return to the place of departure. Section 8 provides for the payment of debts to the repatriation fund for expenses incurred by the fund for the repatriation of workers. Repayment may be made in five equal annual instalments bearing interest at 5 per cent. per annum.

19. A Decree dated 8 May 1946[1] modifies the regulations governing the emigration of Native workers from Angola to San Tomé and Principe. The main provisions of this Decree are as follows:

Considering that the problem of Native labour is of capital importance for the colony of San Tomé and Principe since it is closely linked with the agricultural prosperity of the islands,

Considering the necessity of having regard for the legitimate interests of both colonies while maintaining the inviolable rights of the Natives and exercising towards them the humanitarian guardianship of the State:

.....

The Colonial Minister decrees and promulgates the following:

.....

Article 3: Normally the maximum annual number of male Native workers over 18 years of age recruited in Angola for work in the agricultural estates of the islands of San Tomé and Principe will be 5,000.

.....

Article 5: The Native will work in San Tomé and Principe on the estates for which he was recruited, transfer to another employer being prohibited unless with official authorisation, or in the case of the estate changing hands, in which event the new employer assumes all the responsibilities of the existing contract.

1. As far as possible the Natives will be recruited to work in regions where the climate is similar to that of their homes, avoiding the employment in cold and high regions of Natives from hot and low-lying areas.

.....

Article 7: Contract workers from outside the colony of San Tomé and Principe whose contract in the colony has expired, but who have not been repatriated owing to the world situation, are considered as being re-engaged by the same employers as from the date of termination of the first contract, though remaining in the position of awaiting transport for repatriation.

Sole paragraph. The prolongation of the period of contract referred to in this Article is on an annual basis, but without prejudice to the right of repatriation depending solely on the availability of transport.

Article 8: Each contract worker re-engaged under the terms of the preceding Article will be registered at the trusteeship offices in San Tomé and Principe and employers will pay a tax of 5 escudos and a fee of 1 escudo which will be collected as revenue in execution of the Native Labour Code.

Sole paragraph. The registration will be made by affidavit of the employer which the trusteeship office will legalise as and when convenient.

Article 9: Contract workers re-engaged under the provisions of this Decree will continue to contribute to the Fund that proportion of their wage corresponding to the repatriation bonus, and will enjoy all rights and privileges under legislation in force or which may be promulgated concerning Native labour.

[1] *Diario do governo*, 1946, pp. 355-356.

Article 10: The Government of San Tomé and Principe will take the necessary steps progressively to increase the repatriation of Natives from Angola at present working in San Tomé.

Sole paragraph. The initial figure will be 50 per cent. of the number of workers re-engaged. This percentage will be progressively increased until the repatriation is concluded of all those whose contracts have expired.

Article 11: At the same time as the deposit referred to in Article 6 of this Decree, employers of Native workers recruited in Angola will make a further deposit amounting to 10 per cent. of the total amount of monthly wages as a guarantee against the expenses of repatriation to the place of residence of the workers in that colony.

Sole paragraph. The deposit of 10 per cent. referred to in this Article does not exempt the employer from paying a higher sum if necessary for the total payment of the repatriation expenses for which he is responsible.

Article 12: The deposit of 50 per cent. of the wages of the Native workers will be made only when they are settled on the islands of San Tomé and Principe.

1. The administrative conditions of settlement are that the Native should occupy a State holding of at least 200 square metres or that he should be considered satisfactorily settled by the general trusteeship office of Angola.

20. In connection with the question of repatriation of these contract labourers the Committee had before it the following information[1]:

Thanks to the facilities given by the Ministry of the Navy to the Ministry of Colonial Affairs an intensive repatriation has taken place in recent months for contract labourers from San Tomé who have completed their contracts. As a result, the return of 1,124 Natives from Mozambique has been effected lately.

The total number repatriated during the last months was 2,612, of which 1,337 returned to Angola and 1,231 to Mozambique. Since the total Native population of San Tomé is scarcely 28,000, whereas a labour force of some 30,000 adults is needed in the plantations of the colony alone, it was necessary to provide for the replacement of the Angolans and Mozambicans who returned to their country.

Hence, entry has been provided for 2,636 persons from both colonies, many of whom are accompanied by their families. In addition, 3,894 persons from Cape Verde are being sent to the same destination, 2,160 of whom are women.

Thus it is anticipated that the problem of repatriation of all contract labourers will be solved shortly.

Recruitment of Labour in the Territory of Mozambique for Mines in the Union of South Africa

21. A Convention concluded on 11 September 1928 between the Government of the Union of South Africa and the Government of the Portuguese Republic[2] regulates, *inter alia*, the emigration of Native workers from Mozambique to the Union of South Africa with a view to their recruitment in the gold and coal mines of the province of the Transvaal. Article III provides for the number of workers thus recruited to be reduced from 100,000 to 80,000 between 1929 and 1933. Article IV entrusts the recruitment, allotment and repatriation of such workers to an organisation (or organisations) duly approved by both Governments. Under Article V, recruitment can be carried out only by employees of such organisations, and the latter must obtain a licence which is subject to various conditions, among them the payment of a tax of 100 pounds sterling and the deposit of a like sum as a guarantee.

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[1] *Boletim geral das Colónias* (Lisbon), Feb. 1948, pp. 58-59.
[2] *Union of South Africa Government Gazette*, 17 Sept. 1928, pp. 569 *et seq.*

In Article VI, the Government of Mozambique reserves the right to prohibit recruiting for any mine the responsible staff of which has been guilty of breaches of the Convention. Under the terms of Articles VIII and IX, Portuguese Natives may not be recruited unless they are in possession of an identification card and a Portuguese passport, the fee for which is 10 shillings. The employers, for their part, have also to pay various fees (Article X). If the total fees received by the Government of the Portuguese Republic amount to an average of less than 35 shillings [1] per year per Native recruited, the deficiency shall be paid by the mines. Employment contracts are for a period of not more than one year and may be extended for a further period of six months (Article XII). After the first nine months, about half the earnings of the workers is to be retained by the mines and paid to them on their return to Mozambique (Articles XIII and XIV). All deductions from wages in respect of advances made to the workers by the mines must be made during the first nine months of their employment (Article XVIII). According to Article XXII—

> No pass shall be issued by the Union Government to Portuguese Natives resident within its territories enabling them to travel to any country except Mozambique unless they produce a written authority from the curator, and all travelling passes enabling the Portuguese Natives to leave the Union shall be viséed by the curator. No passes shall be granted to Portuguese Natives enabling them to travel from one province of the Union to another without the authority of the curator.

Article XXVII provides for a Portuguese official to undertake at Johannesburg the duties of curator for all Portuguese Natives resident in the Union. His duties include the collection of the fees and taxes provided for under the Convention, the issue or refusal of passports to Portuguese Natives, supervision of the allotment of workers to the different mines, attending enquiries in case of dispute, looking after the interest and welfare of the Portuguese Natives, arranging their repatriation and granting or refusing leave to visit Mozambique.

22. According to the *Yearbook and Guide to Southern Africa* [2] this Convention, with some amendments, is still in force. It appears that, in 1940, the Portuguese Government agreed to raise the number of Native workers recruited for the mines of the Union of South Africa to 100,000, and that, on 31 December 1948, there were 116,423 workers from Portuguese territories in the mines of the Union of South Africa out of a total of 308,377.

23. Lord Hailey wrote as follows regarding such recruitment of labour:

> Natal, where the shortage of labour in the sugar fields constituted a special case, had resorted as far back as 1860 to the use of indentured Indian labour; in 1896 the Portuguese Government authorised recruiting for the gold mines, and an agreement of 1901 between the two governments regularised the organisation of the recruiting agencies. The acute labour crisis in the mines after the South African War led in 1903 to the short-lived experiment of the importation of Chinese labour; increased importance was attached to recruiting from Portuguese areas, and beginning with 1909 a series of conventions on the subject was concluded with the Portuguese Government. Though, of course, the Union cannot be held directly responsible for the fact, it is generally agreed that recruitment in Portuguese areas has involved some element of compulsion, though its exact degree is not easy to determine.[3]

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[1] This sum was raised to 44 shillings by a Supplementary Agreement dated 17 Nov. 1934 (*Union of South Africa Government Gazette*, 21 Nov. 1934, p. 361).

[2] Edited by A. Gordon-Brown for the Union Castle Mail Steamship Co., Ltd., 1950 edition (London), pp. 292-293.

[3] Lord HAILEY: *An African Survey*, 2nd edition (London, Royal Institute of International Affairs, 1945), pp. 638-639.

Comments and Observations of the Portuguese Government

The Chairman of the *Ad Hoc* Committee on Forced Labour has received the following letter from the Portuguese Ministry of Foreign Affairs[1] :

I

On 22 November 1952 the *Ad Hoc* Committee on Forced Labour of the International Labour Organisation forwarded to the Ministry of Foreign Affairs a confidential document summarising a number of allegations against the Portuguese Government with regard to forced labour. In the letter, to which the said document was attached, the Chairman of the *Ad Hoc* Committee emphasised that it had come to no conclusions either on the relevancy of the allegations or on the evidential value of the information summarised, and invited the Portuguese Government to transmit any comments or observations it might wish to make.

II

The Portuguese Government has no objection to providing the *Ad Hoc* Committee, in this regard, with a brief statement consisting of factual information, since the subject is one on which it wishes that a clear understanding should prevail : but the action of the Government in so doing does not imply its consent to the passing of a judgment on these matters by any outside party. It will readily be recognised that no sovereign Government could accept such a judgment. In this spirit, the allegations contained in the above-mentioned confidential document are examined below and brief comments appended which, in the opinion of the Portuguese Government, entirely clear up the points raised.

III

(a) *Compulsory Labour in the Portuguese Overseas Territories : Reference to the Memorandum of the* Anti-Slavery Society *dated 22 February 1952, in Which it is Concluded that there Appears to Exist in the Portuguese Colonies Compulsory Labour for General of Local Public Purposes or for Private Employers Which is Imposed Solely on Natives who Fail to Perform their Obligations to Labour and Who Lead a Life of Idleness.*

This allegation is entirely unfounded. The general terms in which it is couched themselves deprive it of any evidential character ; and the very vagueness of the statements renders it difficult to prove the contrary, whereas such proof would be easy had the allegations been definite and therefore demonstrably false. Furthermore, the source quoted—statements of a high British official (unspecified) in a British colony (unspecified)—is inadmissible. Neither in the laws and regulations nor in the administrative practice of any Portuguese overseas province can there be found the least foundation for what is alleged in the above-mentioned memorandum of 22 February 1952. The passage, quoted in the said memorandum, from the I.L.O. publication of 1929 entitled *Forced Labour, Report and Draft Questionnaire*, is out of date : it is based on the Portuguese regulations of 1914, and can only be applied to the labour system established thereunder. It relates in no

[1] Transmitted by the Portuguese Legation at Berne together with a note dated 30 Apr. 1953.

way and proves nothing with regard to the present system, which was introduced under the Code of 1928 and is defined also in Article 145 of the Constitution.

The following are prohibited:

(1) any system under which the State were to assume the obligation to provide indigenous workers for any undertakings of an economic character;

(2) any system under which the indigenous persons in any area were to be obliged to serve such undertakings on any basis.

This is the truth regarding the law and the truth regarding the administrative practice.

The inadmissibility, irrelevance and impropriety of the quotations made by the Anti-Slavery Society are obvious.

(b) *Recruitment of Workers in Angola, Especially for the Sugar Plantations.*

Neither in Angola nor in any other Portuguese overseas territory can there be any compulsion to work for private undertakings. The principles which apply in this regard are sufficiently well known to the I.L.O.; but it should be borne in mind that the essence of the system is clearly expressed in Article 147 of the Constitution:

The system of contracts of employment of indigenous persons shall be based on individual freedom and on the right to a fair wage and to assistance, the public authorities intervening only for purposes of supervision.

Infringement or abuse of this rule is rare, and both are by their nature sporadic and exceptional. The general rule is laid down in the above-mentioned Article 147, and it is neither legitimate nor reasonable to deny that the law is applied merely because there may perhaps have been an occasional violation, which would be immediately repressed by the authorities.

It is equally untrue that there is a shortage of labour in Angola. Apart from such elements of the population as have a permanent occupation and are remunerated accordingly, the number of workers available for employment by other persons was 477,540 in 1951 (it is certainly greater at present owing to the decrease in clandestine emigration and the increase in the volume of former emigrants returning to the country). In 1951 the number of applications for recruitment permits related to only 247,956 workers, leaving a balance of 229,584. The provincial Government, wishing to encourage and stimulate the mechanisation of various undertakings, accorded permits in respect of only 155,422 workers. However, full advantage was not taken of these permits, the number of workers actually recruited being only 92,196. The balance effectively available was thus 385,344.

As regards the labour employed in the sugar undertakings, of which there are three in Angola, it should be made clear that such undertakings enjoy no exceptional status regarding the recruitment of workers. They are subject to the above-mentioned constitutional disposition which prohibits the supply of indigenous workers to any undertakings operating for economic purposes. The total number of Native workers recruited annually for the above-mentioned three sugar undertakings in Angola is about 8,000. It is therefore not true that such recruitment amounts to tens of thousands annually; nor is it true to state that few such workers survive to retire to their villages. The workers receive regular abundant food, appropriate health facilities, housing, etc., which compensate for the hypothetical disadvantages of a temporary change of climate. To prove this it is sufficient to state that the death rate does not exceed 1.1 per cent.

Reference is also made to an alleged recruitment of children of both sexes aged eight years or under. In this regard, attention is drawn to the fact that Articles 99 and 100 of the Indigenous Labour Code prohibit the engagement of indigenous persons who are inapt for employment owing to old age or sickness or because they are under 14 years. Contravention of this rule is severely punished. Furthermore it is regrettable that the allegations in question are submitted without any indication of source and that no definite local or other particulars are indicated such as would enable the Portuguese Government to proceed to a strict investigation in addition to the stringent supervision normally exercised by the authorities.

Consequently, not even a remote justification can be found for such an allegation, unless the Anti-Slavery Society's anonymous informant took for recruited persons the children who, in accordance with custom, sometimes accompany their fathers or uncles without being given any kind of work.

(c) *Conditions of Work in the Island of San Tomé.*

Criticisms made half a century ago cannot be taken as evidence of the present situation. It is most astonishing that the Anti-Slavery Society, lacking other material, should have thought fit to have recourse to a testimony dating from 1907 ; and this astonishment is increased by the fact that such a testimony should be supported only by the statement of an anonymous traveller who, in 1950, is said to have observed the conditions of embarkation of indigenous persons in the port of San Tomé. These conditions are in fact difficult and disturbed : but this is entirely due to the state of the sea and to the weather in that equatorial region. In any case it must be stressed that the embarkation of indigenous persons, whatever the circumstances in which this may occur, is at least proof of their repatriation.

On this point, which appears to constitute the principal feature of the present allegation, the following should be made clear.

In the past the repatriation of labourers *(serviçais)* was occasionally interrupted. Various factors contributed thereto, and especially the small number and inadequate equipment of the vessels calling at the ports of San Tomé and Principe. Conditions were gradually improved, and long ago they changed entirely. At present the Portuguese Government ensures the repatriation of all workers whose contracts have expired. Thus—to give only the most recent figures—the number of repatriated labourers in the six years 1947-1952 was 33,492 : it exceeded by 6,751 the number of new immigrants, which was 26,741. It should be noted that by 1948 the repatriation of labourers belonging to Angola, who are those principally affected, became intensive : the number repatriated in that year was 4,373, whereas the number of labourers entering San Tomé (including women and children accompanying them) did not exceed 3,462.

This situation may be considered to be perfectly normal.

(d) *Recruitment of Workers in the Territory of Mozambique for Mines in the Union of South Africa.*

It is not true that the Portuguese Government undertakes by contract to provide workers for the mines of the Rand in the Union of South Africa. No kind of pressure, direct or indirect, is exerted on indigenous persons in this regard. The facts are clear and simple. The current of emigration started spontaneously, without any action by the Portuguese Government, and preceded the administrative occupation of the region where the recruitment now occurs. It was indeed precisely to protect the indigenous persons who started of their own free will to emigrate to the Rand mines, that the Portuguese Government negotiated several conven-

tions with the Government of the Union of South Africa, the last of which, dated 11 September 1928, is now in force. The Portuguese authorities neither encourage nor favour recruitment. Their intervention is aimed solely at preventing interference by irresponsible agents not recognised as suitable by the two parties to the convention. Furthermore, the Portuguese Government does not fail to supervise compliance with the terms of the convention and with this object has established at Johannesburg a permanent commissioner's office with numerous officers in all the mining areas.

As regards the second point in this allegation—that indigenous persons are required to provide the Government of Mozambique with one year's labour in three, before going to the Union—there would be no object in repeating here the considerations which are stated above and which prove the falsity of the allegation. Neither in Mozambique nor in any other province does forced recruitment occur under the conditions and in the general and regular manner alleged by the Anti-Slavery Society.

ROMANIA

Summary of Allegations and of the Material Available to the Committee

I. Allegations

1. Allegations relating to Romania were made—

(1) in the course of debates in the Economic and Social Council, by the representative of the *United States of America*[1];

(2) in written communications to the Committee from the following non-governmental organisations: the *International Federation of Free Trade Unions*[2], the *International Federation of Free Journalists*[3], the *International League for the Rights of Man*[4], the *Rumanian National Committee*[5];

(3) at the Second and Third Sessions of the Committee in oral statements made by the representatives of the last three of the above-mentioned organisations.

2. The main allegations, which are summarised below, relate to—

(a) the existence, *de facto* and *de jure*, of a system of forced labour employed both as a means of political coercion and as a means of fulfilling the country's economic plans;

(b) the procedure, judicial or administrative, whereby forced labour is imposed;

(c) the deportation of Romanian citizens to the Soviet Union or their transfer from one area to another for compulsory work;

(d) the location of forced labour camps, their number and population;

(e) the conditions of work and the re-education of inmates.

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[1] United Nations, Economic and Social Council, 11th Session, 413th meeting: *Official Records*, paragraph 25.

[2] Memorandum submitted on 31 July 1951.

[3] Memorandum submitted on 4 Oct. 1951.

[4] Memoranda submitted on 18 June and 5 Nov. 1952.

[5] Memoranda submitted on 30 Mar. and 10 June 1952.

Existence of Forced Labour

3. The representative of the *United States of America* made the following statement in the Economic and Social Council :

The Grand National Assembly of Romania, at its seventh ordinary session, had on 30 May 1950 approved, of course unanimously, after only one day's debate, a long new National Labour Code, whose authors admitted that they had been inspired by corresponding instruments of the U.S.S.R. ; the Code provided, *inter alia*, that " Romanian citizens, in exceptional cases such as calamities and important State projects, may be called for temporary compulsory labour ". Those words might seem rather weak to those who were familiar with the daily arrests that were made in Romania. The words " in exceptional cases " and " temporary " were far from being precise ; perhaps the latter denoted a temporary final period of life on earth.

4. In oral statements made before the Committee, the representatives of the *International League for the Rights of Man* also referred to provisions of the Labour Code governing the drafting of labour and labour reserves.

They also stated that the population of the Romanian forced labour camps included former members of the democratic parties, especially members of the Independent Socialist Democratic Party, the Liberal Party and the National Peasant Party ; evacuated people from the frontier area, *i.e.*, the western border ; anti-communist workers ; former landowners whose properties had been expropriated ; former State employees and army officers ; white-collar workers ; civil employees ; economic saboteurs and people evicted from the houses where the Russians were billeted.

5. The representative of the *Rumanian National Committee*, in his statement before the Committee, stressed the point that, under the new Penal Code elaborated by the communist régime in February 1948, forced labour, which was formerly provided only for common criminals, had been extended to political offenders. He went on to state that—

The pool of available slave labour is constantly replenished with persons condemned for so-called economic sabotage. A Decree of August 1949 provides for punishment for a vast range of economic offences, all vaguely and elastically defined, including even acts of negligence.... In connection with the preparation of workers for the application of the Five-Year Plan, Decree No. 68 of 16 May 1951... provides for the drafting of 45,000 to 55,000 workers each year from among young workers, which contingent is to be sent to certain professional and trade schools for two to three years and then to special schools for a period of six months. According to the Decree, graduates of such schools are to be assigned to sectors of activity in accordance with the plan approved by the Council of Ministers, and they must remain at least four years in the units to which they have been assigned.... The inevitable conclusion toward which one is led by this brief survey of prevailing conditions in Romania, is that between the communist political régime and the servitude of labour there is a direct relation of cause and effect.... The system has actually doubled its advantage to the communist governments and that is why it has become one of the characteristics of these régimes. First of all, they get cheap labour and they can obtain any amount of work. Any economic problems can be solved by obtaining this cheap labour. Secondly, it is a means of coercion and of keeping whole populations under control. It creates a state of terror. The idea that, at any moment, persons may be sent to these labour camps makes them more subservient to the régime.

6. In an oral statement made before the Committee, the representative of the *International Federation of Free Journalists* alleged that—

In 1949 the forced labour system in the so-called people's democracies entered a new phase. Before 1949, the existence of so many political prisoners whose very existence represented a potential danger to the new régime had given rise to a system whereby such prisoners could be effectively and at the same time profitably got rid of, by the simple expedient of working them until they dropped. In the second phase it was the need for more and cheaper manpower for the economic plans of the State that had given rise to the policy of creating as large a pool of forced labourers as possible.

According to the representative of this organisation, there were five main characteristics of forced labour in Romania—

(1) It is regarded as a permanent economic institution ; (2) it represents a second field of production as opposed to the free field... ; (3) even in this field, it is responsible only for the initial stage of the work, where no machinery or special skills are required... ; (4) it is of such economic importance to the State that a whole series of laws and regulations had to be enacted to provide a legal framework for it ; (5) apart from the legal framework, considerable machinery was required to ensure that the flow of such labour was maintained.

7. In its memorandum dated 30 March 1952, the *Rumanian National Committee* states—

The régime of alleged " people's democracy " now in power in Romania... is making extensive use of forced labour on projects of public works.... The few legislative measures that are available make it quite indubitable that forced labour does indeed exist on a very large scale in Romania.... There is, in the first place, such forced labour as is mandatory for those under court sentence, particularly for political offences.... This of itself would not perhaps be exceptionable : similar provisions existed in legislation prior to the installation of the communist régime. But what must be considered as forced labour in the strictest sense of the term is such labour as is being exacted from persons sentenced for offences deemed to be of a political nature.... It is of such persons, today numbering many thousands, that labour brigades of prisoners are formed, working under duress on the various projects undertaken by the régime.... The same fate is commonly reserved for another very numerous category : persons arrested and held in administrative custody, without any formal arraignment, often not formally investigated or questioned, usually on simple suspicion. Aside from the forced labour imposed on political offenders, there is the so-called " temporary obligation to work ". This institution is to be found in the Labour Code... of 8 June 1950.... It is hardly necessary to point out the utterly arbitrary situation that arises from the loose wording of this legal provision.

Two further texts must be mentioned in this general connection. They are the Decree published in the *Official Bulletin* No. 56, of 18 May 1951, setting forth the need for appropriate schools to train the so-called " labour reserves " of the country, and the Decision No. 399/1951, establishing a " Directorate-General of Labour Reserves " as a bureau of the Presidency of the Council of Ministers, whose task it is to recruit and organise the so-called " labour reserves ".

The Decree provides for the drafting of 45,000 to 55,000 labourers each year from among young workers, which contingent is to be sent to certain professional and trade schools for two to three years, and then on to other specialised schools for a further period of six months. Graduates of such schools, states Article 5 of the Decree, " shall be assigned to sectors of activity, in accordance with the plan approved by the Council of Ministers ". The Decree further provides that those so trained and allocated must work " at least four years in the units to which they have been assigned ". This means in effect that a young boy or girl, once " recruited " by the Directorate-General of Labour Reserves, is trained for at least two-and-a-half years, and is then " obliged " to work at least four more years for the State. Altogether, that is, youngsters thus selected for each year's contingent become available for a minimum of six-and-a-half years as bonded labour to the State.

The above constitute clear and incontrovertible evidence of the existence of forced labour as a legalised institution in Romania at this time. It can be asserted with certainty that there are at least three distinct and recognisable categories of virtual slave labour ; the tens of thousands of political prisoners, the gangs impressed for work on local projects, especially in rural areas, and the yearly contingents drafted into the " labour reserves ", mostly youngsters from the country channelled into industry. And, in addition, there is the permanent liability for all or part of the population to be pressed for a determined period into what cannot be described otherwise than forced labour.

8. The pamphlet entitled *The Régime of Forced Labour in Romania*, submitted by the *Rumanian National Committee* in its memorandum dated 10 June 1952, contains a survey and analysis of the legislative texts and administrative provisions concerning the legal bases of forced labour, viz. : the Penal Code promulgated on 27 February 1948, Decree No. 72 of 23 March 1950, Decree No. 187 of 30 April 1949, Decree No. 132 of 2 April 1949, Decree No. 183 of 30 April 1949, Decree No. 351 of 20 August 1949, the 1950 Labour Code, Decree No. 68 of 16 May 1951, Ordinance No. 399 of 12 May 1951, and Decision No. 6991 of 20 May 1946.

9. In its memorandum dated 4 October 1951, the *International Federation of Free Journalists* alleged that—

[In Romania] the people brought into the forced labour sphere are : *(a)* proper workers, switched from industries to " public works "... ; *(b)* prisoners from actual prisons serving penal sentences ; *(c)* " administrative " prisoners arrested for " security reasons "... ; *(d)* " saboteurs " removed from their villages and sent to the camps....

10. On page 1 of a *Summary Report on Forced Labour Camps in Romania*, submitted by the *International League for the Rights of Man* in its memorandum dated 18 June 1952, it is stated—

The prisoners for the concentration camps in Romania are recruited from the following strata of the population : *(a)* former members of the democratic parties, especially members of the Independent Socialist Democratic Party, Liberal Party, and National Peasant Party ; *(b)* evacuated people from the frontier area (western border) ; *(c)* anti-communist workers ; *(d)* former landowners, whose properties were expropriated ; *(e)* former State employees, and army officers ; *(f)* white-collar workers (civil employees) ; *(g)* economic saboteurs ; *(h)* evacuated people from the houses where the Russians are billeted.

Forced labour in Romania was organised through a governmental Decree of 2 May 1945, and is based on the Soviet *Gulag* pattern.

According to the above-mentioned Decree, in the frame of the Ministry of the Interior a new division has been created, called *Directia Generala a Rezervelor de Munca* (" The Directorate-General of Labour Reserves "). It is an annex to the Secret Police *(Securitatea)*.

Procedure whereby Forced Labour is Imposed

11. In his oral statement made before the Committee on 23 June 1952, the representative of the *Rumanian National Committee*, speaking of the judicial and administrative procedure followed at present in Romania, stated—

It is necessary to understand the new judicial system to understand why it is so easy to send people to forced labour camps in Romania. I maintain it is because the courts are now mere administrative organs which carry out the Government's orders. The courts can use the widest possible interpretation in order to send people to labour camps, first because of the way in which judges are chosen—by a single party or party

organisations—and secondly, because of the way in which the new provisions of the Code are drafted, infringing the principle of *nulla poena sine lege* and allowing the court to condemn people for offences similar to other offences for which punishment is provided in the Code.

The communist authorities can send people to forced labour on a simple administrative decision on the basis of a Decree of 19 August 1949 which is concerned with vagrants, beggars, prostitutes, etc. It is not a tribunal, but an administrative body which can send anybody to a centre of re-education, which in fact means that so-called vagrants can be sent to labour organisations. Vagrants are people without jobs. In a country where you can only get a job from the State, anybody can be made a vagrant at any moment if the State does not give him a job.

The Directorate-General of Labour Reserves was set up by a Decree of May 1951. This Directorate has taken the place of two other institutions ; the first was confirmed on 12 July 1945 to establish a service of internment centres and labour detachments ; on 1 June 1946 the personnel of the Service for Internment Centres was taken over by the Service for Labour Detachments. In place of these there now exists the Directorate-General of Labour Reserves, which we believe is the equivalent of the famous Soviet *Gulag*.

There are also legislative provisions of a general nature which permit the Romanian régime to send anyone at any time to forced labour. Article 111 of the Labour Code of June 1950 provides for the citizens of the Romanian People's Republic to be called to obligatory labour by a simple decision of the Council of Ministers " in order to cover the lack of labour that may be needed to carry out important State work projects ".

Under the Penal Code people are tried for what are called " similar offences " which are not actually defined or described in the Penal Code, but are analogous to the offences which are so defined. Under Article 1 of Decree No. 187, which amends the Penal Code, and was published in the *Official Bulletin* No. 25 of 30 April 1949, this is provided for. This Article provides that " such acts as are considered to endanger society are punishable even if they are not specifically provided for by an existing legal provision as offences. In such cases the basis and limits of responsibility shall be determined in accordance with such existing legal provisions as deal with similar offences."

Deportation of Romanian Citizens

12. In its memorandum of 10 June 1952, the *Rumanian National Committee* alleged that, in the summer of 1951, the Government inaugurated a policy of mass deportations—

Begun in the form of evacuations of populations from a 50-kilometre zone along the Danube border with Yugoslavia, these deportations were extended by August 1951 to other regions of the Banat, Western Transylvania and Oltenia, affecting several larger cities like Arad and Oradea Mare, and reaching the impressive proportion of 12 to 20 per cent. of the local inhabitants. Persons thus " evacuated " were taken to... the barren regions of the Baragan plains of Dobruja ; but the great majority of those able to work ended up at the slave labour camps of the notorious Danube-Black Sea Canal project.

13. In its memorandum of 31 July 1951, the *International Confederation of Free Trade Unions* enclosed a pamphlet by Mr. Radescu, the former Prime Minister of Romania. This pamphlet, entitled *Forced Labour in Romania* alleges that great masses of the population of the Romanian State have been deported by the Soviet occupation forces.

A part of the working population of Romania is in this way kept in captivity, in the mines and forests beyond the Urals, in the dreaded *Gulags* [camps] where the life of the prisoners is a nightmare and death means deliverance.

The pamphlet also enumerates several groups of Romanian nationals who have been forcibly rounded up and sent into the interior of the U.S.S.R., to the labour camps of Central Asia and Siberia. The author adds that " these deportations were only a beginning " and that they are still continuing.

Location of Camps, their Number and Population

14. On the question of the location of the Romanian forced labour camps, the representatives of the *Rumanian National Committee* made the following oral statement on 23 June 1952 :

The most important camp is, of course, the enormous Danube-Black Sea Canal project. The workers there are not all political prisoners. There are some technical workers, but they are mixed. Then there is the big Bistritza hydro-electric project. There is also the Arges canal. Many airfields with underground works have been constructed, one of them at Deveseli.

15. In the chapter of its memorandum of 10 June 1952 dealing with the question of the number of forced labourers, the *Rumanian National Committee* refers to a testimony embodied in a recent publication.[1] According to the author, " it is estimated that Bucharest's red régime alone may make nearly 500,000 prisoners available for slave labour enterprises within another two or three years ". The memorandum adds—

Unfortunately it is hardly possible to hope that these enormous figures are exaggerated. On the contrary, they refer but to a part of the slave labour pool constituted by the population of Romania, who are under the direct custody of the militia.

16. In its memorandum of 4 October 1951, the *International Federation of Free Journalists* expresses the view that, while one of the most frequently quoted figures is 500,000, any evaluation of the exact number of Romanian people engaged in forced labour is impossible.

The memorandum explains why an exact location of all the camps is also impossible—

Under the name of " working colonies " they [the camps] are scattered all over the territory of the country. Under the form of " mobile labour units " they can be switched from and to any work. There are only a few labour camps established for a duration of longer than one year. These are the " gigantic " ones of which the two most important are : the Danube-Black Sea Canal project and the " Vladimir Ilyitch Lenin " hydro-electric plant at Stejar Bicaz on the river Bistritza.

The latter-named camp is less known and was only begun in the first months of 1951. The decision for its construction was published on 18 November 1950. It is meant to commence with the building of a huge barrage and a large artificial lake which will hold 1,200 million cubic metres. Already in the month of March 1951, there were more than 20,000 political detainees, former army officers and *ohiaburs* [capitalists] concentrated there.

... Similar new large camps are being installed near Pietresani [at Paroseni, and in Valea Sadului] called Jiul I and Jiul II, for the construction of two new hydro-electric centres, and in Comanesti Bacau.

... The Danube-Black Sea Canal project groups some 35,000 persons, of which 30,000 are prisoners. The work proposed cannot be finished before the end of the Five-Year Plan.

There are four huge camps in the canal zone at : *(a)* Cernavoda, for all categories of detainees and for those serving sentences up to two years; *(b)* Medgidia, for all cate-

[1] L. STOWE : *Conquest of Terror* (Random House, New York, 1952).

gories of detainees and for those serving sentences up to two years; *(c)* Pearta Alba, for all categories of detainees and for those serving sentences up to four years; and *(d)* Navedari, specially for former officers, intellectuals and members of the peasant organisations and of the National Peasant Party, and for those serving sentences of from four to ten years.

17. The *Summary Report on Forced Labour Camps in Romania* submitted to the Committee by the International League for the Rights of Man states that " the exact number of the prisoners is not known ; but, nevertheless, it is no exaggeration when we affirm that there are many hundreds of thousands of inmates in these camps ".

The report also contains a list of alleged camps in Romania and the Soviet Union where, it is asserted, Romanians are required to do forced labour.

Conditions of Work and Re-education of Camp Inmates

18. Some extracts from the memorandum submitted by the Rumanian National Committee on 10 June 1952 may be quoted as illustrations of the allegations made concerning the conditions prevailing in Romanian forced labour camps and the programme of political re-education to which the prisoners are subjected. They relate to a camp U.M.2 at Cernavoda which, it is alleged, includes some 1,500 political prisoners, men and women, from the District of Vlashca.

The camp is surrounded with three rows of barbed wire, dominated by watch-towers with heavy guards and searchlights.... Prisoners are awakened at 4.30 a.m. for the roll-call, which is followed by a breakfast of *ersatz* coffee and a slice of black bread. They are then marched two miles to the actual working site, under heavy armed escort. Work lasts from 6 a.m. to 7 p.m., with half an hour off for the midday meal. Noon and evening, the meals are invariable, a soup of beans or potatoes and a dish of vegetables. On Wednesdays and Fridays—which are fast-days prescribed by the Church—a tiny portion of meat is added to the soup. The bread ration varies according to the nature of the individual prisoner's work : 350 to 750 grammes daily.

Labourers are divided into groups of 50 to 70, which must fulfil an ascribed " norm " that usually fails to take into account the state of the weather or other working conditions. The work consists mainly of excavation. Youngsters of 15 to 18 are required to carry at least 150 loads of stone a distance of 600 to 900 feet every day. In view of the poor food and general conditions, this is utterly exhausting....

Each gang is guarded by two men with automatic weapons and police dogs. The guards fire without warning, and workers are severely punished if they attempt to make friends with the dogs or if they talk among themselves....

The men go barefoot and their heads are shaved. Women, too, usually work barefoot. At the close of the working day, norms are verified. Those who fail to fulfil their assigned quotas are deprived of food and housed in the guardroom, without bedding of any sort. Those who worked well are given a post-card at the end of the week, which they may write to their family.

Every evening, following dinner, a programme of " political re-education " begins at 8 p.m. In the presence of political officers, prisoners must read brochures of Marxist doctrine, and study various themes, selected by the head of the " cultural agitation " unit of the camp.... At 10 p.m. the roll-call and searching of the prisoners take place. They are then locked up in their hutments, where lights burn the whole night. It is no rare occurrence for prisoners to be taken away during the night by the guard, and to disappear without trace.

19. The Committee also had at its disposal a number of affidavits and statements from former inmates of forced labour camps.

II. Material Available to the Committee

20. No reply was received from the Government of Romania to the Committee's questionnaire.[1]

21. The Committee has received copies of legal texts from the International Federation of Free Trade Unions, the International League for the Rights of Man and the Rumanian National Committee.

22. In the course of its research, it has also assembled a number of legal texts related to the allegations mentioned in Section I.

23. Extracts from these official documents, grouped according to the subjects to which they refer, are reproduced below.

Criminal Law and Criminal Procedure

24. Article 1 of Decree No. 187 of 29 April 1949 to amend and abrogate certain provisions of the Penal Code[2], quoted by the Rumanian National Committee in support of its allegations concerning the new Romanian judicial system[3] reads as follows :

> The aim of the criminal law is to defend the Romanian People's Republic and its established order against acts which are dangerous to society by applying measures of social defence to persons committing such acts.
>
> Acts of commission or omissions which violate the economic, social or political structure or the security of the Romanian People's Republic or disturb the legal order established by the people under the leadership of the working class, shall be considered as acts which are dangerous to society within the meaning of the previous paragraph.
>
> Acts considered to be dangerous to society are punishable even if they are not specifically mentioned as offences in a legal provision. In such cases the grounds and the limits of the responsibilities shall be determined in accordance with the legal provisions dealing with similar offences.

25. The following provisions appear in Decree No. 132 of 1 April 1949 on the organisation of the judiciary[4] :

Article 1 : The purpose of the judiciary in the Romanian People's Republic is to defend—

(a) the social and economic structure of the State, as established by the Constitution of the Romanian People's Republic ;

(b) fundamental political rights and the right to work and rest and all other rights and interests guaranteed to citizens by the Constitution of the Romanian People's Republic ;

(c) rights and interests recognised by law as appertaining to State institutions and enterprises, co-operative and other communal organisations.

Article 2 : It is the duty of the judiciary in the Romanian People's Republic to apply the law equally to all citizens with a view to strengthening and fostering the people's democratic régime.

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[1] United Nations document E/2154/E/AC.36/10.
[2] *Buletinul oficial*, No. 25, 30 Apr. 1949, pp. 174-175.
[3] See above, paragraph 11.
[4] *Buletinul oficial*, No. 15, 2 Apr. 1949, pp. 76-81.

Article 3: The judiciary in the Romanian People's Republic through its activity must inculcate in citizens a spirit of devotion to their country and to the laws of the Romanian People's Republic, concern for the people's common property, discipline in labour, the fulfilment of their obligations towards the State and society and observance of the rules of community life.

.....

Article 5: Justice in the Romanian People's Republic is dispensed by the following courts: people's courts, district courts, courts of appeal, the Supreme Court.

26. Under Decree No. 183 of 30 April 1949 on the punishment of economic offences, as amended [1], " in order to ensure the development of the national economy in all its sectors—State, co-operative and private—as well as the fulfilment of the State plan and the satisfactory management of State property, all acts committed by those whose aim is to obstruct the efforts of the working people to create a socialist economy in the Romanian People's Republic shall be punished ".

Acts punishable by correctional imprisonment for from one to 12 years include—

Article 2: (a) the non-observance of decisions reached by the Council of Ministers, ministerial departments or local organs of the State authority with a view to the fulfilment of the State plan, and also the non-observance of decisions concerning the management, organisation and control of the production, circulation, distribution and consumption of goods and products of any kind not specified in the State plan.

.....

(d) The instigation to disregard individually or collectively the obligations assumed under collective labour contracts with regard to the fulfilment by the employees of the duties they are required to perform to ensure the production, circulation, distribution and consumption of goods or products of any kind, whether in the State, co-operative or private sector.

The following are among the acts punishable by imprisonment with hard labour for from five to 15 years:

Article 4: (a) the communication or insertion of deliberately erroneous, distorted or confusing information in papers or forms concerning the State plan.

(b) The disclosure of any data or information concerning the elaboration or implementation of the State plan that have not been released for publication by the competent authorities in so far as such disclosure does not constitute a more serious offence.

(c) The concealment, destruction or adulteration of products or goods.

Article 5: Attempts to violate the provisions of the law shall be punishable in the same way as actual infringements.

Accomplices and non-informers shall receive the same punishment as the perpetrators.

27. Law No. 9 of 15 December 1950 on the protection of peace [2] includes the following provisions:

Article 1: War propaganda and/or any activity designed to threaten the peace shall constitute a major crime against the country and against humanity, since they endanger human life, human progress, cultural and material values and create a serious obstacle to peaceful collaboration between nations.

Article 2: The following shall be regarded as crimes threatening world peace: warmongering propaganda; the dissemination of tendentious or fictitious news designed

[1] *Buletinul oficial*, No. 70, 17 Aug. 1950, pp. 799-802.
[2] *Ibid.*, No. 117, 16 Dec. 1950, p. 1239.

to promote war, or any other activities favourable to the outbreak of another war, carried on verbally, in writing, through the press, broadcasting, cinematograph, or any other means of propaganda.

Article 3 : The crime of threatening world peace shall be punishable by imprisonment with hard labour for a term varying from five to 25 years and by the total or partial confiscation of property.

28. Under Decree No. 351 of 19 August 1949 on the re-education of vagrants, beggars, prostitutes and procurers [1], " the Ministry of Labour and Social Welfare shall establish centres for the re-education of vagrants, beggars, prostitutes and procurers with a view to training them for some trade or other occupation and to their moral rehabilitation ".

Articles 2, 3 and 5 of the Decree read as follows :

Article 2 : " Vagrants " are persons who have no habitual residence and do not carry on regularly any trade or other occupation although they are able to do so...

Article 3 : [Vagrants, beggars, prostitutes and procurers] shall be received in the re-education centres at their request or on the motion of the Public Prosecutor, administrative or social welfare agencies or the militia, filed with the Boards for Selection and Guidance. After verification, the Boards will order the confinement of the vagrants, beggars, prostitutes or procurers in the re-education centres.

Article 5 : Persons who in any way incite or assist anyone to engage in vagrancy, beggary, prostitution or to become a procurer or who organise such activities, together with their accomplices, shall be punished by correctional imprisonment for from three to eight years, deprivation of civil rights and confiscation of their property.

29. Decree No. 199 of 11 August 1950 amending Law No. 16 of 15 January 1949 [2] includes the following provisions :

Article 3 : The death penalty shall be imposed for sabotage of the economic advancement of the Romanian People's Republic caused by—

(a) The destruction or damage by any means whatsoever of buildings, machinery or any kind of installations belonging to industrial or other undertakings, electric power, gas or similar plants.

.....

(d) The intentional non-fulfilment or deliberate carelessness in the fulfilment of duties in the undertakings specified in *(a)* above, if this has resulted in a public catastrophe or disaster.

.....

Article 6 : The instigators, accomplices and persons who encourage or conceal such acts shall be liable to the penalties provided by the Decree for the actual perpetrators. Preparatory acts and attempts shall be punished in the same way as if the offence had actually been committed. Anyone having knowledge of preparations for or the perpetration of any of the offences covered by the present Decree and who fails to report them shall be punished by rigorous imprisonment for a term varying from three to ten years.

30. Article 28, paragraph 8, of the Penal Code [3] reads as follows :

At the end of the above-mentioned period [*i.e.*, of solitary confinement] the convict shall be attached to a labour gang working in silence in the mines, a public utility under-

[1] *Buletinul oficial*, No. 54, 20 Aug. 1949, p. 354.
[2] *Ibid.*, No. 68, 12 Aug. 1950, p. 780.
[3] *Monitorul oficial*, Part I, No. 48, 27 Feb. 1948, p. 1713.

taking or industrial establishment ; at night he shall be confined in a cell by himself. If he is working in a mine the convict shall be taken out and locked in a cell at night.

31. Decree No. 72 of 16 March 1950 concerning the release of prisoners before the expiration of their sentences[1] applies to prisoners who have shown good behaviour, have conscientiously carried out the work assigned to them and have proved their capacity for rehabilitation to social life.

Role of the Administrative Authorities

32. Decision No. 30636 of 7 July 1945 on internment centres and labour detachments[2], as stated in its text, was taken in accordance with the Decree which transferred the Directorate of Penitentiaries to the Department of Internal Affairs.

With a view to co-ordinating all matters relating to internment in camps and labour detachments and to their administration, Decision No. 30636 created a Service of internment centres and labour detachments " which will be responsible for all internments, records and releases of internees from the camps and labour detachments at present under the authority of the Department of Internal Affairs, as well as for the management and guarding thereof ".

33. Under Decision No. 6991 of 20 May 1946, which relates to the Service of internment centres[3], the Service was dissolved as from 25 May 1946. Since 26 May 1946, the personnel of the Service has been taken over by the Service for Labour Detachments which is to continue its activities under the Directorate-General of Police.

34. As will be seen later[4], under paragraph 2 of Article 111 of the new Labour Code of 1950 " the period for which a citizen is called up for temporary labour service shall be determined by the Council of Ministers ".

35. Also in connection with the possibility of imposing forced labour by a simple administrative Decision[5], mention may be made of Article 3 of Decree No. 351.[6] Under this Decree, persons considered as idlers or vagrants can be sent to " re-education centres " upon the motion of the militia by a Board for Selection and Guidance, which, although only an administrative body, has the power to decide whether such persons are to be confined.

Temporary Labour Service, Labour Reserves and Compulsory Vocational Training

36. The Labour Code adopted by the National Assembly on 30 May 1950[7] is the text referred to in the statement by the United States representative before the Economic and Social Council[8], as well as in a written statement submitted to the Committee by the Rumanian National Committee.[9]

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[1] *Buletinul oficial*, No. 28, 23 Mar. 1950, p. 403.
[2] *Monitorul oficial*, Part I, No. 155, 12 July 1945, p. 5917.
[3] *Ibid.*, Part I, No. 130, 7 June 1946, p. 5842.
[4] See below, paragraph 37.
[5] See above, paragraph 11.
[6] See above, paragraph 29.
[7] Articles 1-113 published by *Scanteia*, the central newspaper of the Romanian Workers' Party, dated 31 May 1950.
[8] See above, paragraph 3.
[9] See above, paragraph 7.

The full texts of the pertinent provisions are the following :

CHAPTER XV. TEMPORARY LABOUR SERVICE

Article 111 : In exceptional cases citizens of the People's Republic of Romania may, in order to prevent or combat disasters and to remedy a shortage of manpower required to carry out important State tasks, be called upon to perform certain types of temporary labour service.

The period for which a citizen is called up for temporary labour service shall be determined by the Council of Ministers.

Article 112 : The following classes of persons shall be exempted from temporary labour service :

(a) young persons under 16 years of age ;

(b) women over 45 years of age ;

(c) pregnant women and nursing mothers ;

(d) mothers of children under eight years of age, if there is no one else to look after them ;

(e) men over 50 years of age ;

(f) persons unfit for work as a result of illness or accident, until such time as they regain their health ;

(g) persons disabled by work or by war.

Article 113 : In connection with certain temporary labour obligations, the Council of Ministers may decide to grant other exemptions than those provided for in Article 112, having regard to the state of health and family situation of the citizen as well as to the type of work and the living conditions under which it is to be carried out.

On the other hand, Chapter III of the Labour Code, headed " Contracts of Employment ", contains the following provisions :

Article 16 : A wage earner may be transferred from one undertaking to another or from one locality to another ; in the latter case the actual cost of transferring the wage earner, his family and his household goods shall be paid to him. In addition, he shall receive an allowance amounting to 14 days' wages, calculated on the basis of his average daily wage during the last three months.

If the wage earner does not accept the proposed transfer, the employment contract may be terminated on 14 days' notice given by the employer.

Article 17 : In the interests of the service, a wage earner may be temporarily seconded and sent to another district or another undertaking or institution. The period for which he is seconded may not exceed 60 days. If he is seconded for more than 60 days he shall be regarded as detached.

The rights of wage earners who are seconded or detached and the period of detachment shall be governed by Decisions of the Council of Ministers.

.....

Article 19 : A wage earner may request, on valid grounds, the termination of a contract concluded for an indefinite period.

The employer shall take a decision on such request within 14 days of its receipt.

37. Ordinance No. 399 of 12 May 1951 to establish a Central Office of Labour Reserves[1] established the Central Office under the jurisdiction of the Council of Ministers.

In accordance with Article 2, the Office has the following duties :

(a) the recruitment and organised distribution of labour reserves through vocational schools and training courses in factories and plants in conformity with the State plan ;

[1] *Buletinul oficial*, No. 56, 18 May 1951, p. 632.

(b) the distribution of labour reserves trained in vocational schools or the training courses held in factories and plants in conformity with the plan approved by the Council of Ministers ;

(c) the distribution of the labour reserves of skilled and unskilled workers from urban and rural areas according to the requirements of the national economy.

38. Decree No. 68 of 16 May 1951 concerning the training and distribution of labour reserves[1] contains the following provisions :

Article 1 : The training of the State's labour reserves required for the mining and quarrying, metallurgical, chemical, power or oil industries and for building and transport shall be given by vocational schools or in training courses held in factories and plants. In the above-mentioned schools and courses, 45,000 to 55,000 workers shall be trained annually, being recruited from among young workers in towns and villages.

Article 2 : The courses in vocational schools shall last two or three years. The training courses held in factories and plants shall last six months.

Article 3 : Young persons admitted to vocational schools shall be between 14 and 15 years old. Persons admitted to training courses held in factories or plants shall be workers of 16 years of age and over. Young persons admitted to vocational schools for training underground workers shall be between 15 and 16 years old.

.....

Article 5 : Graduates of vocational schools or of training courses held in factories or plants shall be assigned to various sectors of activity according to a plan approved by the Council of Ministers. The central or local authorities of the State Administration are not allowed to use such graduates for work other than that for which they have been trained.

Article 6 : The graduates of vocational schools or of training courses held in factories or plants are required to work for at least four years in the unit to which they have been assigned.

Article 7 : On assignment graduates of vocational schools or training courses held in factories or plants shall receive the wages corresponding to their jobs.

Article 8 : The recruitment and admission of young persons to vocational schools and to training courses held in factories or plants and the internal organisation of such schools shall be governed by the rules to be laid down by a Decision of the Council of Ministers. The People's Councils shall carry out the provisions of the Government plan, setting a quota of young people required for such schools by recruitment in urban and rural areas.

39. Legislative Decree No. 1409 of 25 April 1946 to repeal Legislative Decree No. 2741 of 2 October 1941 respecting conditions of employment in wartime, and to amend certain provisions of the laws respecting employment relations[2] refers to conditions of employment in wartime and to employment relations. Article 4 covers the granting of holidays to employees, Article 7 fixes the ordinary hours of work for all categories of employees at eight a day, Article 12 makes provision for the settlement of collective labour disputes by compulsory arbitration, Article 13 makes it unlawful for an employer to withhold any sum of money on any ground from employees paid by means of tips and Article 15 prohibits the dismissal of any person or group of persons without the prior authorisation of the Ministry of Labour.

Article 16 stipulates that failure to comply with the provisions of the above

[1] *Buletinul oficial*, No. 56 18 May 1951, pp. 631-632.

[2] *Monitorul oficial*, Part I, No. 97, 26 Apr. 1946, p. 4179 ; I.L.O. : *Legislative Series*, 1946—Rum. 1.

Articles shall be deemed to be offences of sabotage of production and shall be punishable.

40. Decision No. 156 of the Central Committee of the Romanian Workers' Party and the Council of Ministers of the Romanian People's Republic, on the consolidation of the economic organisation of collective farms[1], contains the following passage :

The attention of all Party and Government agencies is drawn to the fact that it is not permissible to move members of collective farms and to send them to other jobs without the approval of the general meeting of the collective farm and previous notice to the Ministry of Agriculture.

SPAIN

Summary of Allegations, and of the Material Available to the Committee

I. Allegations

1. Allegations concerning Spain were made before the Committee at its Third Session by the *Commission internationale contre le régime concentrationnaire* (C.I.C.R.C.) in the course of a hearing held on 17 October 1952 and also in a memorandum submitted by the Commission.

2. The Committee heard a representative of the Commission who was also a member of a committee of three persons set up to investigate forced labour problems in Spain.

3. The representative stated that the information submitted orally was derived from three sources : *(a)* a study of laws and regulations ; *(b)* an investigation on the spot conducted by a committee of the Commission between 9 May and 6 June 1952, in which the members of the committee visited 17 prisons and five camps and spoke with 65 inmates ; *(c)* testimonials from ex-prisoners.

4. The allegations made in the memorandum submitted by the Commission and in the oral statement to the Committee related to—

(a) conditions in Spain from the Civil War up to 1946, and from 1946 onwards ;

(b) arrest and detention with no guarantee of due process of law ;

(c) procedure for judging political offences ;

(d) political prisoners ;

(e) detention of unconvicted persons and convicts who have completed their prison sentences ;

(f) prison work ;

(g) prison conditions ;

(h) number of prisoners.

The allegations may be summarised as follows :

[1] *Buletinul oficial*, No. 28, 2 Mar. 1951, pp. 349-353.

Conditions in Spain from the Civil War up to 1946 and from 1946 Onwards

5. On this point, it was alleged, first, that from the outbreak of the Civil War up to 1946, conditions prevailing in Spain could be compared with descriptions which have been given concerning the U.S.S.R. or, to a certain extent, concerning the nazi régime.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

The end of the Civil War provides a convenient starting point. At that time, the predominant features of the situation were—

(i) arbitrary mass arrests, accompanied by almost systematic ill-treatment, court sentences (of death or long periods of deprivation of liberty) passed without any guarantee for the rights of the individual and his defence, and large numbers of legal and illegal executions ;

(ii) the inhuman conditions in which persons were detained, primarily due to overcrowding in the places of detention, led to serious undernourishment, a complete lack of sanitary precautions and medical attention, with a very high rate of sickness as the result. There is no evidence to prove that any extermination camps were ever instituted;

(iii) compulsory labour for the benefit of the State is organised on a vast scale and takes place under very harsh conditions in camps, labour battalions and penitentiary colonies. It should be remembered, however, that at least for convicts there was a system whereby penalties could be rapidly redeemed through labour (at a rate of up to five days' punishment for every working day). This would seem to indicate that the compulsory labour was more a transitory measure than an integral part of the economic system, although, for a time, it played a quite important part in it and led to the organisation of genuine concentration camps.

Improvements would seem to have been made....

(a) ...;

(b) in the compulsory labour for the benefit of the State, which reached its peak around 1945-1946.

(2) The representative of the C.I.C.R.C. stated orally—

From oral testimony received by this Commission and from written statements, it appears that, with differences in form, the state of affairs as from 1938 or 1939, the end of the Civil War, until 1945 or 1946 could be compared with either the description that we have heard of the U.S.S.R. this morning or, within limits, to what we knew in the German régime. The Commission is satisfied that there have been at least 370,000 prisoners on the whole, of whom at least 70,000 or 80,000 were compelled to work under conditions which were very hard.

The great magnitude of the public works which are officially considered as having been made completely by prisoners, who were prisoners of war, and also conditions which we were able to see for ourselves in camps which are now reduced to a very small number of people but which we know from official sources at the time had 2,000 or 3,000 inmates, combined with the numerous affidavits which we have, tend to show, of course with nuances as always, but very convincingly, the abnormal state of affairs which basically was caused by overcrowding. In a nation of a little over 20 million inhabitants having between 300,000 and 400,000 prisoners, they constitute sufficient evidence that there must be a completely abnormal régime.

6. Secondly, it was alleged that from 1946 onwards these conditions began to improve. The legal system is, however, still an emergency system for time of war, such as it was proclaimed when the nationalistic movement began in 1936.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

The texts covering offences other than those punishable under general criminal law correspond in general to a body of legislation passed in wartime, or rather, in the state of war proclaimed in 1936 and still continuing. They include some broad and vague definitions and provide for very heavy penalties ....

Improvements would seem to have been made—

(a) in the conditions in which persons are detained, coupled with an alleviation of the overcrowding in places of detention. This began in 1946 or 1947 ...;

(b) in the compulsory labour for the benefit of the State ...;

(c) in the system whereby persons are deprived of liberty. Here, it is only later that any tendency to standardise is traceable. The decrease has been in the number of persons arrested and convicted, rather than in the abnormalities occurring in the methods used. In this respect, it is only very recently that the greatest progress has been made, though there has never been any advance beyond the standard indicated [below].

(2) The representative of the C.I.C.R.C. stated orally—

I would add here that as regards the sentences that can be pronounced, the whole system is still a system for time of war. As in 1936, *estado de guerra* is still valid....

Arrest and Detention with no Guarantee of Due Process of Law

7. This point was the subject of the following statements:

(1) Memorandum by the investigating committee of the C.I.C.R.C.—

Fundamentally, in present circumstances, persons are deprived of liberty, both in theory and in practice, by the courts and in accordance with the texts which govern their procedure, and not by the administrative authorities.

On the other hand, the following reservations must be made; their effect is to reduce considerably the guarantees which would appear to be afforded by this situation:

... The principle laid down in law whereby a magistrate must intervene within a very short time of the arrest is not respected.

Almost all cases except those involving offences under general criminal law are handled by the military courts....

(2) The C.I.C.R.C. representative's oral testimony—

... the procedure followed is called *procedimiento sumarísimo*, where the theoretical guarantees of defence which have been mentioned ... do not exist even theoretically. ... before the military courts, not only are there no theoretical guarantees of the defence of freedom, but there are no practical ones either.

It appears very clearly that the number of people who stay in prison up to or more than four years before being sentenced, or being tried and sentenced, is great; that the lawyers know little of the affair, and are not always allowed to take steps which the law would give them a right to take to defend their clients.

Procedure for Judging Political Offences

8. On this point, it was alleged that all political offences, including strikes, lockouts, etc., are not judged before the ordinary courts but before military courts without real guarantees of defence.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

Almost all cases except those involving offences under general criminal law are handled by the military courts, *i. e.*, according to a system of procedure originally devised for serious military offences punishable by death or rigorous imprisonment for life. The rights of the defence are practically non-existent.

(2) The representative of the C.I.C.R.C. stated orally—

All political crimes, including strikes, lockouts, etc., are not judged before the ordinary courts but before the military courts and by the procedure which is called *procedimiento sumarisimo*, where the theoretical guarantees of defence which have been mentioned ... do not exist even theoretically.

We also have convincing testimony that before the military courts, not only are there not theoretical guarantees of the defence of freedom, but there are no practical ones either.

Political Prisoners

9. On this point, it was alleged, first, that a considerable percentage of political convicts have not committed any crime for which provision has been made in general criminal law.

The memorandum by the investigating committee of the C.I.C.R.C. stated—

A considerable percentage of political convicts have not committed any crime for which provision has been made in general criminal law. It should furthermore be noted that these political prisoners include about a thousand persons held in connection with happenings in the Civil War, not all of whom have yet been sentenced.

10. Secondly, it was alleged that the element of arbitrary treatment is proportionate to the number of political prisoners.

The memorandum by the investigating committee of the C.I.C.R.C. stated—

It would therefore seem that the risk of arbitrary treatment is proportionate to the number of political prisoners.

Detention of Unconvicted Persons and Convicts who have Served their Prison Sentences

11. This point was the subject of the following statements:

(1) Memorandum by the investigating committee of the C.I.C.R.C.—

The rules laid down ... make it possible in fact for the administrative authorities to continue holding persons in detention, particularly in the case of persons not convicted under general criminal law.

(2) The C.I.C.R.C. representative's oral statement—

Even when work has been done and the time has been theoretically shortened it happens very often in the case of political prisoners that they still remain in prison. In other words, if no one can be sent to work as a prisoner by an administrative decision, there are many who are kept working by administrative decision. In other words the arbitrary aspect comes at the end, not at the beginning.

Prison Work

12. On this point, it was alleged, first, that work is imposed upon prisoners without any distinction between political and non-political offences.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

In all these places of detention, political prisoners and offenders convicted under general criminal law are rigidly subjected to identical conditions.

Work for the benefit of the State exists both *de facto* and *de jure* either under direct State management (in the colonies and penitentiaries) or in the form of concessions to private undertakings (in the detachments).

(2) The representative of the C.I.C.R.C. stated orally—

There is a Law of 8 February 1946 which says: "Work shall be compulsory for all prisoners of both sexes when sentenced". In other words, it seems that the principle of forced labour only appears within the frame-work of the decisions of the courts. As to the nature of this work, as to the conditions, as to the way it should be organised and paid for, we also have a quantity of perfectly clear regulations.

As to who could be put to work, we have already said, only those who have been sentenced ... that is all criminals, either common criminals or political offenders, who have been sentenced either by ordinary or by military courts.

13. Secondly, it was pointed out that the system of partial redemption of prison terms through work makes the application of other forms of coercion unnecessary.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

As a whole, however, no direct constraint would seem to be applied (although provided for by law); the system of redeeming penalties through labour and the better living conditions in the detachments would appear to offer a sufficient means of applying indirect constraint.

... at least for convicts, there was a system whereby penalties could be rapidly redeemed through labour (at a rate of up to five days' punishment for every working day).

(2) The C.I.C.R.C. representative stated orally—

I should point out, since we are speaking of this aspect of forced labour, that we tried to study what was the sort of coercion which weighed on the people to get them to work, and I shall quote here the system of redeeming sentences *(redención de penas)* by which the sentence is reduced by half a day for each day of work. Most definitely this makes any sort of other coercion unnecessary, since it is a condition to be fulfilled in order to obtain a reduction of sentence.

14. Thirdly, it was alleged that political prisoners having already served their prison term or having redeemed it through work are still kept in detention.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated that—

The rules laid down for the redemption of penalties through labour, for conditional release, and for the granting of a series of all-embracing amnesties make it possible in fact for the administrative authorities to continue holding persons in detention, particularly in the case of persons not convicted under general criminal law.

(2) The C.I.C.R.C. representative stated orally—

Even when work has been done and the time has been theoretically shortened, it happens very often in the case of political prisoners that they still remain in prison. In other words, if no one can be sent to work as a prisoner by an administrative decision, there are many who are kept working by administrative decision; that is to say, the arbitrary aspect comes at the end, not at the beginning.

15. Lastly, it was pointed out that prison work is done within the prisons, the so-called "labour detachments" and the militarised penal colonies.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

The penitentiary system is at present mainly constituted by the place of arrest and "centres", in which the majority of the prison population is accommodated. Secondary elements in the system are the labour detachments and militarised penitentiary colonies. The C.I.C.R.C. is not aware of the existence of any other places of detention.

(2) The C.I.C.R.C. representative stated orally—

I will simply mention that we find in these regulations three different types of—not camps—but places where prisoners can be put to work. First we find the term *campos de concentración* in a Law of 7 October 1938. Then we find either workshops or farms *(talleres, granjas)* within the territory of the actual prisons. Thirdly, we find what is called *destacamentos*, that is, places specially organised to permit prisoners to be employed on public works which could not be carried out otherwise. We have here an official comment which says that the work of the prisoners has the double advantage, practically of immeasurable value; first, that it is possible to make them work in places where it is hard to find free workers, and secondly, that they cannot leave the work which is not the case with free workers.

Besides these, I would say, normal institutions, we find the *colonias penitenciarias militarizadas* created by a Law of 28 September 1939, the funds of which have been raised recently in 1950 from 10 million to 30 million pesetas. These penal colonies, it is specified in the law, are built by prisoners coming from the ordinary prisons, exactly like the persons in the *talleres* and *granjas*, but instead of being under the control and command of the Ministry of Justice, they are under the control and command of the army. I should add, although it is outside the geographic scope of what we have been able to check afterwards, that there is also special legislation for Guinea, which provides that non-emancipated Natives may, by a decision of the administration, be sent into workers' camps without having been sentenced, whilst they are still awaiting trial, should it appear that their innocence is improbable.

During our mission, we visited 17 prisons where forced labour was more or less organised and five camps, four *destacamentos* and one militarised colony. As I said, we were able to conduct hearings with 65 prisoners. We were also shown, whenever we asked for them, the files of these prisoners and, as a matter of fact, in most cases, any files which we asked to see, which enabled us to make sample studies on various points and in this way we arrived at the first part of the conclusions which have already been submitted to the Commission.

Prison Conditions

16. On this point, it was alleged that the accommodation, living and sanitary conditions and food in some prisons are less than mediocre; in the colonies and detachments accommodation and sanitary conditions are utterly inadequate.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

The conditions in which such persons are detained vary widely from one institution to another, which renders it impossible to make a single, all-embracing statement. All that can be given is an indication of the limits within which the various institutions fall. No case reproduced the conditions obtaining in Hitler's concentration camps, and in the better institutions the conditions were the same as may be found in well-developed penitentiary systems devised for ordinary criminals.

As regards the places of arrest and " centres ", the buildings the committee visited were modern, or relatively so, with three notable exceptions. The provisions made for health and sanitation was adequate or mediocre, with the exception of three cases where it was less than mediocre. Except in a few minor instances, heating was non-existent (even where the climate was severe). The quantity of food provided was either sufficient in itself or sufficient provided it was supplemented by parcels from outside. The medical services would seem to be particularly handicapped by a lack of special medicines and suitable hospital accommodation.

Discipline varies from the lenient to the severe, but instances of ill-treatment are isolated and exceptional.

In the colonies and detachments visited, the accommodation (barrack huts), heating and sanitary conditions are utterly inadequate ; on the other hand, this is offset by a healthier existence, more liberal supplies of food and laxer discipline.

Visits, correspondence and parcels from outside are allowed to varying degrees, but in no case are they prohibited, except as a disciplinary measure.

As a whole, and allowing for the standard of living in the outside world, conditions are therefore those of a normal prison system for ordinary criminals, with some features above average and others below.

The number of prisoners working in this way would seem to be relatively limited and the working conditions (apart from compensation) appear to be about the same as those accorded to free workers, with whom the prisoners are often mixed in the detachments.

(2) The C.I.C.R.C. representative stated orally—

The conditions in the prisons, including the *talleres*, appear to us to be those of a fairly normal penal system for criminals in a poor country, the problem being not a concentrationary problem. As to the *destacamentos*, the conditions we saw were certainly of the most miserable type, materially speaking, but undoubtedly the discipline is in no way comparable to that of concentration camps. Letters were always allowed, though not frequently. Visits from the families were allowed. The food was fairly poor, but certainly not below the minimum even for men working. As to the work itself, it was inevitably hard, since it was precisely the work for which free workers could not be found. Trying always to take account of the scale of values I mentioned, we should have said that however hard for those who are submitted to it, these are not conditions of a severe concentrational character.

Number of Prisoners

17. On this point, it was alleged that at present there are about 30,000 prisoners of whom at least 25 per cent. and possibly more are political prisoners.

(1) The memorandum by the investigating committee of the C.I.C.R.C. stated—

[At present] the number of political prisoners, who in any case comprise not less than one-quarter of the total prison population, number at least 30,000.

(2) The C.I.C.R.C. representative stated orally—

The number of prisoners concerned is about 30,000, of whom at least one-quarter and possibly more are political prisoners.... The number of those working in the various institutions I mentioned... is, in the workshops and farms, not more than about 2,000; in the *destacamentos*, not more than about 1,200; in the *colonias*, I would not venture to give a figure, because we understood that most of their work took place outside metropolitan territory and we could not check.

II. Material Available to the Committee

18. The Committee considered laws and regulations relating to—

(a) personal service for the benefit of the State;

(b) political offences;

(c) the work of prisoners.

Personal Service for the Benefit of the State

19. An Act of 16 March 1939 introduced personal service for the benefit of the State. This service is required of all male Spaniards between 18 and 50 years of age who are resident in Spain (Article 2). It must either be performed in person or a sum of money equivalent to average wages must be paid instead (Article 3). An Executive Order of 4 July 1939 makes it compulsory to work for 15 days a year (Article 3). Persons trying to evade the census by giving information which they know to be incorrect are guilty of an offence punishable by imprisonment from one month and one day to three months and a fine of from 100 to 2,000 pesetas.

20. A Decree of 5 April 1940 abolished the personal service for the benefit of the State introduced by the Act of 16 March 1939, but granted municipalities the power to reintroduce it locally.

21. The Charter of the Spanish People *(Fuero de los Españoles)* of 17 July 1945, which was made into a constitutional law by a referendum of 6 July 1947, states that "Such personal services as the interests of the nation and public needs may require may be imposed by law, though always as a general measure" (Article 8).

22. The Local Government Act of 17 July 1945 includes the following provisions on personal services:

Article 555: For urgent work and services of an extraordinary nature, the local authorities may require personal service to be performed by the male residents of the municipality.

Article 556: The following persons shall be exempt from personal service:

(a) persons under 18 and over 50 years of age;

(b) physically disabled persons;

(c) inmates of penal institutions;

(d) civil and military authorities;

(e) Roman Catholic priests;

(f) elementary school teachers;

(g) serving military and naval personnel.

Article 557 : Personal service may not exceed 15 days a year or three consecutive days and may be commuted for a cash payment equivalent to the local prevailing daily wage of a labourer at the season or time of year at which the service is performed.

.....

Article 562 : Any person refusing to perform personal service or services shall be liable to a fine equal to the amount for which the service could be commuted. Administrative proceedings shall be taken to levy the commutation payment, plus the fine.

Political Offences

23. Article 12 of the Charter of the Spanish People *(Fuero de los Españoles)* of 17 July 1945 provides that—

Every Spaniard may express his ideas freely provided that they do not violate the fundamental principles of the State.

24. The State Security Act of 19 March 1941, which was in force until the new Penal Code of 23 December 1944 was promulgated, penalises all activities tending to destroy or weaken national feeling, jeopardise the security of the State or harm its credit or authority.

25. Article 251 of the new Penal Code of 23 December 1944 reads—

Any person engaging in propaganda of any form or kind whatsoever, inside or outside Spanish territory, for any of the following purposes, shall be liable to minor imprisonment (for not more than six years and not less than six months and one day) and a fine ranging from 10,000 to 100,000 pesetas :

(1) to overthrow the political, social, economic or legal structure of the State ;

(2) to destroy or weaken national feeling ;

(3) to attack the unity of the Spanish nation or to promote or encourage separatist activities ;

(4) to carry out or plan an attack on the security of the State, to prejudice its credit, prestige or authority, or to harm the interests or dignity of the Spanish nation.

Propaganda shall be deemed to include the printing of any type of books, booklets, leaflets, handbills, newspapers and any other kind of typographical or other publication, as well as their distribution or possession for distribution, speeches, radio broadcasting, and any other process assisting publicity.

Article 252 reads—

The courts, taking into account the circumstances of the offender and particularly his financial position, may increase the fine up to 500,000 pesetas in respect of all the offences referred to in this chapter. The courts may also take into account the personal circumstances of the offender and inflict the penalty of total or partial loss of civil rights for not less than six months and one day and not more than six years.

Article 253 reads—

Any person who, with the intention of prejudicing the credit or authority of the State in any manner, communicates or spreads false, distorted or tendentious news or rumours, or performs acts of any kind having the same purpose, shall be punished by major imprisonment (from six years and one day to 12 years) and total loss of civil rights.

Where the acts are not of a heinous nature, the court, taking into account the personal circumstances of the offender, may reduce the punishment to minor imprison-

ment (six months and one day to six years) or to banishment (six months and one day to six years) and a fine ranging from 2,000 to 20,000 pesetas.

Article 173 of the Code defines illegal associations as—

(1) groups or associations likely to lead to the destruction or weakening of national feeling;

(2) groups or associations formed inside or outside Spanish territory to attack the unity of the Spanish nation in any way or to promote or encourage separatist activities. Persons found guilty under this heading shall, in addition to the penalties referred to, be liable to a fine ranging from 10,000 to 100,000 pesetas;

(3) associations, organisations, political parties and other bodies prohibited by law and any others of like tendencies, even where they have been reconstituted in a different form and under different names;

(4) those aiming at the establishment of a régime based on dividing Spaniards into political or class groups of any nature whatsoever.

Article 174 reads—

The following shall be liable to the penalties of minor imprisonment (from six months and one day to six years), partial loss of civil rights and a fine ranging from 1,000 to 5,000 pesetas:

(a) the founders, directors and presidents of associations covered by the foregoing article...
Where the association has not been actually established, the penalty shall be major arrest (imprisonment from one month and one day to six months), suspension and a fine ranging from 1,000 to 3,000 pesetas.
Where the association has as its object the violent overthrow or destruction of the political, social, economic or legal structure of the State, the founders, organisers or directors shall be punished by minor penal servitude (imprisonment for from 12 years and one day to 20 years), and those who merely participated by minor imprisonment (six months and one day to six years).
Where the actions punishable under the foregoing paragraph are not of a heinous nature, or where the association was not actually established, the court shall inflict the punishment next in descending order of severity, or banishment and a fine ranging from 1,000 to 5,000 pesetas;

(b) persons who by their financial assistance, even where concealed, aided the foundation, organisation, reconstitution or activity of the associations, groups, organisations, parties, bodies and formations referred to in the foregoing article.
In such a case, the courts may, where the assets of the offender allow, raise the amount of the fine up to 250,000 pesetas, due regard being had to the circumstances and consequences of the act.

Article 176 reads—

The penalties next in ascending order of severity to those referred to respectively in the two foregoing Articles shall be imposed on the founders, directors, presidents and members of associations who, after a meeting has been suspended by the authority or its officers, hold a further meeting whilst the competent authority has not revoked the suspension order.

26. An Act of 1 March 1940 to repress freemasonry states that any person belonging to a masonic organisation, the communist party or any other clandestine association referred to in the Act is guilty of an offence. The Government may apply this provision of the Act, with the necessary adaptations, to such formations or groups as it considers should be added to the list of such organisations or associations (Article 1). Any propaganda in favour of the principles or alleged benefits

of freemasonry or communism, or spreading dangerous ideas against the Catholic religion, the country and its basic institutions or against social harmony is an offence. Anyone guilty of such an offence, if he played a major part in it, is liable to imprisonment for not less than 20 years and one day and not more than 30 years.

Anyone who is merely an accessory to such an offence is liable to imprisonment for not less than 12 years and one day and not more than 20 years (Article 3). The offences defined and penalised by this Act are judged by a special tribunal consisting of a president freely appointed by the Head of the State, an army general, a high officer of the official political party *(Falange Española Tradicionalista y de las J.O.N.S.)* and two lawyers, all of them also appointed by the Head of the State. Appeals against the sentences passed by such a tribunal may be lodged with the Council of Ministers (Articles 12 and 13).

27. Under Articles 240 and 242 of the Penal Code of 23 December 1944, it is an offence to slander the national movement represented by the *Falange Española Tradicionalista y de las J.O.N.S.* or to slander or abuse its heroes, flags and emblems. Anyone guilty of such an offence, if the slander or abuse is serious, is liable to a fine of 1,000 to 5,000 pesetas and minor imprisonment (for not less than six months and one day and not more than six years) and if the slander or abuse is not serious, to a fine of 1,000 to 2,000 pesetas and major arrest (imprisonment for not less than one month and one day and not more than six months).

28. Article 222 of the Penal Code lays down that—

The following shall be punished for sedition :

(1) ... ;

(2) employers consorting with a view to a lockout ;

(3) strikers.

Article 223 provides that—

Persons guilty of the offences referred to in the preceding Article shall be punished—

(a) by major imprisonment (for not more than 12 years and not less than six years and one day) if they were the promoters, organisers or ringleaders or if for the commission of the said offences they used violence or intimidation ;

(b) by minor imprisonment (for not more than six years and not less than six months and one day) in other cases ....

29. One of the penalties provided for in the Price Control Act of 30 September 1940 is labour in a workers' battalion for not less than three months and not more than one year (Article 4). Article 2 of an Act of 4 January 1941 makes the judgment of the offences referred to in the Act of 30 September 1940 subject to military jurisdiction.

30. Under a Decree of the Ministry of Justice, dated 8 February 1946, concerned with penitentiaries and prisons, and issuing Regulations governing convict labour within penal establishments, work is compulsory for all prisoners serving a sentence. Extracts from the Decree appear below.

Section I : General Provisions

Chapter I : Convict Labour and its Aims

Article 1 : Convict labour is the intelligent application of the prisoner's physical strength to the transformation of material objects. It shall be understood as the metho-

dical ordering of his activities for the achievement of a specific purpose. It shall be compulsory for all convicts of either sex.

Work is optional for persons under preventive detention. This is clear from Articles 2 and 3 of the Decree, which read as follows :

Article 2 : Persons undergoing preventive detention may also be put to work at their own request, but only in prison workshops or on other work inside the prisons in which they are confined.

Applications to work shall be submitted to the prison governor, who, after examining the conduct report and the certificates from the medical officer, chaplain and supervisor, testifying to the physical fitness of the applicant and to the fact that he has received elementary religious instruction and education will, provided all these reports are favourable, pass them to the Disciplinary Board, which will submit them to the Convict Labour Control Board, which will, in turn, if it deems fit, transmit them to the Central Board of Our Lady of Mercy for the Remission of Prison Sentences by Work for the appropriate decision.

Should any of the reports be unfavourable, the prison governor shall not pass on the application but shall attach the documents to the personal file of the prisoner concerned.

Article 3 : Persons undergoing preventive detention, to whom the Central Board grants authorisation to perform a specific type of work, shall enjoy all the advantages prescribed in these regulations except the remission of sentences, as granted to convict workers under Article 100 of the Penal Code in force.

The Work of Prisoners

31. A Decree of 28 May 1937 instituted a system of partial remission, by work, of the prison sentences of war prisoners and prisoners convicted of political crimes.

32. An Executive Order of 7 October 1938 contains provisions governing the work of such prisoners on behalf of the State, provinces, local communities and private enterprises declared to be of public or social importance by the Ministry of Justice. It provides that, at the end of each year, the Central Board of the Prison Service is to recommend to the Government that inmates who have worked should be granted a remission of their sentences equal in length to the number of working days with which they have been credited (Article 6). It further provides for prisoners to receive appropriate political and civic education and to be given instruction in religious doctrine and dogma (Articles 8 and 10). It also states that convicts with life sentences may only work within penal colonies or establishments or in institutions specially opened for the purpose ; those sentenced to less than 30 years' imprisonment may also work in concentration camps, while those with lighter sentences may work in greater freedom and even in the company of free workers, though always under adequate supervision (Article 11).

33. The preamble to an Order of 30 April 1939 states that, in order to comply with recent penal legislation and the regulations governing the remission of penalties by work, prisoners are not to work in competition with free labour, and their work must furthermore comply with the economic, educative and social requirements of the recent legislation. To this end, the Order provides for an initial large-scale experiment in prison labour to be instituted in a penitentiary, which may later on be taken as a model for the other penal institutions.

34. Under a Decree of 9 June 1939, Provincial Conditional Release Boards are entitled to recommend the partial remission of prison sentences by work ; the Central Board studies their proposals and selects those which it approves and, in

its turn, submits a recommendation to the Government that the remission should be granted. The final decision lies with the Ministry of Justice.

35. A Decree of 1 September 1939 provides that the Central Board for the Remission of Prison Sentences by Work is entitled to take all necessary steps to conclude agreements with outside undertakings in connection with convict labour and to administer and use the penitentiary workshops.

36. An Act issued by the Head of the State on 8 September 1939 instituted a Militarised Penal Colonies Service, entrusted with the organisation and use of convicts for public or private work and for their temporary or permanent use in certain industries, provided that such industries were new or necessary to the national economy, and had not been undertaken by private initiative (Article 1).

37. An Act of 4 June 1940 on parole and conditional release for prisoners convicted by military courts lays down that prisoners may be granted parole or conditional release only if they have a favourable report from the local chief of the official political party *(Falange Española Tradicionalista y de las J.O.N.S.)* (Article 4). Further, a Decree of 10 June 1940 requires that, for a prisoner to be granted and to continue to enjoy parole or conditional release, the successive reports by the local chief of the above-mentioned political party must be favourable. In addition, a Decree of 23 November 1940 makes the partial remission of a prison sentence by work conditional upon a favourable report on the prisoner by the local chief of the *Falange*. An Order of 21 March 1941 governs the supervision of convict labour detachments or establishments.

38. The Central Board for the Remission of Prison Sentences by Work is governed by an Order of 25 April 1941. Prisoners sentenced for life may only work in penitentiaries or institutions specially opened for the purpose or in concentration camps under suitable supervision. Those with lighter sentences may work in greater freedom and even in the company of free workers, though always under adequate supervision.

39. An Order of 21 March 1942 provided for the reorganisation of the Central Board for the Remission of Prison Sentences by Work. It superseded, amongst other texts, the Executive Order of 7 October 1938.

40. The Board was again reorganised by an Order of 14 December 1942, which gave it a new name—" The Central Board of Our Lady of Mercy for the Remission of Prison Sentences by Work " (Article 1). The Order provides that the officers of the Board are to include a national delegate of the women's section of the official political party, and a monk or priest, appointed as the head of the religious service of the General Prison Board by the Cardinal Primate of Toledo. According to the Order, the Central Board is to receive petitions from prisoners who wish to work for the State, for provincial bodies, local communities or private enterprises. It is to report on such petitions (Article 4, paragraph 1) and propose to the Ministry of Justice the remission of the number of days in prison for which the prisoners have worked with an output not inferior to that of a free worker, provided they have unexceptionable records (Article 4, paragraph 5). The Board has furthermore to encourage inmates to attend religious services, and must help the priests in their work (Article 4, paragraph 7). It has also to arrange for disciplinary measures to be applied in the event of bad conduct on the part of convict workers (Article 4, paragraph 9). The Board must also screen proposals for partial remission and, in its turn, submit recommendations to the Government that the remission should be granted (Article 4, paragraph 10). The right to work is granted to all inmates convicted of political offences committed between 18 July 1936 and

1 April 1939, as well as to all inmates who, though not complying with the necessary conditions, are, considering the special circumstances of their cases, authorised by the Board to earn remission of their prison sentence by working. An exception is, however, made in the case of persons detained by the special tribunal to repress freemasonry, repeated offenders, persons attempting to escape and persons convicted of hoarding or concealing merchandise and of abusively increasing prices (Article 8). Prison workers enjoy social security (paid for by the employer) and are paid a family allowance of two pesetas for their wives and one peseta for each child (Article 11). If they work for private enterprises, they are paid a wage. Part of this wage is stopped to pay for their maintenance in prison, part is allowed as pocket money and the rest is given to their families or, if they are unmarried, to themselves (Articles 11, 12 and 13). The prison sentence of working inmates may be reduced in proportion to the number of days for which they have been occupied (Article 11). Special remission may be granted for intellectual work: auxiliary teachers, for example, are entitled to one day's remission for every four hours' teaching, while successful attendance at general cultural courses may be rewarded with two months' remission for those who cease to be illiterate, and three months' remission for the higher grades. Prisoners who are members of artistic groups may earn remission of one day for every four hours which they devote to their activities in such groups. Religious training entitles a prisoner to two months' remission for the elementary grade, four months for the medium grade and six months for the highest grade (Article 21). If the Board so decides, special remission may also be granted for artistic, scientific and literary work. In addition to the inmates referred to in these Articles, the inmates of the penitentiary workshops of Alcala de Henares are also entitled to the benefits of remission by work (Article 26).

41. An Order of 21 July 1943 set up a Standing Committee of the Central Board, whose members include a military representative and a representative of the Church. An Order of 30 December 1943 provides for the addition to both the Central Board and the Standing Committee of a new member, appointed by the Ministerial Secretary of State, to represent the nationalist movement.

42. The new Penal Code of 23 December 1944 provides that all persons sentenced to more than two years' imprisonment are entitled to remission by work. The Code states that one day's imprisonment may be remitted by two days' work. Such remission is not, however, open to persons who have been granted it under previous convictions, or have attempted to escape, persons whose conduct has not been satisfactory and offenders who, according to the sentence of the court, are a danger to society (Article 100).

43. An Order of 24 February 1945 indicates how Article 100 of the Penal Code shall be applied. Article 1 provides that persons convicted of non-political offences, whatever the date of their conviction and the nature of their offence, as well as convicts for political offences committed after 1 April 1939, may earn remission of their prison sentences by working, subject to the exception laid down in Article 7 that *(a)* their prison sentence is longer than two years; *(b)* they have not been granted remission when serving previous sentences; *(c)* they have not attempted to escape; *(d)* their conduct has been good during their imprisonment; *(e)* the court has not explicitly stated in its sentence that they are a danger to society. Article 2 provides that, before convicts are allowed to earn remission of their penalties by work, the Prison Disciplinary Boards must submit a recommendation to that effect for the approval of the Central Board of Our Lady of Mercy. Article 3 lays down that the work of convicts must be useful, whether it is remunerated or not, whether it is intellectual or manual, and whether it is done inside or outside the penal insti-

tutions, under the system of penal detachments. Such work entitles the prisoner to a partial remission of his penalty at the rate of one day's remission for every two days' work. Article 4 lays down that a prisoner doing remunerated work benefits from social security in the same way as a free worker, within the limits of his different legal status. As an exceptional measure, convicts working for the State or in the penitentiary workshops are paid wages (representing the cost of their food, supplementary food, pocket money and any family allowance to which they are entitled, up to the maximum remuneration set down in the rules). Article 5 provides that the assignment of convicts to intellectual or manual work must take into account the abilities of each convict. Article 6 provides that if a convict, on entering a prison, does not possess knowledge corresponding to the lowest grade of education, he is not entitled to earn remission of his penalty by work until he has acquired that minimum of knowledge. Articles 6 and 8 lay down that prisoners must possess a certain standard of knowledge and religious education by the time they have served half of their prison sentences, and that they must comply with this requirement in order to be allowed remission for the time they have already worked. Article 9 provides that persons convicted of offences committed in connection with the Civil War between 18 July 1936 and 1 April 1939 are subject to special regulations.

44. Under an Order of 2 February 1948, competence for the remission of prison sentences by intellectual work, which had previously lain with the Central Board of Our Lady of Mercy, was transferred to the Inspector of Education of the Central Board of Prisons (Articles 1 and 2). The Order also stipulated that the directors and chiefs of penal institutions should submit to the Inspector of Education the names of inmates whom they recommended should be granted a partial remission of their penalties for their religious, cultural and artistic education.

45. A Decree of 5 March 1948 contains a number of prison regulations and provides for the establishment of central prisons of the industrial type, central agricultural penal colonies, and penal working detachments (Article 7). Furthermore, it contains provisions similar to those of the Order of 24 February 1945 mentioned earlier.[1] Article 95 of the regulations empowers the director of each penal institution to decide what work the prisoners are to do to meet the requirements of the prison, without being entitled to remission of sentence. According to Article 98, the convicts' wages are intended to : *(a)* contribute to their maintenance ; *(b)* pay for any liabilities incurred ; *(c)* take care of their dependants ; *(d)* contribute to a savings fund ; *(e)* provide a certain amount of pocket money. Convicts may obtain remission by means of their intellectual activities by : (i) participating in the courses run by the prison authorities ; (ii) belonging to cultural and artistic groups ; (iii) doing intellectual work ; (iv) producing original artistic, literary or scientific work.

No convict is entitled to remission for intellectual work unless he has passed the examination in religious education of the standard corresponding to his cultural level (Article 107). Convicts with sentences of less than two years and one day, who are therefore not entitled to earn remission of their penalties, may be put to work (Article 108). Convicts who lack the ability or knowledge to learn a craft are to be sent to agricultural and penal colonies or to penal detachments to do agricultural or unskilled work (Article 112). To provide employment for the largest possible number of agricultural workers, predominance is to be given to manual work and, for this reason, machinery is not to be used, except for very large harvests (Article 116).

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[1] See above paragraph 43.

Comments and Observations of the Spanish Government

The *Ad Hoc* Committee on Forced Labour has received the following letter, dated 17 February 1953, from the Spanish Minister of Foreign Affairs :

Sir,

I have the honour to acknowledge receipt of your communication dated 22 November in which, on behalf of the *Ad Hoc* Committee on Forced Labour appointed by the Economic and Social Council in co-operation with the International Labour Organisation, you informed me of the preparatory work being carried out by the Committee and expressed the wish that the Spanish Government should make available to the Committee any reports and documentation that might be of interest to it.

With regard to the Committee's terms of reference (Economic and Social Council Resolution 350 (XII)), in which the basic subjects of its study are stated to be *(a)* the existence of forced labour as a means of correcting the political ideas of prisoners and detainees, and *(b)* the existence of forced labour used for economic purposes for the benefit of the State, I have pleasure in informing you that in Spain forced labour does not exist and has never existed as a means of correcting the political opinions of persons who do not accept the ideology of the Government and consequently has never been imposed upon anyone on those grounds.

I may add that in Spain forced labour is not employed for the benefit of the State.

Neither form of forced labour is permissible under Spanish law and the Government is not empowered to impose them, as is clear from the legal provisions in force.

I attach a number of observations on the documentation and allegations regarding Spain submitted to the Committee, a summary of which was annexed to your communication of 22 November. However, I cannot fail to draw attention to the sectarian and biased nature of their contents, attributable no doubt to the personal allegations of one of the members of the delegation sent to Spain by the *Commission internationale contre le régime concentrationnaire*. As your Committee will find, those views are completely at variance with those of that body's chairman, Mr. J. de Swart.

I am certain that the Committee, proposing as it does to discharge its task without prejudice of any kind and with impartiality and objectivity (United Nations document E/2153), will recognise that fact.

I have the honour, etc.,

(Signed) Alberto MARTÍN ARTAJO,
Minister of Foreign Affairs.

I. REPLIES TO ALLEGATIONS

Conditions in Spain from the Civil War to 1946 and from 1946 Onwards

First allegation : From the outbreak of the Civil War up to 1946, conditions prevailing in Spain could be compared with descriptions which have been given concerning the U.S.S.R. or, to a certain extent, concerning the nazi régime.

Second allegation : From 1946 onwards these conditions began to improve. The legal system is however still an emergency system for time of war, such as it was proclaimed when the nationalistic movement began in 1936.

The Committee is concerned not with forced labour in the past but with forced labour as it exists at present. In any event, it should not begin with 1936, the year of the outbreak of the Civil War, without considering the just causes of that war and without taking into account the fact that emergency measures were required to restore order in the country.

In any case, the comparison made with concentration camp régimes which may have existed in other countries is considered offensive and completely unfounded.

In connection with the second allegation, it is not correct to say that a state of war still exists in Spain. The state of emergency had been ended prior to the promulgation of the Charter of the Spanish people on 17 July 1945.

The Spanish legal system is not an emergency system in so far as criminal law is concerned. It is governed fundamentally by the provisions of the ordinary Penal Code of 1944, a code similar to those in force in Spain since 1870, and by the Code of Military Justice of 1945, which is also similar to the previous code and which is chiefly concerned with the maintenance of discipline in the Armed Forces.

Otherwise, the only penal legislation subsequent to those Codes is the enactment of 18 April 1947 which provides for the punishment of the crimes of banditry and terrorism and, in view of the danger to the public safety which such offences represent, empowered the military courts to try and punish them. The penalties established are proportionate to the nature of the crimes committed and are not, as is arbitrarily alleged, indefinite or harsh.

Arrest and Detention with no Guarantee of Due Process of Law

All persons in detention or imprisoned in our penal institutions are committed under a warrant and at the disposal of the judicial, civil or military authorities. The deprivation of freedom is a matter for the courts, acting in accordance with the laws which regulate their powers ; it cannot be effected by Government action, since the Government authorities are required, under Article 496 of the Criminal Proceedings Act of 1882, to place the prisoner at the disposal of the judicial authorities within 24 hours of his arrest. Although, under Article 18 of the Charter of the Spanish people of 17 July 1945, this time-limit has been extended to 72 hours, it should be pointed out that the Government authorities do not detain prisoners for the full period allowed, but place them at the disposal of the judicial authorities as soon as the essential formalities have been completed.

It should be noted that, under Articles 184 and 186 of the Penal Code currently in force, which are similar to Articles 198 and 200 of the Code repealed in 1932, if Government officials failed to observe this time-limit they would be liable to criminal proceedings and would be prosecuted with the full rigour of the law. The allegation that there is no guarantee of due process of law must also be rejected as unfounded. It is clear from our laws governing criminal proceedings, in both civil and military courts, that the right of an accused person to be defended is fully protected ; under the provisions of Articles 384 and 652 of the Criminal Proceedings Act and Articles 554 and 730 of the Code of Military Justice, as soon as a substantive decision is taken in the proceedings the accused person may appoint a lawyer to defend him or, where appropriate, counsel may be appointed *ex officio*.

Procedure for Judging Political Offences

Allegation : All political offences, including strikes, lockouts, etc., are no judged before the ordinary courts but before military courts without real guarantees of defence.

Lockouts, etc., cannot be considered political offences, since they are punishable under the law only when they are subversive in character.

There is absolutely no truth in the allegation that under Spanish law severe punishment is meted out to instigators of lockouts or strikes, as may be seen from Articles 222 and 223 of the ordinary Penal Code. It is equally untrue that persons charged with this type of offence, which is in fact punishable under most penal codes, are deprived of the right of defence, since as soon as an offender, whatever the nature or type of offence committed, is subject to the penal jurisdiction of the State, he is granted all necessary rights of defence and, if found guilty, is sentenced to the penalty established for the offence. The labour courts have full jurisdiction over any labour disputes that may arise.

Political Prisoners

First allegation : A considerable percentage of political convicts have not committed any crime for which provision has been made in the general criminal law.

This allegation is completely false.

Every person now imprisoned for acts committed in connection with the Civil War has been duly convicted. It should be pointed out that only 294 persons are serving sentences, for the most heinous crimes, cases of rape and robberies repugnant to any decent person. It is because this type of offence was attributed to special political motives and because the offenders were convicted under penal provisions designating them as such that most of the others have since been released under successive enactments of the State, in particular those of 17 December 1943, 9 October 1945 and 25 October 1945.

Second allegation : The element of arbitrary treatment is proportionate to the number of political prisoners.

This allegation is completely unfounded. No category of offenders has ever been subjected to arbitrary treatment.

Detention of Unconvicted Persons and Convicts who have Served their Prison Sentences

It is absolutely untrue that the administrative authorities maintain in custody persons who have not been convicted. They cannot do so, either under the law or in practice.

The administrative authorities cannot hold a person in prison for more than 72 hours. Under the powers conferred upon them by law the judicial authorities may, on the other hand, keep an offender in prison, account being taken of the punishment to which he may be liable for the offence he has committed. This discretionary power is limited by the Criminal Proceedings Act under which the

judge is required, in certain cases, to grant the accused provisional liberty pending conclusion of the judicial proceedings.

It is equally untrue that a convicted offender, having served his sentence, may be kept in prison by order of the administrative authorities. As soon as he is granted conditional release by the Government upon recommendation of the Central Board of Our Lady of Mercy, the prisoner is released immediately. His term of imprisonment cannot be prolonged by administrative order. A decision to release the offender having been taken, the State cannot take any action which would be inconsistent with its own decision. This privilege, based on the Conditional Release Act of 23 June 1914 and incorporated in our present penal legislation, is adequately extended today to all offenders, whatever the nature of their offence and of their sentence. The only requirements are completion of a prescribed period of imprisonment and good behaviour on the part of the offender giving grounds to believe that he will lead a decent life upon release.

Prison Work

First allegation : Work is imposed upon prisoners without any distinction between political and non-political offences.

The Spanish prison system does indeed provide for compulsory work by prisoners capable of performing such labour. A similar provision was already contained in the Organic Decree of 5 May 1913, Article 309 of which provided that work would be obligatory for all prisoners serving a sentence, other than those over 70 years of age, who may work if they so desire, and those prevented by illness or other disability from performing work of any kind. This principle, also included in earlier legislation, is maintained in the Prison Services Regulations of 14 November 1930, the Regulations Governing Prison Work of 8 February 1946 and the Prison Services Regulations of 5 March 1948. In every prison system throughout the world, the purpose of deprivation of liberty is not merely expiation of the offence committed or retribution for violation of the law. It is also a means of social correction and rehabilitation, the chief method of reform being work, which is natural to man. During imprisonment, a person should be taught a craft or exercise his previous trade so that, upon release, he can find honest means of providing for himself and his family.

Second allegation : The system of partial redemption of prison terms through work makes the application of other forms of coercion unnecessary.

It is indeed unnecessary for the Administration to resort directly or indirectly to coercion in order to send prisoners to labour detachments or work areas. When penal legislation as advanced as ours gives a prisoner the opportunity to work while serving his sentence and to do so under the same conditions as free workers, with equal protection under our social legislation, and even to reduce his sentence by working, it is quite unnecessary to force him to avail himself of such obvious advantages.

Every prisoner working in a labour detachment has been sent there at his own or his family's request. Should he feel that existing social regulations are not being applied in his case, he may appeal to the labour courts. He may submit his complaint to them under the same conditions as a free worker, since he has equal protection under the social legislation.

The number of prisoners working in labour detachments or other work areas is determined solely by the extent to which the Administration is in a position

to avail itself of their services. As in the case of free workers, it is subject to the law of supply and demand.

When a private concern requires manpower it may request the Board of Our Lady of Mercy to provide convict workers. The Board then selects them on the basis of their qualifications. The prisoners work side by side with free workers.

A scheme for the reduction of sentences was applied in Spain under which a convict could reduce his sentence at the rate of five days for each day of work. However, the system was applied only to persons sentenced for acts of rebellion committed during the war, the purpose being, as in the case of other measures of clemency, to hasten their release.

The other prisoners are governed by the general regulations which, under the Penal Code in force, allows them to reduce their sentence at the rate of one day for every two days of work.

Third allegation : Political prisoners having already served their prison term or having redeemed it through work are still kept in detention.

In refuting this false allegation it should be pointed out, in the first place, that the Spanish Government has not granted total amnesty in respect of offences committed in connection with the Civil War. In as generous a measure as is consistent with justice, it allows offenders who were led astray or who became the victims of criminal propaganda or acted under the stress of exceptional circumstances to be restored to their place among their fellow-countrymen. They are given the right to paid employment and granted one day's reduction of sentence per day of work. The full benefit of this privilege is obtained through conditional release by recommendation of the Central Board for the Remission of Prison Sentences by Work, established under the Order of 7 October 1938.

Special laws have been enacted under which conditional release is progressively being granted, irrespective of the portion of the sentence served, to persons convicted of any act of rebellion committed between 18 July 1936 and 1 April 1939. Under the Decrees of 17 December 1943 and 25 October 1945, the first to benefit are persons sentenced to minor imprisonment followed, in the order given, by those sentenced to major imprisonment, minor confinement and major confinement up to a term of 30 years. In the case of persons sentenced to 30 years' imprisonment, this provision will not be extended to those convicted of brutality, homicide, rape, robbery and similar acts repugnant to any decent person regardless of his political ideology.

To ensure complete fairness in granting these privileges, and to prevent arbitrary treatment, authority to study and approve the proposed measures for reduction of prison terms through work and for the granting of conditional release is jointly vested in the Provincial Conditional Release Boards under the chairmanship of the President of the territorial or provincial court. Members of the Boards include the prosecutor and a magistrate of the court and other experts in penal and prison matters. Following approval by these Boards, the measures are submitted for further study and approval to the Central Board of Our Lady of Mercy, acting as an advisory board. The Board makes its recommendations to the Government in respect of the granting of any of the privileges. This precludes any prolongation of imprisonment by the administrative authorities.

As a further step in its policy in penal matters, the Government submitted to the Chief of State for signature the Decree of 8 October 1945, granting full remission of sentence to persons who had been, or might be, convicted of military rebellion or acts against the internal security of the State or public order committed prior to 1 April 1939, as defined in the Code of Military Justice, the Naval Penal Code and the ordinary Penal Code in force on that date.

The persons to whom these privileges may not be extended are specifically mentioned in the Decree, which also stipulates that the civil courts and the judicial authorities are competent to grant remission upon application by the persons concerned, and further states the grounds upon which it may be revoked. Consequently, it is untrue to say that application of these provisions makes it possible for the administrative authorities to prolong a person's imprisonment.

Having analysed the application of the benefits of the scheme for the reduction of sentences through work, conditional release and remission of sentence in respect of persons sentenced for offences committed between 18 July 1936 and 1 April 1939 in connection with the war of liberation, we shall now examine the application of these privileges to persons sentenced by courts of justice and courts martial for offences covered by and punishable under the ordinary Penal Code and the Code of Military Justice for acts committed after the end of the war on 1 April 1939.

Under Article 100 of the Penal Code of 1944 now in force, provision is made for the reduction of prison terms by work. The Article lays down which persons may be granted this privilege, the rate of reduction, the relationship between this privilege and conditional release, and the cases to which it does not apply. Conditional release, the requirements the prisoner must fulfil in order to qualify and the grounds for withdrawal, with or without loss of the period of conditional release, are dealt with in Articles 98 and 99.

Authority to study and approve recommendations made by the directors of penal institutions for the granting of either privilege is vested, as stated earlier, in the Provincial Conditional Release Boards and the Central Board of Our Lady of Mercy for the Remission of Prison Sentences by Work, final approval being granted by the Council of Ministers.

The Decrees of 17 July 1947, 9 December 1949 and 1 May 1952 granting remission of sentence specify the offences and penalties to which they apply, the extent of remission and the offenders who may not benefit from the privilege, which may be granted by the civil courts or judicial authorities upon application by the persons concerned.

For the reasons already mentioned, it is thus equally untrue to assert that the regulations governing the application of the provision for the reduction of sentences by work, for conditional release, and for the partial remission of sentences granted to persons committing offences punishable under ordinary law, permit the administrative authorities to keep prisoners in custody. The fact is that prisoners benefiting from these privileges are immediately released. They lose the privileges only by abusing them, by bad, immoral or disreputable behaviour, or by committing further offences. In every case, withdrawal of the privilege is subject to full protection of the law in accordance with provisions based on the Conditional Release Act of 23 June 1914 and included in the Penal Code of 1944.

Fourth allegation : Prison work takes place within the prisons, the so-called "labour detachments" and the militarised penal colonies.

With regard to work in prison workshops and farms, it need merely be pointed out that the principle has been affirmed at all international penological congresses that useful and, where possible, productive work is absolutely necessary for any person sentenced to a penalty involving deprivation of freedom, whether for a short or a long term, whatever the prison régime concerned ; moreover, work is a most important part of prison life, intended to strengthen the prisoner and to help him to regain the place which he has lost in society, preference being given in its organisation to the moral benefits resulting from industrious habits rather than to the profits of speculation. It should be added that work in the workshops and farms attached to penitentiary establishments, which were reorganised by the Decree of

8 February 1946 establishing the Prison Employment Board, is remunerated. Prisoners are credited with the wages established by law and in addition receive a share of the profits. The State bears the cost of installing the workshops and farms, which are provided with suitable machinery, implements and tools. Vocational training schools for the prisoners have been established and adequate budgetary provision has been made for the maintenance of the workshops and farms which are intended primarily to provide paid employment for the prisoners and to enable prisoners who had no trade when they entered prison to acquire one. The State does not receive any share of the profits.

The labour detachments are formed in places where work can be done (railways, marshes, construction work, etc.) and the nature of the work varies accordingly.

They also work in " militarised penal colonies " but it should be explained that this is the name of an official ageney engaged on public works which employs prison labour in conditions identical to those in which prisoners work in any labour detachment. There are no real militarised penal colonies in Spain and it should be added that, notwithstanding the name of the agency mentioned, at the present time it employs only 30 prisoners, all of whom volunteered for the work and receive the wages and benefits provided for by the social legislation applying to them ; in other words, they work in similar conditions to those of other prisoners who are working. The name " militarised penal colonies " was adopted in view of the nature of the agency, which draws its manpower almost entirely from free workers who are employed on the same terms as in any private enterprise.

Prison Conditions

Allegation : Accommodation, living and sanitary conditions and food in some prisons are less than mediocre.

The greatest care and attention has been and continues to be paid to the problem of feeding the prison population. The sum allowed for the daily ration has been increased to take into account changes in the prices of foodstuffs. Physicians specialising in metabolism have conducted experiments to work out a basic ration containing sufficient proteins, fats, carbohydrates and calories to meet the physiological requirements of the prisoners. The adequacy of the diet is tested monthly by weighing the prisoners and comparing their weight with their weight on admission.

On the basis of the figures, it can safely be said that the prisoners' rations, including the special rations for hospitalised prisoners and workers, are sufficient, without need for food parcels from outside.

Equal attention and care have been paid to the medical and pharmaceutical facilities for the prisoners. In 1942 a laboratory was set up in the Madrid Prison School with full modern equipment for manufacturing medicaments of all types. It was established to enable the prisons to obtain everything needed for the treatment of sick prisoners and to provide the hospital with everything prescribed by the doctors, including the most modern antibiotics such as " Rinifon ". Products which are not manufactured by or available from this laboratory can be obtained from the military pharmacies.

Not all the prison buildings are new or even relatively new, but they have all been modernised and provided with appropriate sanitary and health facilities.

At the end of the war many of the prisons in the red zone were completely destroyed. The Directorate General of Prisons has spent large sums in recent years on building large, modern, sunny prisons with all the facilities necessary for this type of building to replace the old prisons. Among others one may mention the prisons at Almería, Córdoba, Cáceres, Pontevedra, Santa Cruz de Tenerife, Tarragona and

Teruel; other prisons at Cádiz, Badajoz, Huesca and Zamora will be finished shortly; in addition, general repairs have been carried out and extensions have been built at the prisons at Burgos, Ocaña, Puerto de Santa María, Cuéllar and San Miguel des los Reyes; for the sake of brevity, no mention is made of the new local prisons.

The prisons have all the necessary facilities, but are not de luxe hotels for the recreation and rest of delinquents. While the prison hospitals and infirmaries are heated, the dormitories and quarters occupied by prisoners are not.

The barrack huts in which the working prisoners in the labour detachments are housed are temporary buildings. They are sufficiently large and have satisfactory ventilation, light and sanitary facilities, but no central heating; this would be absurd in temporary buildings of this type, which have to be moved from one work site to another.

Number of Prisoners

Allegation : At present there are about 30,000 prisoners, of whom at least 25 per cent. and possibly more are political prisoners.

At the present time, the prison population, male and female, is 23,461. Of these, 19,051 were convicted, tried and detained by the civil judicial authorities; 3,410 were convicted, detained and tried by the military judicial authorities for offences committed after 1 April 1939, and 294 were sentenced by the military courts for offences committed between 18 July 1936 and 1 April 1939, when the war of liberation ended.

Even if the *Commission internationale contre le régime concentrationnaire* considers all persons convicted by military courts as political prisoners, regardless of the nature of their offence—brigandage, terrorism, or clandestine crossing of the frontier in armed militarily organised groups—they only number 3,704, *i.e.*, less than one-sixth of the prison population, contrary to the allegation to which this point refers.

Seven hundred and eighty-three prisoners are at present working in labour detachments, 30 in militarised penal colonies and 2,924 in prison workshops and farms. There are no detachments of prison workers or groups attached to the Militarised Penal Colonies Service outside the metropolitan territory.

In addition to emphasising once again that the work done by prisoners in Spain is voluntary, it should be noted that one of the Administration's most important objectives in the prison system is to increase the number of prisoners who can work in order to satisfy the many prisoners who wish to take advantage of the system by which reduction of sentence may be earned. If this has not been done so far, it is due to the lack of material resources, which are not entirely within the control of the prison administration.

II. Comments on Material Available to the Committee

Personal Service for the Benefit of the State

Article 8 of the Charter of the Spanish people states as follows :

Such personal services of a general character as the interests of the nation and public needs may require may be imposed by law.

Articles 555 *et seq.* of the Local Government Act of 17 July 1945 contain the following provisions regarding personal service :

Article 555 : For urgent work and services of an extraordinary nature, the local authorities may require personal service to be performed by the male residents of the municipality.

Article 556 : The following persons shall be exempt from personal service :

(a) persons under 18 and over 50 years of age ;

(b) physically disabled persons ;

(c) inmates of penal institutions ;

(d) civil and military authorities ;

(e) Roman Catholic priests ;

(f) elementary school teachers ;

(g) serving military and naval personnel.

Article 557 : Personal service may not exceed 15 days a year or three consecutive days and may be commuted for a cash payment equivalent to the local prevailing daily wage of a labourer at the season or time of year at which the service is required.

. . . . . .

Article 562 : Any person refusing to perform personal service or services shall be liable to a fine equal to the amount for which the service could be commuted. Administrative proceedings shall be taken to levy the commutation payment, plus the fine.

These provisions are sufficient to show that there is absolutely no question of forced labour, but rather of a personal service which is required of all Spaniards not exempted on special grounds. The exempted categories include prisoners and detained persons.

The above provisions constitute the legislation in force, all previous legislation on the matter having been repealed.

Political Offences

Of the provisions referred to under this heading in the summary of laws and regulations, the Penal Code of 1944 and the Charter of the Spanish people are in force. Article 12 of the latter reads as follows :

Every Spaniard may express his ideas freely provided that they do not violate the fundamental principles of the State.

The State Security Act of 19 March 1941 was repealed in part by the Code of 1944 and in full by Article 10 of the Legislative Decree of 18 April 1947. This Legislative Decree has already been referred to.[1]

Although the Act of 1 March 1940 on masonry and communism has not been repealed, it is now rarely enforced because of the circumstances of the nation's political and social life.

Prison Work

In the summary of allegations the Decree of 8 February 1946 is cited in support of the contention that prisoners undergoing sentence are compelled to work.[2] This Decree regulates work inside prisons, *i.e.*, in prison workshops and farms.

It has been stated repeatedly that no kind of forced or compulsory labour

[1] See above, p. 363.
[2] See above, p. 351.

is imposed on any prisoner in Spain who is eligible for the reduction of his sentence by work. Moreover, as work is considered as a privilege and established by Article 100 as the general rule for prisoners satisfying the requirements of that Article, the Decree of 8 February 1946 extends the opportunity of this privilege to unsentenced prisoners who make application and who are deemed worthy of it; this does not of course entitle them to reduction of their prison terms but only to enjoy the material benefits of the social legislation. The fact that many prisoners volunteer for work, even in the absence of the major incentive to work afforded by the opportunity to earn a reduction of sentence, gives a clear indication of the type of work performed in Spanish prisons.

The provisions cited in the allegations, dated 28 May 1937, 7 October 1938, 30 April 1939, 9 June 1939, 1 September 1939, 25 April 1941 and 24 February 1945, have been amended, and the legislation now in force is contained in the Penal Code, the Order of 14 December 1942, the Decree of 8 February 1946 and the Prison Service Regulations of 5 March 1948.

The latter provisions, which are always interpreted by the authorities in the manner most favourable to the prisoners, enable prisoners satisfying the requirements specified by law to earn a reduction of sentence by working, grant them the right to all the benefits conferred under the social legislation applicable to free workers, and in no case force prisoners to work ; not only would this be inconsistent with the spirit of the relevant legislation, but it would be impossible to obtain normal output from persons forced to work.

It must not be forgotten that many of the workers work for private enterprises and carry out their duties under the same conditions and under the same technical management as free workers. In these circumstances forced labour is impossible.

The attitude of the prison population to the scheme for the reduction of sentences established in Spain is indicated by the fact that, not only does no worker work against his will, but many applicants have to wait for a chance to work because of the limited facilities available to the prison administration. It should be mentioned that the administration is doing its utmost to include as many prisoners as possible in the earned reduction scheme to the extent that work can be provided inside the prisons and outside.

From what has been said it can be seen that prisoners do not work for the benefit of the State or of any other organisation or person ; they work for their own benefit in exactly the same way as a free worker offering his services to an enterprise or employer.

In Spain, the State, any official or private organisation, and private individuals employing prisoners pay the established wages which are used for the benefit of the prisoner and his dependants. Moreover, when a prisoner works outside the penal establishment, he is under the supervision of prison officials whose main duty, apart from maintaining custody and keeping watch over the prisoner, is to ensure that the regulations for the employment of free workers are applied in his case.

As regards the system of conditional release in Spain, some of the legal provisions in the possession of the *Ad Hoc* Committee on Forced Labour should be singled out, namely—the Decree of 9 June 1939, which establishes provincial parole boards ; the Act of 4 June 1940 on parole and conditional release of persons convicted by military courts ; the Order of 10 June 1940, which specifies the requirements for the release of political prisoners ; and the Decrees of 23 November 1940 and 21 March 1941 on the same subject.

Most of the provisions mentioned have been repealed, which suggests that the Committee has hitherto lacked the complete legislative information necessary to form a proper opinion in this respect.

After the suppression of the late rebellion, the Spanish Government adopted a series of measures to grant the largest number of releases in order to mitigate the prison sentences of those who had participated in it. These measures were the Act of 4 June 1940, for the release of prisoners sentenced to terms of less than six years, irrespective of the time served, and to prisoners sentenced to 12 years, if they had served half their sentences, allowance being made for reductions of sentence earned by work ; the Act of 1 October 1940, which extended those benefits to prisoners sentenced to not more than 12 years and a day, provided that they had served half of their sentences, allowance being made for any reductions earned ; the Act and Decree of 12 April 1941 granting conditional release to prisoners sentenced to terms of up to 12 years, irrespective of the period served; the Act of 16 October 1942, which extended the benefits of conditional release to prisoners sentenced to terms of not more than 14 years and eight months ; the Act of 13 March 1943, which granted the same benefits to prisoners sentenced to not more than 20 years ; the Decree of 29 September 1943, which granted conditional release, irrespective of sentence, to prisoners guilty of rebellion who were over 70 years of age or when they reached that age ; the Decree of 17 December 1943 granting conditional release to prisoners with sentences of from 20 years and a day to 30 years, who had served five years of their sentences, or, if they had earned a reduction by work, whose reduction *plus* the time served amounted to five years ; the Decree of 25 October 1945, which amended the Decree of 17 December 1943, making it possible to grant conditional release, irrespective of the length of the sentence and the time served in prison ; and the Decree of 9 October 1945 which granted complete remission to prisoners sentenced for offences, other than offences under ordinary law, committed between 18 July 1936 and 1 April 1939 provided that they had not committed acts of violence against persons, robbery or any other act repugnant to decent people regardless of their political ideology.

The provisions mentioned were intended only to solve the serious problem which the rebellion had created in Spain and, owing to those provisions, almost all the prisoners sentenced for crimes or offences committed between 18 July 1936 and 1 April 1939 have gained their freedom.

At present conditional release is subject to the following provisions : the Penal Code of 19 July 1944, which embodied the provisions of the Act of 23 June 1938 establishing the privilege of conditional release, conditional release being granted in accordance with the Prison Service Regulations of 5 March 1948. These are the only provisions applicable, and they apply to all prisoners, regardless of the type or nature of the crime or offence, subject to no conditions other than those prescribed in the regulations mentioned. It is thus untrue to say that the political ideology of the delinquent is taken into account ; the only criterion is that his conduct in prison must give good grounds for the belief that if he is granted conditional release he will make proper use of his freedom.

UNION OF SOUTH AFRICA AND SOUTH-WEST AFRICA

Summary of Allegations and of the Material Available to the Committee

UNION OF SOUTH AFRICA

I. Allegations

1. In the course of the debates in the Economic and Social Council, allegations were made concerning—

(a) political rights of non-whites;

(b) the question of pass laws;

(c) residential segregation of the Indian population;

(d) compulsory nature of labour contracts for non-whites;

(e) prohibitive taxation as a means of securing a contract labour force;

(f) use of penal laws to obtain a supply of Africans for work in industry and agriculture;

(g) recruitment of labour in the Territory of Bechuanaland for the mines in the Union of South Africa.

Allegations concerning points *(b)* and *(f)* above were also submitted by the *Anti-Slavery Society*, both in writing and, in the case of *(f)*, also orally before the Committee. The representative of this organisation made a further allegation before the Committee concerning—

(h) recruitment of labour in the Territory of Mozambique for the mines in the Union of South Africa.

Political Rights of Non-whites

2. The following reference to the political rights of " non-whites " was made by the representative of *Poland*[1]:

... non-whites enjoyed no political rights.

The Question of Pass Laws

The question of passes was mentioned in the same statement by the representative of *Poland* in the following terms:

... by means of 17 different kinds of passes they [non-whites] were compelled to remain where they worked....

The *Anti-Slavery Society* submitted the following written allegation:

There is a device employed in the Union of South Africa for furnishing African labour to European employers, by which involuntary labour is exacted " under the

[1] United Nations, Economic and Social Council, 9th Session, 321st meeting: *Official Records* p. 551.

menace of a penalty ". In the Union of South Africa there is a system known as the pass system. A pass is a document which authorises an African to move from one place to another in the Union of South Africa. If an African in the Union wishes to keep on the right side of the law, he needs to carry between six and 12 passes on him, for, if called upon by the police, he has to show his passes, and prison may be the consequence of failure to produce them. The pass system is designed to furnish European employers with a sufficiency of African labour. When arrested for not having a pass, an African is given a choice between working for a European on a farm or being prosecuted.

This ... seems to be a contravention of the Forced Labour Convention.

Residential Segregation of the Indian Population

The residential segregation of the Indian population was the subject of the following allegation by the representative of the *Byelorussian S.S.R*[1]:

... the Smuts Government had published a Decree, on 29 May 1946, extending the ghetto system to the Indian population. Those ghettos were surrounded with barbed wire and patrolled by police. Special permission was required to leave them.

Compulsory Nature of Labour Contracts for Non-whites

The compulsory nature of labour contracts for non-whites was mentioned in the following statement of the representative of *Poland*[2]:

The National Labour Regulation Act made it a criminal offence to refuse to obey an order or to break a contract.

Prohibitive Taxation as a Means of Securing a Contract Labour Force

Prohibitive taxation as a means of securing a contract labour force was mentioned by the representative of *Poland*[2]—

... legislation existed permitting the levying of prohibitive taxation to secure a contract labour force.

Use of Penal Laws to obtain a Supply of Africans for Work in Industry and Agriculture

The use of penal laws to obtain a supply of Africans for work in industry and agriculture was referred to in the following allegations:

The representative of the *World Federation of Trade Unions*—

[Under] a law adopted in October 1949 ... any magistrate had the right to declare that an African labourer led an idle, dissolute or disorderly life or that he did not have sufficient means of subsistence. ... The magistrate could order that the African labourer concerned should be employed for a given period at a given wage and under other given conditions which a commissioner or magistrate for indigenous affairs might consider necessary and, if the latter so desired, should be detained until he had been assigned to such employment as ordered by the judge. An African worker who was no longer employed ... if he failed to find work within two weeks ... could be sent to any district where there was a shortage of labour.

African workers were obliged under penalty of arrest to carry a certain number

[1] UNITED NATIONS, Economic and Social Council, 9th Session, 322nd meeting: *Official Records*, p. 562.

[2] *Idem*, 8th Session, 244th meeting: *Official Records*, p. 172.

of papers constantly with them. The effect of the high number of convictions for violations of that rule—there had been 90,000 such convictions in 1940—was to fill the prisons and to revive forced labour. . . . In 1949 the prison decentralisation scheme in rural areas had provided the large agricultural estates with a supply of free labour composed of workers convicted for that offence.[1]

At a later session, the representative of the *World Federation of Trade Unions* said—

There were seven prisons in that country [the Union of South Africa], six of which had received the necessary licence from the Ministry of Justice since the change of Government.

The non-European prisoners from those institutions were regularly sent to do forced labour in industry and agriculture. That ready source of free manpower was drafted into the prisons by means of unjust laws based on racial discrimination. He [the W.F.T.U. representative] quoted statements by the Minister of Justice and the Minister of Labour to show that the encouragement of forced labour and racial discrimination were recognised policies of the Government.[2]

The *Anti-Slavery Society* submitted the following written allegation:

It has already been said that convict labour has been excluded from the definition of forced labour in the international Forced Labour Convention of 1930, and the Union of South Africa is taking advantage of that. It is not uncommon now in the Union of South Africa for farmers to subscribe the money to build a prison in proximity to their farms. The Government fills the prison with Africans, convicted mostly of trivial offences, and hires them to nearby farmers. In September 1949, the Minister of Justice of the Union opened a prison at Leslie, in the Eastern Transvaal, built by the Leslie Farmers Association Labour Supply Company, which has 50 shareholders. The prison holds 300 prisoners, and the prisoners are hired to the shareholders at 1s. 9d. a day. The prisoners are taken from the prison to the farms in locked wire cages, and even local inhabitants have not hesitated to describe it as "slavery".

While Article 2 *(c)* of the Forced Labour Convention excludes "work or service exacted from any person as a consequence of a conviction in a court of law" from the meaning of forced labour, it requires that "the work shall be carried out under the supervision or control of a public authority and that the person is not hired to nor placed at the disposal of private individuals, companies or associations".

The practice described seems to contravene the Forced Labour Convention.

In an oral statement made before the Committee, the representative of the *Anti-Slavery Society*, alleged that—

In the past few years a practice has arisen in the Union of farmers of European race subscribing money to build prisons and these prisons are built by companies—they formed themselves into registered companies—and, when they have built them, the prisons are then taken over by the Ministry of Justice in the Union of South Africa and they are then filled with African prisoners who are convicted mainly of trivial offences such as infringements of the Pass Laws.

He alleged that since then the practice had continued, and he offered the Committee a copy of *Press Digest* No. 32, dated 7 August 1952, containing summaries of press statements in the Union of South Africa on this subject. He continued—

On page 323 of that document there is a summary from the newspaper called *The Friend*, in its issue of 2 August 1952. It reported that Mr. Swart, who is the Minister

[1] UNITED NATIONS, Economic and Social Council, 10th Session, 365th meeting: *Official Records*, paragraphs 95-96.

[2] *Idem*, 12th Session, 470th meeting: *Official Records*, paragraph 25.

of Justice in the Union of South Africa at present, stated when he opened the first farm-gaol in the Free State, that " prisons were a sign of civilisation, and civilisation necessitated law and order as the only means of preserving the authority of the State ". The gaol was built by a company formed by members of the Holfonstein Farmers' Association, and will ultimately hold 300 Native convicts. Mr. Swart, continued the paper, said further that farm-prisons were his own particular " baby ". He would open another near Paarl soon, and many more would be opened in the near future. He criticised newspapers which condemned the principle of prison outposts before the system had even come into operation. Thousands of eyes outside the Union, he said, were watching the system. Among the advantages of farm-prisons were the healthy surroundings in which the prisoners would be kept away from the overcrowded conditions of prisoners at larger centres. The prisons would also help farmers by relieving the shortage of Native labour.

Then, in the issue of 4 August 1952, an editorial says that " in the first month of this year ... over 12,000 Europeans were convicted of various offences and over 71,000 Natives, including 14,000 for drunkenness and 13,000 for pass law offences". The article continues to say that the value of land is considerably enhanced by the existence of one of these prisons in its proximity. It mentions that the prisoners are hired out at 1s. 9d. a day.

In another article, published in *The Star* of 5 August 1952, it is stated that " casual labourers in the district where the new farm-prison had been opened receive about £2 a month plus food, but they are hard to find. Convict labour is ' on tap ' and decidedly cheaper at 1s. 9d. per day. On the other hand, the farmer has to fetch the convicts and has invested a considerable sum in the prison."

Recruitment of Labour in the Territory of Bechuanaland for Mines in the Union of South Africa

The recruitment of labour in the territory of Bechuanaland for the mines in the Union of South Africa was mentioned by the representative of the *World Federation of Trade Unions* in the following statement:

The mass recruitment organised in the whole of British Central Africa in order to supply labour for African mines was another barely disguised form of forced labour. Such recruitment was organised by tribal chiefs under the control of colonial officials. The chiefs were replaced or dismissed if they refused to carry out such duties, as was more and more frequently the case. The United Kingdom Government's report to the United Nations on Bechuanaland was conclusive in that respect: virtually the sole purpose of the Territory seemed to be to supply an annual contingent of 9,000 to 10,000 workers for the South African mines. Social legislation was practically non-existent, the state of health of the workers was poor and their working conditions were governed by the laws in force in the Union of South Africa.[1]

Recruitment of Labour in the Territory of Mozambique for Mines in the Union of South Africa

The recruitment of labour in the territory of Mozambique for the mines in the Union of South Africa was mentioned in the following oral statement, made before the Committee by the representative of the *Anti-Slavery Society*:

The Government of Mozambique, Portuguese East Africa, has a contract with the Rand Mines of South Africa, to supply a number not exceeding 100,000 labourers a year for the South African mines. The Government of that colony received a capitation

[1] UNITED NATIONS, Economic and Social Council, 10th Session, 365th meeting: *Official Records*, paragraph 94.

fee, and I was informed that the inhabitants of that colony have to give one year's service in three to the Portuguese Government. They then are directed to go into the Union of South Africa in performance of this agreement. A similar agreement that existed in Liberia was attacked by the League of Nations Commission which examined Liberian labour, and the agreement between Mozambique and the Union of South Africa might be attacked on similar grounds.

II. Material Available to the Committee

3. In its reply to the Committee's questionnaire[1] the Government of the Union of South Africa declared that the answer to Question 1 as well as Question 2 was in the negative.

4. The Committee has collected a certain amount of documentary material relating to the allegations summarised in Part I. This material is summarised below.

The Question of Pass Laws

*5. The following documentation on pass laws has been laid before the Committee :

(1) The report of the Commission appointed to enquire into the operation of the laws in force in the Union relating to Natives in or near urban areas ; the Native Pass Law ; and the Employment in Mines and other Industries of Migratory Labour.[2]

(2) The Natives (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), as amended by Section 33 of Act No. 38 of 1945, by Act No. 43 of 1945 and by Act No. 42 of 1946.

(3) The Native Administration Act, 1927 (Act No. 38 of 1927).

(4) Proclamation No. 150 of 1934, as amended up to 1948.

(5) *An African Survey, a Study of Problems arising in Africa South of the Sahara*, by Lord Hailey, second edition. Issued by the Committee of the African Research Survey under the auspices of the Royal Institute of International Affairs (London, 1945).

*6. Extracts from this documentation are given below :

Report of the Native Laws Commission, 1946-1948.

*7. The terms of reference of this Commission as set forth in Government Notice No. 1731 of 16 August 1946 were as follows :

To enquire into and report upon—

(a) the operation of the laws in force in the Union relating to Natives in or near urban areas, and in areas where Natives are congregated for industrial purposes other than mining ;

(b) the operation of the Native Pass Laws and any laws requiring the production by Natives of documents of identification ;

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[1] United Nations document E/AC.36/11.

[2] Union of South Africa, Department of Native Affairs : *Report of the Native Laws Commission, 1946-1948* (Pretoria, 1948), 84 pp.

(c) the employment in mines and other industries of migratory labour; its economic and social effect upon the lives of the people concerned; and the future policy to be followed in regard thereto;

and to draft such legislation as may be necessary to give effect to the recommendations of the Commission.

* 8. On page 26 the Commission gives a definition of what is meant by a pass. A pass is a document—

(a) which is not carried by all races, but only by people of a particular race; and which either

(b) is connected with restriction of the freedom of movement of the person concerned; or

(c) must at all times be carried by the person concerned on his body since the law lays the obligation on him of producing it on demand to the police ... and the mere failure to produce it is ... a punishable offence.

The report then goes on to say—

Documents which are obviously passes according to all three of the tests mentioned are prescribed by Proclamation No. 150 of 1934, the Native Service Contract Act No. 24 of 1932, and the Native Labour Regulation Act No. 15 of 1911. The proclamation referred to is in force only in the Transvaal and the Free State, the main provisions of the Act of 1932 only in the Transvaal and Natal, and those provisions of the Act of 1911 that relate to passes only in the proclaimed districts. Night passes, in towns that have curfew regulations, are also passes according to all three tests. There are documents, however, of which the Europeans do not think as passes, but which the Natives regard as passes, since the tests we have mentioned above, *(a)* plus *(b)* or *(c)*, would make them fall in the category of passes. Thus they regard even the certificates of exemption, which are issued to them as evidence of exemption from the pass laws, as passes; for only Natives require them, and they must be produced at any time on demand by an authorised official. According to tests *(a)* and *(c)*, then, they are passes. For the same reason they regard the receipt for the general tax (the Native poll tax of £1 per annum) as a pass; the tax is levied only on Natives, and if a Native fails without reasonable cause to produce his receipt at any time on demand by an authorised official, he can be punished for the mere non-production. The service contract duplicate, which is issued to a Native in urban areas where registration of service contracts in terms of the Natives (Urban Areas) Consolidation Act is in force, is likewise regarded by them as a pass; it is only the service contracts of Natives that have to be registered and both the employer and the Native have to produce their copies on demand, whereas in those towns that restrict the entry of Natives under a proclamation issued in terms of section ten of the Act the Natives look upon the registration of service contracts as part of the machinery for the expulsion of Natives who are not in service.

* 9. On page 66 of its report, the Commission enumerates the pass laws in existence in a number of areas—

V. PASS LAWS AT PRESENT IN EXISTENCE

Under this heading *separate areas* to which special laws apply are dealt with. Laws applicable to several areas are considered under headings VI, VII, VIII and IX.

(1) *Transkeian Territories*

The Transkeian Territories are composed of a number of separate territories to leave each of which, passes are required by all persons, including Europeans, in terms of the following Proclamations, viz. No. 110 of 1879, Section 51 (for the Transkei), No. 112 of 1879, Section 51 (for Griqualand East), No. 140 of 1885, Section 50 (for

Tembuland), No. 497 of 1895 (for Pondoland). These regulations are not enforced in regard to Europeans.

Proclamation No. 100 of 1894 again provided that *no Native may enter* the Transkeian Territories without a pass. Native is defined as "any Basuto, Bechuana, Bushman, Damara, Fingo, Griqua, Hottentot, Koranna, Zulu or any other aboriginal Native of Central or South Africa, and also any Arab, Indian or other Asiatic". It may be mentioned that Proclamation No. 93 of 1928 now deals specifically with Asiatics. Under the measure the Minister may issue permits to Asiatics to enter the Transkeian Territories.

Natives falling under the list of persons mentioned in Section 14 (1) of Proclamation No. 150 of 1934 [*vide* paragraph V (6)] are exempt from the foregoing provisions (Proclamation No. 150 of 1934, Section 26, as amended by Proclamation No. 18 of 1935, and Proclamation No. 222 of 1941).

.....

(3) *Griqualand West*

Under Proclamation No. 14 of 1872, which originally applied to all Griqualand West, but is now only in force in the Kimberley District, contracts of servants are required to be registered. (Note : With a view to empowering the Kimberley Municipality to register Native Service Contracts under Section 23 of Act No. 25 of 1945, Section 8 of Griqualand West Proclamation No. 14 of 1872 was repealed by Section 15 of Act No. 27 of 1940, as from a date to be fixed by the Governor-General. Such date has not yet been fixed.)

(4) *Cape Province Proper*

(a) *Passes for Native Foreigners.*

The pass laws of the Cape Province, apart from the foregoing areas, are contained in Ordinance No. 2 of 1837, entitled "An Ordinance for the more effectual prevention of crimes against life and property," and Act. No. 22 of 1867, entitled "An Act to amend the law relating to the issue of passes to, and contracts of service with, Natives, and to the issue of certificates of citizenship and to provide for better protection of property". In terms of these enactments *foreign Natives* on entering the colony must be provided with passes. Since the passing of Act. No. 39 of 1887 (the Hofmeyr Act) no more certificates of citizenship have been issued and the Act has fallen into disuse as there are no more independent neighbouring tribes outside the Cape Province.

(b) *Cattle Removal Passes.*

In addition, provision exists under the Cattle Removal Act No. 14 of 1870 for the issue of passes to persons moving stock about the country and such persons may be compelled to produce such passes. This Act is also in force in the Transkeian Territories.

(c) *Vagrancy Acts.*

The Cape Province therefore has no pass system in vogue at the present time, but ... control is exercised under the Vagrancy Acts Nos. 23 of 1879 and 27 of 1889.

(d) *Administrative Pass System.*

Although the pass laws have practically fallen into disuse in the Cape Province, an administrative system has sprung up, under which, while not sanctioned by law, passes are issued to Natives travelling from one district to another. Similarly in the various districts of the Cape Province, it is the practice for Natives to obtain from their last employer or the owner of the land on which they reside, such a pass ; and in many districts they are in the habit of presenting themselves at the magistrate's office to get their passes countersigned.

This system is a convenience to the Native as it provides him with what is practically a passport and frees him from being harassed by the danger of being prosecuted under the Vagrancy Acts referred to above.

(5) *Natal*

Passes required to be carried in Natal are—

(a) Inward and outward passes.

(b) Reference passes.

(c) Cattle removal passes.

There also used to exist a system of identification passes which has been superseded by the Native Service Contract Act, 1932, and the relative enactments, viz. Natal Acts Nos. 49 of 1901 and 3 of 1904 repealed by Proclamation No. 132 of 1933.

(a) *Inward and Outward Passes.*

Inward and outward passes are issued under the provisions of Natal Act No. 48 of 1884. Act. No. 52 of 1887 imposed a fee of one shilling for each inward or outward pass. The regulations were published under Natal Government Notice No. 120 of 1910. These passes are in the nature of passports and are of a purely temporary nature. Before leaving Natal a Native must obtain from the magistrate an outward pass. In the case of a minor his parents must grant consent to the issue of a pass. Any Native entering the province must proceed to the nearest Pass Office (or to the nearest Pass Office to his destination if entering by rail) and take out an inward pass. Such pass holds good for one year, or longer if endorsed. Further formalities are necessary if the entry or departure is of a permanent character.

(b) *Reference Passes.*

Reference passes are purely an administrative system created for the convenience of Natives proceeding from one centre to another and are intended to protect them from molestation by the police on their way.

(c) *Cattle Removal Passes.*

Passes for the removal of cattle are required in terms of Section 6, Part II, of Act 1 of 1899.

(6) *Transvaal and Orange Free State*

The pass provisions for these two provinces are contained in Proclamation No. 15 of 1934, as amended by Proclamations Nos. 180 of 1934, 18 of 1935, 162 of 1936, 14 of 1938, 227 of 1939, 186 of 1940, 57, 101 and 222 of 1941, 157 of 1943 and 239 of 1944 and Government Notice No. 1618 of 1943.

The Proclamation was issued in terms of Section 28 of the Native Administration Act, 1927, and repealed the pre-existing pass laws in the two provinces—*vide* Sections 27 and 28 thereof as renumbered by Proclamation No. 18 of 1935.

(a) *Pass Areas.*

Two pass areas are created, viz.:

(i) The Transvaal Province, excluding scheduled Native areas, and

(ii) The Orange Free State, excluding scheduled Native areas.

* 10. The purpose of this legislation is explained by the Native Laws Commission on page 26 of its report as follows:

... It therefore remains our duty, both in respect of the pass system as a whole and in respect of each of the different statutes, proclamations and regulations in which it is embodied, to ask ourselves the direct questions—

(a) Is it necessary in this regard to have special laws for the Natives ?

(b) Are restrictions on the freedom of movement necessary ?
and

(c) Is it necessary to make the mere non-production of some document a punishable offence ?

The answers the report gives to these questions are summarised below.

*11. Discussing the necessity of having special laws for the Natives, the report states (page 26)—

Where races that differ so fundamentally as the Europeans and the Bantu come into contact with one another it may be necessary ... to regulate the contacts between them. We have laws that protect the Natives against European exploitation as well as protecting the European against Native intrusion.... As a Commission we take it, moreover, that the principle of residential separation is a fixed policy in South Africa—that a reconsideration of the pros and cons of that principle is not expected of us....

*12. The report then asks (page 27) whether it is necessary to impose " restrictions on the freedom of movement of Natives ", and observes that this is " the real essence of the matter ", because a negative reply would make the repeal of pass laws possible. The Commission states that earnest pleas were made by European witnesses and by Natives for the complete abolition of all passes, but it nevertheless arrives at the conclusion that, unless efficient machinery is created to regulate the migration of Natives, " the settlement of Native communities in proximity to European ones, and contacts between the Europeans and the Natives, will be regarded by a large portion of the white population as a danger to the economic life of the country as well as a serious threat to law and order and even to personal safety ". The Commission therefore considered it " essential, in the interests of the population as a whole but particularly in the interests of the Natives themselves, that the movement should be regulated ". The Commission also felt that " where Native communities become settled in the vicinity of European ones, or Natives enter the service of Europeans ... a certain amount of regulation is necessary for the maintenance of the principle of residential separation... ". In the Commission's opinion, both races would feel " safe and protected " by the enforcement of such legislation, the Natives against " exploitation ", and the Europeans against " intrusion " (page 27).

*13. As to the question whether it is necessary to make the mere non-production of some documents a criminal offence [1], the Commission arrived at the conclusion (page 30) that—

No penalty should be imposed for the mere non-production of a document, but, ... in cases of the kind in respect of which such a provision was considered necessary in the past, it should be provided—

(a) that the police are empowered to call upon any person, on whom an obligation is imposed by the statute or regulation in question, to furnish such information as they deem necessary to prove that the requirements of the statute or regulation have been complied with ;

(b) that if such person does not, by the production of documentary evidence or otherwise, satisfy the police officer, who questions him, on this point and the officer has a reasonable doubt as to whether a summons can be served on that person and whether he will appear in court in answer to a summons, he may take that person to the charge office ;

(c) if there also, that person does not give satisfactory information or produce satisfactory proof, he may, subject to the usual procedure with regard to bail, be charged and be kept in custody until his trial ; and

(d) that on a charge of contravening the statute or regulations in question the onus of proof should lie on the accused.

[1] On this point, see the figures quoted in paragraph 49 below, under the heading " Offences for which short terms of imprisonment are imposed ".

The Natives (Urban Areas) Consolidation Act, 1945 (No. 25 of 1945).

* 14. The Act gives the following definition of coloured persons, Natives and urban areas:

1. In this Act and any regulations, unless the context indicates otherwise—

.....

" coloured person " means any person of mixed European and Native descent and shall include any person belonging to the class called Cape Malays;

.....

" Native " means any person who is a member of an aboriginal race or tribe of Africa. Where there is any reasonable doubt as to whether any person falls within this definition the burden of proof shall be upon such person;

.....

" urban area " means an area under the jurisdiction of an urban local authority ...

** 15. Under Section 11 of the Act, " No person shall introduce any Native into any urban area ... in order that that Native shall seek or take up employment therein, without the written permission of an officer assigned for the purpose by ... [the] local authority [of the area] ". The person who introduces the Native must give security to return the Native to his home once his employment is terminated.

** 16. Under Section 12, " No Native, other than a Native lawfully domiciled in the Union, the mandated territory of South-West Africa, Basutoland, the Bechuanaland Protectorate or Swaziland, shall enter an urban area or accept employment or continue in employment, and no person shall employ or continue to employ any such Native within an urban area, without the written permission of the Secretary for Native Affairs, which shall not be granted without the concurrence of the urban local authority ". Any Native who violates these provisions is guilty of an offence, as is the person who employs the Native.

* 17. Section 17 of the Act authorises any urban local authority, with the approval of the Minister [of Native Affairs], to " erect fences around or within any location, Native village or Native hostel, or within any area of land which has been set apart for use by Natives... ".

* 18. The urban authority may be required, under Section 28 (1) of the Act, to supply the appropriate authorities with a list of the names of the Natives who, in its opinion, ought to be removed from the urban area.

* 19. Upon receiving notification from the Minister, the urban authority must notify the Native (Section 28 (2)) to remove himself with his family to the place which the authority will indicate.

** 20. Section 29 (1) and (2) deal with Natives whom " any police officer or officer appointed under Section 22 " has reason to suspect to be habitually unemployed or leading an idle, dissolute or disorderly life. This section is quoted verbatim later, in connection with allegation *(e)*.[1] It may, however, be mentioned that, under this Section, a Native can be removed from an urban area, and that under subsection (4), if a Native who has been removed from an urban area under the provisions of subsection (2) re-enters it in contravention of the order given him, he is guilty of an offence.

[1] See below, paragraph 48.

*21. The Governor-General may also, according to Section 31 (1), declare by Proclamation that no Native, male or female, " shall be in any public place ... during such hours of the night as are specified in such Proclamation unless such Native be in possession of a written permit signed by his employer or by a person authorised ... to issue such a permit ... ".

*22. Subsection (3) of Section 31 provides that any Native who contravenes the provisions of any Proclamation issued under subsection (1) " shall be guilty of an offence and liable on conviction to a fine not exceeding two pounds, or in default of payment to imprisonment for a period not exceeding one month... ". For second and subsequent convictions, the maximum penalties are ten pounds and three months' imprisonment respectively.

*23. The Governor-General may also make regulations under Section 38 (1) *(g)* concerning the registration of all contracts of service, the conduct of Native servants in relation to employers, the restriction of the period of such contracts, etc.

*24. According to Section 43 of the Act, coloured persons are only affected by any law or regulation making compulsory the carrying or possession of a pass in so far as they reside together with Natives in a location in the Orange Free State " which was in existence at the commencement of the Natives (Urban Areas) Act, 1923... ".

The Native Administration Act, 1927 (No. 38 of 1927).

*25. Section 28 of this Act reads—

(1) The Governor-General may, by Proclamation in the *Gazette*—

(a) create and define pass areas within which Natives may be required to carry passes ;

(b) prescribe regulations for the control and prohibition of the movement of Natives into, within or from any such areas ; and

(c) repeal all or any of the laws relating to the carrying of passes by Natives ;

provided that no area included in the Schedule to the Natives Land Act, 1913 (Act No. 27 of 1913), or any amendment thereof, shall be included within a pass area.

(2) Such regulations may provide penalties for any breach thereof not exceeding a fine of five pounds or imprisonment with or without hard labour for a period not exceeding three months.

Proclamation No. 150 of 1934 as Amended up to 1948.

*26. Under Section 3 of this Proclamation, no Native may " enter, travel within, or leave a pass area unless he be in possession of a pass... ; provided that nothing herein contained shall apply to any Native who is in service and who shall leave the place of his service for the purpose of lodging any complaint against his master or a member of his master's family or household ".

*27. Under Section 4, any Native who has obtained a pass to proceed to any place within a pass area in the Union must report his arrival at the police station or Native Commissioner's office. Under Section 5 (1), " Any Native residing on a farm or on any private property who desires to travel within a pass area for the purpose of visiting or on the business of his employer may do so upon a pass issued by the owner or occupier of the farm or private property on which he resides or by his employer as the case may be ".

* 28. Section 5 (2) lays down that " Any Native residing in a location or reserve situated outside any urban area who desires to travel within a pass area may do so upon a pass issued by the appointed chief or recognised headman ... ". Section 5 (4) provides that " any Native residing on any public property on which he is employed by any Department of the Government ... who desires to travel within a pass area, for the purpose of visiting or on business, may do so upon a pass issued by the person under whose immediate supervision he is employed ". Section 6 states that a Native who is unable to obtain a pass in accordance with the provisions of Section 5 may travel without such a document to the nearest authorised officer in order to obtain it. Under Section 11, Natives travelling within a pass area without a pass are liable upon conviction " in the case of a first offence to a fine not exceeding 10s. and in default of payment, imprisonment with or without hard labour for a period not exceeding 14 days ".

* 29. Section 14 of the Proclamation establishes a list of Natives exempted from the obligation of carrying a pass. Such Natives must, however, carry upon them a certificate showing that they are in fact exempted from this obligation. According to subsection (2) of the Section, the Minister may also cancel or suspend for a specified period some of the exemptions granted under subsection (1).

* 30. Section 16 enables " an authorised officer ... to refuse to issue or endorse a pass to any Native to enter or leave or travel within a pass area for any reason appearing to him sufficient " and Section 18 (1) prohibits the employment of Natives who are not in possession of such a pass and obliges the employer before taking the Native into his service to ask for such a pass.

* 31. Section 18 (3) considers a permit to seek work as a proper pass for the purposes of the regulation under discussion.

* 32. Section 19 obliges authorised officers to enquire whether a Native applying for a pass is under an unexpired contract of service and, if so, under Section 20, the pass is refused unless the employer agrees in writing to its issue.

" An African Survey " by Lord Hailey.

* 33. An extract from this book is given below—

The Natives (Urban Areas) Act 21 of 1923 made use of the pass system in order to control the entry of Natives into the towns, and legislation subsidiary to that Act, such as the " curfew " regulations or provisions made under the Native Taxation and Development Act 41 of 1925, assisted to regulate their movements within the urban area. The system has been further developed by the Native Laws Amendment Act of 1937, which permits the removal from urban areas of labour in excess of employers' requirements. The pass system has also been employed as part of the machinery of the land policy ; the Native Service Contract Act 24 of 1932 utilises the pass, in the manner shortly to be described, in order ensure that Natives residing as labour tenants on private farms shall not evade their obligations towards their landlords.

The use of pass regulations in the Union presents, therefore, a complicated picture, and it may be convenient to give a detailed statement of the position in the different provinces. In the Cape Province, Act 22 of 1867 is still in force, under which passes are required by " foreign " Natives on entering the colony. In effect this means that passes are now required only by Natives moving into the Cape from South-West Africa or the Protectorates, or in and out of British Bechuanaland, and in and out of the Transkeian Territories ; no pass is required to travel inter-territorially within the Transkei. Elsewhere in the Cape no pass is required, but the provisions of the Vagrancy Act 23 of 1879, as amended by Act 27 of 1881, are still available to check " vagabondage ". As regards other legislation making use of the pass system, the Native (Urban Areas) Act of 1923, amended by Act 25 of 1930, provides that a Native

entering a proclaimed urban area must obtain a permit to seek work, and when work is obtained his employer must register the contract of service. The permit to seek work is usually limited to a few days' duration, and unless it is renewed the Native is liable to arrest. Act 25 of 1930 provides for control of Natives in specified urban areas between certain hours by means of the curfew rule ; no Native (except the exempted classes) may be in any public place between the specified hours without a permit....

In the Transvaal and Orange Free State the pass system proper is stricter and more widely used. The Native Administration Act 38 of 1927 provides that regulations in the nature of pass rules may be made by the Government, and in the exercise of this authority the Government issued Proclamation 150 of 1934, which requires a Native to take out a pass to enter or travel within any pass area—that is, anywhere within the two provinces excepting Native areas scheduled under the Natives Land Act of 1913. The system is to some extent mitigated by the issue of travelling passes by officials and owners of farms, and by the grant of general and special exemptions. As regards other laws utilising the pass system, the Native Labour Regulation Act 15 of 1911 applies in the mining areas ; under this a Native employed in a " proclaimed labour district " is required to obtain a permit from his employer if he wishes temporarily to absent himself from the property on which he is employed. The urban conditions are, as in the Cape, regulated under the Native (Urban Areas) Act of 1923, to which reference has been made. In addition, the Native Service Contract Act of 1932 applies in both provinces. This Act requires a Native resident on a private farm—that is, in effect, all labour tenants—to obtain a document of identification before proceeding to any other place than his home ; no one may employ a Native unless his document of identification bears an endorsement by the owner of the farm on which he is resident authorising him to seek fresh employment. Further, the Natives Taxation and Development Act of 1925 provides that any receiver of Native tax, any European member of the police or a chief or headman, may demand production of a tax receipt ; in default of producing such receipt a Native is liable to arrest. As some mitigation of the effect of this measure the tax receipt and the document of identification above referred to have been merged in one document. In Natal the Pass Law proper, Act 48 of 1884, provides only for inward and outward passes, which are in the nature of passports ; Natives resident within the province may travel without passes. But the Native (Urban Areas) Act of 1923, the curfew rules under Act 25 of 1930, the Native Service Contract Act of 1932, and the rules under the Natives Taxation and Development Act of 1925, are in force.

Viewed as regulations for the control of industrial labour, the laws making use of the pass system are, as will have been seen, in fullest operation in the Transvaal and in the Orange Free State ; as measures for control of farm labour they operate fully in the Transvaal, Orange Free State, and Natal ; the restriction on movement to and within the urban areas operates in the " proclaimed " towns in all four provinces (pages 665-667).

Residential Segregation of the Indian Population

34. In connection with the allegation concerning the residential segregation of the Indian population, the Committee had before it the following Acts :

1. The Asiatic Land Tenure and Indian Representation Act, 1946 (No. 28 of 1946).
2. The Asiatic Land Tenure Amendment Act, 1949 (No. 53 of 1949).
3. The Group Areas Act.

35. The Committee noted that the General Assembly of the United Nations had dealt with this matter in the following resolutions : 44 (I) : Treatment of Indians in the Union of South Africa ; 265 (III), 395 (V) and 511 (VI) : Treatment of people of Indian origin in the Union of South Africa.

Compulsory Nature of Labour Contracts for Non-whites

36. In connection with this allegation the Committee had before it the following documents:

1. The Native Labour Regulation Act, 1911 (No. 15 of 1911).
2. The Native Laws Amendment Act, 1949 (No. 56 of 1949).
3. Regulations under Section 23 (1) of the Natives (Urban Areas) Act.

The Native Labour Regulation Act, 1911 (No. 15 of 1911).

37. Section 2 of the Native Labour Regulation Act contains the following definitions:

"Native" shall include any member of the aboriginal races or tribes of Africa;

"Native labourer" shall mean a Native employed upon any mine or works or recruited under this Act or a prior law for labour upon any mine or works;

"recruiting" shall mean the procuring, engaging or supplying, or the undertaking or attempting to procure, engage or supply, Natives for the purposes of employment in work of any kind within or outside the Union.

38. The Act contains a number of provisions designed to protect the Native against unscrupulous dealings by so-called labour agents. Section 14, subsections *(a)* to *(c)* and subsection (2) contain certain provisions which may be of interest in connection with the above-mentioned allegation. They read as follows:

14. (1) Any Native labourer who—

(a) without lawful cause deserts or absents himself from his place of employment or fails to enter upon or carry out the terms of his contract of employment; or

(b) wilfully and unlawfully does or omits to do anything the doing or omission whereof causes or is likely to cause injury to persons or property; or

(c) after having entered into an agreement of service whether oral or in writing with a labour agent or holder of an employer's recruiting licence and after having received an advance in respect thereof, accepts another advance from another labour agent or holder of an employer's recruiting licence in consideration of entering upon any other contract of service before he has completed his term of service under the first-mentioned agreement,

shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two months.

(2) In any proceedings under this section [any court or resident magistrate or Native commissioner or Native subcommissioner may try the offence and][1] a copy certified in the prescribed manner of any duly attested contract or other registered document evidencing the employment may be produced, and shall thereupon be *prima facie* evidence of the terms of the contract.

Section 15 lays down that—

Any employer who, save with the written consent of the Director, pays the whole or any part of the wages due to any Native labourer employed by him to any person other than such labourer, or who withholds wages from any Native labourer without reasonable

[1] The words in brackets have been deleted by Section 10 of the Native Laws Amendment Act, 1949.

and probable cause for believing that the wages were not really due, or who makes any deduction from the wages of any Native save as is provided by this Act or the regulations or by the order of a court of competent jurisdiction shall be guilty of an offence. The magistrate may, in addition to any penalty which he may impose, give judgment for the amount of wages so wrongfully withheld and for the costs of the proceedings and the judgment shall be of the same force and effect, and shall be executable in the same manner as if it had been given in a civil action duly instituted.

39. Section 18 also authorises the appointment of inspectors of Native labourers whose duty it is to enquire into and redress, if necessary... "any grievance complained of by Native labourers". According to Section 19, every such inspector is also empowered—

.....

(2) to enquire into and determine any case in which a Native labourer—

(a) neglects to perform any work which it was his duty to perform ; or

(b) unfits himself for the proper performance of his work by having become or being intoxicated during working hours ; or

(c) refuses to obey any lawful command of his employer or any person placed in authority over him ; or

(d) uses any insulting or abusive language to his employer or any person lawfully placed in authority over him ; or

(e) commits a breach of any rules prescribed for good order, discipline, or health on mines or works.

(3) On finding any Native labourer guilty of such offence as aforesaid or of a contravention of any regulation, to impose a fine not exceeding forty shillings, and for the purpose of recovering the same to notify the amount to the Native labourer's employer, who shall withhold the amount so notified from any wages due to or become due and pay it over for the benefit of the Consolidated Revenue Fund to such officer as may be appointed to receive it.

.....

The Native Laws Amendment Act, 1949 (No. 56 of 1949).

40. The Act substitutes the following definition for the one already quoted[1]:

"Native labourer" shall mean—

(a) a Native recruited for employment on, or employed or working on, any mine or works ; and

(b) a Native recruited for employment or employed in any occupation or any area or under conditions which the Minister may by notice in the *Gazette* declare to be an occupation in which or an area in which or conditions under which a Native so recruited for employment or employed shall be a Native labourer for the purposes of this Act provided at least three months' notice of his intention to publish such a notice has been given by the Minister by notice in the *Gazette* (Section 1 *(f)*).

41. The Act also amends certain provisions of the Native Labour Regulation Act, 1911 concerning the recruitment of Native labour by labour agents : Subsection (4) of Section 12, of the Native Labour Regulation Act, as amended, authorises such a labour agent to "enter into a contract with any Native recruited by him in terms of which such Native undertakes to enter the service of any unspecified member of the group of employers by whom such labour agent is

[1] See above, paragraph 37.

employed", and subsection (5) decides that "Any Native who has entered into such a contract ... who without lawful cause fails or refuses to enter the service of the member of such group of employers to whom he may be allotted by the said group or by any person lawfully acting on behalf of the said group shall be guilty of an offence and liable on conviction to a fine not exceeding ten pounds, or, in default of payment, to imprisonment with or without hard labour for a period not exceeding two months". Subsection (8) lays down that "Every Native labourer shall be registered to the person by whom he is to be employed".

Regulations under Section 23 (1) of the Natives (Urban Areas) Act.

42. Several sets of Regulations framed under Section 23 (1) of the Natives (Urban Areas) Act for the proclaimed areas[1] contain provisions concerning the contracts of employment of Natives. In each case, Section 5 (1) obliges employers to send Natives "to the registering officer and ... furnish the registering officer with full and correct information necessary for the recording of a service contract". In some cases, subsection (5) of Section 5 provides that the Native must retain a duplicate of his service contract during the continuance of his employment. This duplicate is to be endorsed every month by the employer as long as the contract is continued. As a general rule, the Native must produce this duplicate on demand to every authorised officer as evidence of the existence of the contract and, on termination of the contract, must return his duplicate to the registering officer for endorsement.

43. Section 8 contains the following provisions concerning breach of contract and the penalties prescribed therefor.

(8) Every service contract registered under these regulations shall be deemed a contract of service between the Native and his employer and any Native so registered shall be guilty of an offence if he—

(a) absents himself from the service of his employer with intent to desert before the term of his contract of service with the employer expires ; or

(b) while under contract of service to one employer knowingly enters the service of another employer ; or

(c) fails or refuses without lawful cause to commence the service at the stipulated time ; or

(d) without leave or other lawful cause absents himself during working hours from his employer's premises or other place proper for the performance of his work ; or

(e) unfits himself for the proper performance of his work by the use of any drug or intoxicant; or

(f) neglects to perform any work which it was his duty to have performed, or carelessly or improperly performs the same or refuses to obey any lawful command of his employer or of any person placed in authority over him or by any unlawful breach or neglect of duty does any act tending to the immediate loss, damage, or serious risk of any property placed by his employer in his charge, or uses any abusive, obscene, or insulting language at or to his employer or any person placed in authority over him.

[1] For examples, see the Regulations for the proclaimed area of Bloemfontein (Government Notice No. 1992, published in the *Government Gazette* of 5 Dec. 1924); Regulations for the proclaimed area of Heilborn (G.N. No. 1803, published in the *Government Gazette* of 23 Oct. 1925); Regulations for the proclaimed areas defined in Proclamation No. 202 of 1924 (G.N. No. 1547, published in the *Government Gazette* of 26 Sept. 1924, as amended by G.N. No. 199, published in the *Government Gazette* of 30 Jan. 1925); Regulations for the proclaimed areas defined in Proclamation No. 203 of 1924 (G.N. No. 1546, published in the *Government Gazette* of 26 Sept. 1924).

The presiding judicial officer may, if the employer so desires, make an order directing any Native convicted under this Section after having satisfied the sentence imposed upon him, to return to work and complete the term of his contract.

44. Section 14 contains provisions concerning Natives discharged from any gaol or convict prison in the proclaimed area and lays down that: "Every Native discharged from gaol shall at the option of his master be compelled to return and complete the terms of his engagement, unless the contract of service shall have been cancelled ... ".

45. Section 8 of the Registration Regulations[1] framed under Section 23 (1) of the Natives (Urban Areas) Act, 1923 (No. 21 of 1923), as amended, contain similar provisions to those quoted above in paragraph 43—

8. (1) Any Native whose contract of service has been registered, in terms of these regulations, shall be guilty of an offence if—

(a) during the subsistence of the contract of service he deserts from the service of his employer ; or

(b) while under contract of service to one employer he enters the service of another employer ; or

(c) he fails or refuses without lawful cause to take up his duties at the time stipulated in the contract ; or

(d) without leave or other lawful cause he absents himself during working hours from his employer's premises or other place proper for the performance of his work ; or

(e) during the subsistence of his contract of service, he renders himself unfit, by the use of any drug or intoxicant, for the proper performance of his work ; or

(f) he neglects to perform any work which it was his duty to have performed ; or

(g) he refuses or neglects to obey any lawful command of his employer or of any person placed in authority over him ; or

(h) by any wilful breach or neglect of duty he does any act causing or tending to cause the loss of or damage or serious risk to any property placed by his employer in his charge ; or

(i) he uses any abusive, obscene or insulting language at or to his employer, a member of his employer's household or family or any person placed in authority over him.

The court at the time of passing sentence, may, if the employer so desires, make an order directing any Native convicted in terms of this regulation, after having satisfied the sentence so imposed upon him, to return to work and complete his contract.

.....

Prohibitive Taxation as a Means of Securing a Contract Labour Force

46. No official documents have been laid before the Committee in connection with this allegation.[2] An unofficial publication[3] gives some information on such taxes. According to this publication " the Native poll tax, standardised at 20s. (for every adult male) must be paid in coin, and has powerfully influenced the supply of labour. There is also a local hut tax of 10s. per hut, imposed on the occupier of every dwelling in a Native location. " It is alleged that money to pay these taxes cannot be earned in the kraals so that large numbers must seek work temporarily in towns, mines and with farmers.

[1] Government Notice No. 460 published in the *Government Gazette* of 24 Mar. 1944.

[2] See, however, the document quoted above in paragraph 8 in connection with pass laws.

[3] *The Year Book and Guide to Southern Africa*, edited by A. Gordon-Brown for the Union-Castle Mail Steamship Co., Ltd., 1950 edition (London).

Use of Penal Laws to obtain a Supply of Africans for Work in Industry and Agriculture

*47. In connection with this allegation, the Committee had before it the following documents :

1. The Natives (Urban Areas) Consolidation Act, 1945 (No. 25 of 1945).
2. The report of the Penal and Prison Reform Commission, 1947, Chapter 10.

The Natives (Urban Areas) Consolidation Act, 1945 (No. 25 of 1945).

48. With regard to the first allegation in this connection[1], the following extract from Section 29 of the Natives (Urban Areas) Consolidation Act may be relevant :

29. (1) Whenever in any urban area or in any proclaimed area in terms of Section twenty-three any police officer or officer appointed under Section twenty-two has reason to believe or suspect that any Native within such urban area or proclaimed area—

(a) is habitually unemployed ; or

(b) has no sufficient honest means of livelihood ; or

(c) is leading an idle, dissolute or disorderly life ; or

(d) has been convicted of a contravention of subsection (1) of Section twenty-nine of the Native Administration Act, 1927 (Act No. 38 of 1927), or of any offence mentioned in the Third Schedule to the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), other than an offence against the laws for the prevention of the supply of intoxicating liquor to Natives or coloured persons ; or

(e) has been convicted of selling or supplying intoxicating liquor other than kaffir beer to a Native or of being in unlawful possession of any such liquor, or had been convicted more than once within a period of three years of selling or supplying kaffir beer to a Native or of being in unlawful possession of kaffir beer ; or

(f) is a female who, being prohibited under paragraph (3) of subsection (1) of Section twenty-three from entering any area for any purpose mentioned in that paragraph without the certificates prescribed by that paragraph, has entered that area for such a purpose without the said certificates, or, having entered the area, has failed to produce the said certificates on demand by an authorised officer ; or

(g) has been required under paragraph *(c)* or *(e)* of subsection (1) of Section twenty-three to depart from a proclaimed area and has failed to depart therefrom within the specified time or has returned thereto before the expiration of the specified period ;

he may without warrant arrest and bring that Native or cause him to be brought before a magistrate or Native commissioner, who shall require the Native to give a good and satisfactory account of himself.

(2) If any Native who has been so required to give a good and satisfactory account of himself fails to do so, the magistrate or Native commissioner enquiring into the matter may adjudge him to be an idle or disorderly person and may, by warrant addressed to any police officer, order—

(a) that he be removed from the urban area or proclaimed area, as the case may be, and sent to his home or to a place indicated by the Secretary for Native Affairs and that he be detained in custody pending his removal ; or

(b) that he be sent to and detained for a period not exceeding two years in a farm colony, work colony, refuge, rescue home or similar institution established or approved under section fifty of the Prisons and Reformatories Act, 1911 (Act

[1] See above, pp. 374-375.

No. 13 of 1911), or any amendment thereof, and perform thereat such labour as may be prescribed under that Act or the regulations made thereunder for the persons detained therein,

and that he do not at any time thereafter, or during a period specified in the warrant, enter any urban area or proclaimed area indicated in the warrant except with the written permission of the Secretary for Native Affairs.

(3) ...

(4) If any Native who has been removed from an urban area or proclaimed area under any warrant issued under paragraph *(a)* of subsection (2), or who has been sent to an institution under any warrant issued under paragraph *(b)* of that subsection, enters any urban area or proclaimed area in contravention of the order contained in the warrant, he shall be guilty of an offence, and shall, after he has paid any fine or served any period of imprisonment to which he may have been sentenced, be dealt with under a warrant to be issued in terms of paragraph *(a)* of that subsection by a judicial officer of the court which convicted him.

.....

Report of the Penal and Prison Reform Commission.

*49. With regard to the further allegation[1] that the effect of the procedure outlined " was to fill the prisons and to revive forced labour ", some extracts of the above-mentioned document are quoted below :

THE OVERCROWDING OF PRISONS AND GAOLS

530. The prisons and gaols in the large urban centres of the Union are gravely overcrowded. This state of affairs is largely due to the numbers of inmates serving short terms of imprisonment or awaiting trial. An analysis of the prison and gaol population of the Union on the 31st December, 1945, a day of the calendar year on which usually, the number of short-term prisoners is comparatively low, showed that on that day there were 20,093 convicted prisoners in the Union. Of this total 8,768 or 44 per cent. were serving sentences of under six months ; 4,837 or 24 per cent. under three months ; 2,176 or 11 per cent. from seven days up to and including one month ; and 42 or 2 per cent. under seven days. Statistics collected on a date selected at random, viz. the 4th March, 1946, showed that on that day, out of a grand total of 25,089 prisoners of all classes confined in the prisons and gaols of the Union, 3,783 were being detained awaiting trial, and 9,155 were prisoners with sentences under six months. Figures are not available of the numbers of prisoners with sentences from six to twelve months.

.....

OFFENCES FOR WHICH SHORT TERMS OF IMPRISONMENT ARE IMPOSED

532. To a considerable extent these short terms of imprisonment are imposed for contraventions of laws or regulations made or authorised by Parliament for breaches of rules of human conduct, *e.g.*, the liquor laws, the Natives (Urban Areas) Acts, the Native pass regulations, the Native location regulations, which are amongst the *mala prohibita* of the law and not the *mala in se*. Thus, in 1945, 35,560 persons were admitted to gaols under the liquor laws, the principal offences being drunkenness which contributed 17,537 and the illegal possession of liquor which contributed 13,360. In the same year, the total number of persons convicted by the courts under the liquor laws, many of whom, of course, did not go to gaol but paid fines, was 181,515, the principal offences being drunkenness which contributed 57,650 and the illegal possession of liquor which contributed 114,811. The number of non-Europeans admitted to gaols in 1945, for contraventions of Native pass laws, was 74,248, this being 11.1 per cent. of the total non-European convictions for all offences.

.....

[1] See above, p. 375.

FINE WITH ALTERNATIVE OF IMPRISONMENT

543. In the Union the almost universal practice, whenever a fine is imposed upon an offender, is to annex to the sentence an order that, in default of payment, the offender shall be imprisoned with hard labour for a period which the order specifies

.....

545. The figures given in the following table which is a summary of Appendix C indicate the numbers of prisoners admitted to the gaols at Johannesburg, Krugersdorp, Durban, Gemiston, Boksburg, Bloemfontein, Cape Town, Pretoria and East London during the period 1st January, 1945 to 30th June, 1946, with and without the option of fine, respectively:

Males

	Europeans		Coloureds and Indians		Natives		Total
	With option of fine	Without option of fine	With option of fine	Without option of fine	With option of fine	Without option of fine	
Number...	2,564	1,416	15,511	2,290	77,252	16,162	115,195
Per cent..	64.44	35.56	87.14	12.86	82.69	17.31	—

Females

	Europeans		Coloureds and Indians		Natives		Total
	With option of fine	Without option of fine	With option of fine	Without option of fine	With option of fine	Without option of fine	
Number...	252	72	2,758	382	13,829	1,429	18,722
Per cent..	77.78	22.22	87.83	12.17	90.63	9.37	—

The nine gaols mentioned form a representative cross-section for the Union. Collating men and women, of the total European admissions during the period stated, 65.42 per cent. were in default of payment of fines, of the Coloureds and Indians 87.24 per cent. and of the Natives 83.20 per cent. In these nine large gaols, in a period of 18 months 112,166 persons were admitted to serve sentences because they were unable to pay fines.

50. With regard to the second allegation in this connection[1], the following extracts from the Report of the Penal and Prison Reform Commission are given:

Hiring of Prison Labour.

883. Under the authority given by the provisions of Act No. 13 of 1911 and its Regulations, contracts have been entered into or agreements have been made from time to time by the Director of Prisons for the hiring of prison labour to the South African Railways and Harbours Administration, divisional and municipal councils and other public bodies, to gold mining and other companies and to private persons. The finding of suitable labour for large numbers of unskilled non-European male prisoners has presented a difficult problem, and the situation has only been relieved by the Prisons

[1] See above, pp. 375-376.

Department being able to enter into such contracts. Under these contracts some 4,000 long-sentence prisoners are usually employed.

884. At present the labour of non-European male prisoners is hired out under various forms of contract. These are detailed in the next succeeding paragraphs followed by the comments and recommendations of the Commission, the groups being distinguished for easy reference by an initial letter.

885. The following are the employers of prison labour :

(a) the South African Railways and Harbours Administration ;
(b) provincial authorities ;
(c) some divisional and municipal councils ;
(d) a few gold mining companies ;
(e) private business concerns ;
(f) farmers under contract ;
(g) certain six Constantia farmers under special agreement ;
(h) farmers at 6d. per prisoner per day ; and
(i) private persons.

(a) *South African Railways and Harbours Employment.*

886. Some 2,600 non-European prisoners, the majority of whom are serving long sentences, are supplied daily to the South African Railways and Harbours Administration....

(b) *Provincial Authority Employment.*

.....

888. Road camps have been established under Section 13 (2) of Act No. 13 of 1911, for the purpose of keeping Native male petty offenders from contact with bad characters in gaols. Short-sentence prisoners only are confined in these camps for employment by the Provincial Administration on road-making in the Witwatersrand and East Rand areas.

.....

(c) *Local Government Employment.*

890. From the Buffels River Outstation of the Bellville Prison, 150 prisoners per day are supplied to the Divisional Council of Caledon for employment in the construction of the Hangklip road....

(d) *Gold Mining Employment.*

891. Approximately 1,400 long-sentence non-European prisoners (450 of them serving the indeterminate sentence) are supplied daily to gold mining companies and are distributed as follows, viz :

From the Cinderella prison at Boksburg to—

(a) the East Rand Proprietary Mines—1,030 ;
(b) the Van Dyk Gold Mining Company—60.

From the Krugersdorp gaol to—

Gold Mining Companies in the Krugersdorp area—300.

.....

(f) *Hiring to Farmers under Contract.*

896. A system is in operation under which non-European first offender prisoners serving sentences of from one to two years, who are selected as suitable, are invited after completion of half their sentence to volunteer to take service with farmers, and if they elect to do so, they are released on licence on entering into a contract, approved by the magistrate of the district, to work for the remaining portion of the sentence as employees of the farmers at the locally prevailing rate of wages.

(g) *Constantia Farm Lock-ups.*

897. Under a special arrangement of many years' standing, certain six Constantia farmers employ between them a fluctuating total of about 150 prisoners per day, and have been permitted to house them at their own expense on their farms....

.....

(h) *Hiring of Prisoners to Farmers at 6d. per Day.*[1]

900. Since 1934 it has been the practice of the Prisons Department to hire out non-European male first offender prisoners undergoing sentences of under three months to farmers under a special arrangement of which the following are the conditions: The farmer is required to take the prisoner as a farm worker for the unexpired balance of his sentence on condition that he pays in advance to the Prisons Department at the rate of 6d. per day for each weekday of the sentence which has still to run. The prisoner is taken to the farm by the farmer who is expected to clothe and feed him, and on termination of sentence to provide him with transport to his home. The prisoner is generally not seen again by the gaol authorities unless returned by the farmer on account of any trouble, or unless he escapes and is recaptured or voluntarily returns to the gaol. He is not released from the balance of his sentence on taking service with the farmer. He is not consulted whether he desires the arrangement; nevertheless, as a result of it, he loses the right to remission of a quarter of his sentence for which he would have been eligible if, serving a sentence of twenty-eight days or more, he had remained in gaol. He receives no pay while working on the farm.

901. With exceptions in certain areas, the evidence indicates that this system has not worked satisfactorily. The prisoners are still legally under sentence of and nominally serving imprisonment, but they are generally out of control of Prisons Department officials, being in some cases very many miles away. In many cases distance precludes the responsible prison officers from satisfying themselves that the conditions of detention are satisfactory. Evidence has shown that not infrequently such prisoners desert and, on return to gaol, report unfavourable conditions of employment and treatment. Delay in the release of a prisoner on due date sometimes occurs owing to the difficulties in making contact with the farmer employer when the prisoner's fine or part of it has been paid by relatives or friends at the gaol from which the prisoner was sent out. Such a delay may involve the illegal detention of the prisoner for several days after acceptance of the money by the Prisons Department.

(i) *Hiring of Short Sentence Prisoners to Private Persons.*

902. There remains to be described the widespread practice throughout the Union of the hiring out of non-European hard labour prisoners to private persons by the day, at 2s. per unit per day, except on the Witwatersrand and in Vereeniging, where the rate is 2s. 6d. per day for unskilled labour. All such prisoners are sent out from the gaol or prison at 7 a.m. and return at 5 p.m. daily....

Recruitment of Labour in the Territory of Bechuanaland for Mines in the Union of South Africa

51. The reference of the representative of the World Federation of Trade Unions was apparently to the following passage:

The number of migratory labourers entering the Territory is negligible. Between 9,000 and 10,000 leave the Territory each year for employment in the mines in the Union of South Africa. This form of employment is regulated by the Bechuanaland

[1] In a report from the Government of the Union of South Africa to the I.L.O. on the Forced Labour Convention, 1930 (No. 29), reproduced on page 5 of the *Summary of Reports on Unratified Conventions and on Recommendations, 1950*, it is stated—

"The advisability of abolishing the practice of hiring convict labour to private companies and individuals has been the object of further study; however, the situation remains unchanged, and the Union of South Africa is accordingly unable to ratify the Convention."

Protectorate Native Labour Proclamation, 1941, which provides for the registration of labour recruiters, the conditions of registration, the maximum numbers to be recruited, the entering into a written contract with each employee specifying the condition of employment, the wages, the nature of the work, the period of the contract and the conditions of repatriation and the medical examination of recruits.

The conditions under which these employees work are governed by the laws in force in the Union of South Africa. All receive free food, housing and medical attention.[1]

52. According to the representative of the W.F.T.U., virtually the sole purpose of the territory is to supply labour for South African mines. The indigenous population numbered 290,000 according to the census taken in 1946, and the number of persons emigrating to South Africa in 1949 was 17,000, of whom four-fifths were working in the mines.[2]

Recruitment of Labour in the Territory of Mozambique for Mines in the Union of South Africa

53. A Convention concluded on 11 September 1928 between the Government of the Union of South Africa and the Government of the Portuguese Republic[3] regulates, *inter alia*, the emigration of Native workers from Mozambique to the Union of South Africa with a view to their recruitment in the gold and coal mines of the province of Transvaal.

54. Article III provides for the number of workers thus recruited to be reduced from 100,000 to 80,000 between 1929 and 1933. Article IV entrusts the recruitment, allotment and repatriation of such workers to an organisation (or organisations) duly approved by both Governments. Under Article V, recruitment can be carried out only by employees of such organisations, and the latter must obtain a licence which is subject to various conditions, among them the payment of a tax of £100 sterling and the deposit of a like sum as a guarantee. In Article VI, the Government of Mozambique reserves the right to prohibit recruiting for any mine the responsible staff of which has been guilty of breaches of the Convention. Under the terms of Articles VIII and IX, Portuguese Natives may not be recruited unless they are in possession of an identification card and a Portuguese passport, the fee for which is 10s. The employers, for their part, have also, according to Article X, to pay various fees. Article XI provides that if the total fees received by the Government of the Portuguese Republic amount to an average of less than 35s.[4] per year per Native recruited, the deficiency shall be paid by the mines. Under the terms of Article XII, employment contracts are for a period of not more than one year and may be extended for a further period of six months. Articles XIII and XIV lay down that after the first nine months, about half the earnings of the workers is to be retained by the mines and paid to them on their return to Mozambique. Article XVIII provides that all deductions from wages in respect of advances made to the workers by the mines shall be made during the first nine months of their employment. According to Article XXII—

No pass shall be issued by the Union Government to Portuguese Natives resident within its territories enabling them to travel to any country except Mozambique unless

[1] UNITED NATIONS : *Non-Self-Governing Territories. Summaries and Analyses of Information transmitted to the Secretary-General during 1948* (Lake Success, New York, 1949), p. 185.

[2] UNITED KINGDOM, Colonial Office : *Annual Report of the Bechuanaland Protectorate for the Year 1949* (London, H.M. Stationery Office), pp. 4-5.

[3] *The Union of South Africa Government Gazette*, 17 Sept. 1928, pp. 569 *et seq.*

[4] This sum was raised to 44s. by a supplementary agreement dated 17 Nov. 1934 revising the terms of the Convention, issued under Government Notice No. 1656 (*The Union of South Africa Government Gazette*, 21 Nov. 1934, p. 361).

they produce a written authority from the Curator, and all travelling passes enabling the Portuguese Natives to leave the Union shall be visaed by the Curator. No passes shall be granted to Portuguese Natives enabling them to travel from one province of the Union to another without the authority of the Curator.

Article XXVII provides for a Portuguese official to undertake at Johannesburg the duties of Curator for all Portuguese Natives resident in the Union. His duties include the collection of the fees and taxes provided for under the Convention, the issue or refusal of passports to Portuguese Natives, supervision of the allotment of workers to the different mines, attendance at enquiries in case of dispute, looking after the interest and welfare of the Portuguese Natives, arranging their repatriation and granting or refusing leave to visit Mozambique.

* 55. According to *The Year Book and Guide to Southern Africa* [1], this Convention, with some amendments, is still in force. It appears that, in 1940, the Portuguese Government agreed to raise the number of Native workers recruited for the mines of the Union of South Africa to 100,000, and that, on 31 December 1948, there were 116,483 workers from Portuguese territories in the mines of the Union of South Africa out of a total of 308,377.

56. In his book *An African Survey*, Lord Hailey wrote the following regarding such recruitment of labour :

> Natal, where the shortage of labour in the sugar fields constituted a special case, had resorted as far back as 1860 to the use of indentured Indian labour ; in 1896 the Portuguese Government authorised recruiting for the gold mines, and an agreement of 1901 between the two governments regularised the organisation of the recruiting agencies. The acute labour crisis in the mines after the South African War led in 1903 to the short-lived experiment of the importation of Chinese labour ; increased importance was attached to recruiting from Portuguese areas, and beginning with 1909 a series of conventions on the subject was concluded with the Portuguese Government. Though, of course, the Union cannot be held directly responsible for the fact, it is generally agreed that recruitment in Portuguese areas has involved some element of compulsion, though its exact degree is not easy to determine.[2]

SOUTH-WEST AFRICA

I. Allegations

1. Two allegations were made concerning South-West Africa in the course of the debates in the Economic and Social Council—

(a) The representative of *Poland* stated that " the Reverend Michael Scott, in a memorandum on South-West Africa addressed to the General Assembly, gave further facts concerning conditions of indigenous workers, which conditions approached slavery ".[3]

(b) The same representative also stated : " In addition, Natives had been subjected to compulsory labour in ... South-West Africa ".[4]

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[1] *Op. cit.*, pp. 292-293.
[2] *Op. cit.*, pp. 638-639.
[3] United Nations, Economic and Social Council, 8th Session, 244th meeting : *Official Records*, p. 173.
[4] *Idem*, 9th Session, 321st meeting : *Official Records*, p. 551.

II. Material Available to the Committee

2. The Committee collected a certain amount of documentary material relating to the allegations mentioned in Part I. This material is summarised below.

Memorandum submitted by the Reverend M. Scott to the General Assembly

3. In his first allegation, the representative of Poland was presumably referring to documents submitted by the Reverend Michael Scott and published under the title " Question of South-West Africa—documents submitted by the Reverend Michael Scott ".[1]

4. This publication contains the following chapters:

I. The tribes send their petition to the United Nations.

II. Letter dated 23 October 1948 from Chief Hosea Kutako and five other members of the Herero Tribe to the Secretary-General of the United Nations, together with attachments.

III. Statement to the United Nations dated 29 March 1948 by Chief David Witbooi of the Nama Tribe.

IV. Statement to the United Nations dated 24 July 1948 by eleven members of the Nama Tribe.

V. Statements pertaining to the dispossession of the tribesmen of their land.

VI. Statements pertaining to labour conditions on farms.

VII. Extract from the " Report of the South-West Africa Native Labourers Commission, 1945-1948 "[2].

VIII. South-West African referendum.

5. Some quotations from this publication are given below. In Chapter III (page 20) the petitioner, Chief David Witbooi of the Nama Tribe, comments on pass laws in the following terms:

Another important item is that the pass system must be eliminated from our country, South-West Africa.... Because we have been suffering since 1904 from this pass law, we ask that this law be done away with.

6. In Chapter IV (pages 20-21) the petitioners, eleven members of the Nama Tribe, declare, *inter alia*, that "between 1945 and 1948 conditions in the reservation became much worse ", so that the Natives were obliged to find work outside, especially in Dorpe " where they were employed at starvation wages, namely, 2s., 2s. 6d. per day, or were otherwise driven away without cause ". The petitioners also state that Natives found in the village without work were given a pass to look for work valid for six days. When the pass expired they had to leave the village.

7. With further reference to the pass laws these petitioners say—

One of the most oppressive laws in our country is the pass law.... Under this law we feel like slaves, for we are daily persecuted and oppressed under this law.

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[1] See United Nations document A/C.4/L.66.

[2] The Commission was appointed by the Government of South Africa under Government Notice No. 216.

8. Chapter VII (pages 29-34) which, as already stated, reproduces extra from the report of the South-West Africa Native Labourers Commission, contai certain data which may be relevant to this allegation. The Commission states connection with the supply of labourers and labour conditions in the Territory, th there is a shortage of labour in the farming industry ascribable chiefly to the growt of the farming industry and to the absorption of Native workers in the gold mines the Union. It further notes that the European urban population has increased a quotes an official estimate of 52,103 for the total number of Native male labourer employed in 1946 in the Territory. According to the Section "The Supply of Nati Labour" (pages 29-30), most of the male element of the local population, with possible exception of the Herero tribe, is fully employed. The Commission sta that, according to the 1946 figures, no fewer than 5,000 to 6,000 extra-territori Natives, mainly from Angola, were recruited in order to satisfy the Territory labour requirements. In the Section "Labour Conditions in the Territory" (pa 31), the Commission further observes that "it would not be overstating the ca to say that the Natives of South-West Africa are unanimous in their criticism the low wages paid to farm labourers and that there is a strong body of criticism the bad housing conditions and unsatisfactory feeding on many farms".

9. In its conclusions (page 34) the Commission stresses the gravity of the labo problems which will face the country should the European population refuse carry out the reforms which the Commission advocates. Insufficient wages a one of the reasons mentioned by the Commission for the reluctance of Nati labourers to accept work on farms. The Commission also states that it does attempt to describe the hardship and ill-treatment of labourers, of which, it observe there are several authenticated cases.

10. In Chapter VI (pages 27-29) another petition alleges that when workers a ill-treated by their master they have to ask for a pass to go to the police if they wi to complain. It is alleged that this pass is usually refused and if the indigenou worker goes to the police to complain without a pass he will be gaoled and will la have to go back to his master.

Compulsory Labour of Natives in South-West Africa

11. With regard to the second allegation quoted above, the Committee ex mined the reply of the Government of the Union of South Africa to the Trusteesh Council's questionnaire on the report to the United Nations on the Administrati of South-West Africa for the year 1946.[1]

12. Certain relevant extracts from this document are given below.

13. In reply to Question 26 *(b)* "What are the 'legal provisions' refer to in paragraph 68 ?", the Government stated (pages 74 and 96-97)—

The "legal provisions" referred to in paragraph 68 of the report read a follows :

Proclamation 34 of 1924

.....

16. (1) Whenever in any urban or in any proclaimed area in terms of Section eleve any police officer or officer appointed under Section ten has reason to believe or susp that any Native within such urban area or proclaimed area—

[1] United Nations document T/175.

(a) is habitually unemployed ; or

(b) has no sufficient honest means of livelihood ; or

(c) is leading an idle, dissolute or disorderly life ; or

(d) has been convicted of a contravention of subsection (1) of Section twenty of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), or of any offence mentioned in the Third Schedule to the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917) of the Parliament of the Union of South Africa, as applied to this Territory by the Criminal Procedure and Evidence Proclamation, 1919 (Proclamation No. 20 of 1919) other than an offence against the laws for the prevention of the supply of intoxicating liquor to Natives or coloured persons ; or

.....

(g) has been required under paragraph *(j)* of subsection (1) of Section eleven to depart from a proclaimed area and has failed to depart therefrom within the specified time or has returned thereto before the expiration of the specified period ;

he may bring that Native or cause him to be brought before a magistrate or Native commissioner, who shall require the Native to give a good and satisfactory account of himself.

(2) In the event of any Native so required to give a good and satisfactory account of himself failing so to do, the magistrate or Native commissioner enquiring into the matter may order that he depart from the urban area or proclaimed area as the case may be and proceed to the place to which he belongs, or to a specified Native reserve and that he do not return to the area from which he is ordered to depart within a period specified in such order and shall not during the time to be specified in such order enter any other urban area or proclaimed area.

14. The Government also quoted from " Regulations for the control and protection of Natives in proclaimed areas (pages 118-133) ". Sections 6 (3), 12, 13 and 14 of these Regulations, which are given below, deal with service contracts—

6. (3) ... No contract of service for any longer term than one year from the date fixed for the commencement of the service stipulated for by such contract, other than a contract attested under Sections six or thirteen of the Masters and Servants Proclamation No. 34 of 1920 shall be registered under these regulations and no contract of service not registered shall be valid or binding upon the parties.

Every service contract registered under these regulations shall be deemed a contract of service between the Native and his employer and any Native so registered shall be guilty of an offence if he—

(a) absents himself from the service of his employer with intent to desert before the term of his service contract with the employer expires ; or

(b) while under contract of service to one employer knowingly enters the service of another employer ; or

(c) fails or refuses without lawful cause to commence the service at the stipulated time ; or

(d) without leave or other lawful cause absents himself during working hours from his employer's premises or other place proper for the performance of his work ; or

(e) unfits himself for the proper performance of his work by the use of any drug or intoxicant ; or

(f) neglects to perform any work which it was his duty to have performed, or carelessly or improperly performs the same or refuses to obey any lawful command of his employer or of any person placed in authority over him or by any wilful breach or neglect of duty does any act tending to the immediate loss, damage or serious risk of any property placed by his employer in his charge, or uses any abusive, obscene or insulting language at or to his employer or member of his family or to any person placed in authority over him.

The presiding judicial officer may, if the employer so desires, make an order directing any Native convicted under this regulation, after having satisfied the sentence imposed upon him, to return to work and complete the term of his contract to which shall be added any period lost by reason of desertion, trial proceedings, or sentences served in respect of any convictions for offences under this regulation; and if any such Native shall fail to comply with such order he shall be guilty of an offence.

.....

12. Every Native who desires to be a daily labourer or to follow any occupation or calling by which he is not under any contract of service shall apply to the registering officer who may, provided he is satisfied that such Native has obtained accommodation approved by the local authority, furnish such Native with a service contract which shall be filed in the office of the registering office. Such Native shall pay the fees referred to in Regulation six (of these regulations) in respect of such contract and shall be given a duplicate service contract which he shall produce on demand to any authorised officer. The registering officer may at any time order such Native to find employment under a contract of service and such Native shall thereupon comply with the next succeeding regulation, or leave the proclaimed area.

13. Every Native in the proclaimed area on being discharged from the service of his employer or on discharge from imprisonment shall within twenty-four hours report to the registering office, and shall thereupon become subject to the provisions of Regulation one of these regulations.

14. Every Native who shall have been discharged from any gaol or convict prison in the proclaimed area shall be sent by the officer in charge thereof to the nearest registering officer with a letter of discharge which shall state the nature of the offence for which he was punished and the term of imprisonment he has served and any Native convicted of a criminal offence for which a fine was imposed and paid shall be sent by the clerk of the court before which he was convicted to the registering officer with a similar letter of discharge. Every Native discharged from gaol shall at the option of his master be compelled to return and complete the term of his engagement to which shall be added any period lost by reason of his confinement in gaol, unless the contract of service shall have been cancelled under the provisions of Regulation ten of these regulations—and any Native failing so to return after having been required by the registering officer so to do shall be guilty of an offence.

15. Question 28 reads as follows (page 167):

(a) Would the Government of the Union of South Africa explain what laws and regulations govern the recruitment of South-West African labourers for work on the mines and farms in South-West Africa or in the Union of South Africa ?

(b) What are the prevailing rates of wages and conditions of work for such labourers in both areas ?

(c) What are the terms of the contract under which such labour is indentured for employment in the Union of South Africa ?

(d) To what extent is there labour migration both within and beyond the Territory ?

(e) Is it the Government's policy to encourage migrant labour ?

The following passages appear in the reply:

(a) *South-West Africa : Laws and Regulations Governing Recruitment.*

... In so far as mines are concerned recruitment is governed by certain provisions of the Mines and Works Regulations.

These Regulations, it is stated, contain various safeguards for the Native labourer; they require him to have reached a minimum age; to be medically exam-

ined, to hold a written contract of employment and to be assigned to work corresponding to his physical condition (pages 167-169).

(c) *Contract of Labourers Employed in the Union.*

The contract specifies that the recruit is to proceed immediately under the aegis of the Witwatersrand Native Labour Association Limited to its depot in Johannesburg and there to remain until placed in mining work ; that if passed as medically fit for mining work the recruit is entered immediately upon mining work ... for a period of 330 shifts at the rates mentioned hereafter, plus food as prescribed by Government regulation, medical attention and quarters free of cost ; that the recruit may re-engage for a further 165 shifts ; that on completion of the contract period the recruit is to be returned to Grootfontein, South-West Africa, by means of the transport provided by the said Association ; that after the first 165 shifts and during any period of re-engagement deferred pay at the rate of ½d, per shift is to be retained and paid out at Grootfontein, S.W.A., or some other point on completion of the contract (page 173) ....

(d) *Labour Migration.*

(i) *Within the Territory.* An average of 8,210 Natives from Ovamboland and the Okavango Native Territory came to work on mines and farms in the police zone annually during the past three years.

It is estimated that approximately 500 Natives from the Native reserves in the police zone took up work in the urban areas or with the railways during the past year.

A minimum number of 3,000 extra-territorial and northern Natives are to be sent to the Rand Mines annually while the Agreement mentioned in paragraph 114 of the report remains in force.

In addition numbers of northern Natives are now making their way through the Okavango Native Territory and are being recruited at Mohembo in the Bechuanaland Protectorate by the Rand Mines.

(ii) *Beyond the Territory.* A very limited number of coloured people and Natives are permitted to enter the Territory from the Union on temporary permits to take up work as domestic servants (pages 176-177).

16. In reply to Question 29, concerning international labour Conventions ratified and applied to South-West Africa, the Government stated that none of these Conventions were applied in the Territory (page 178).

17. Question 35, which concerns the Masters and Servants laws, reads as follows (page 188) :

(a) Would the Government of the Union of South Africa explain the nature of the Masters and Servants laws ?

(b) How many masters and how many servants are included in the large number of convictions referred to ?

(c) What are the types of offences committed in this category ?

(d) When Africans are imprisoned under the Masters and Servants laws, can the mines hire them as convict labour ?

Extracts from the reply are given below—

(a) ... A servant for the purposes of that Law [Masters and Servants Law] means any person employed for hire, wages or remuneration to perform any handicraft or other bodily labour in agriculture, manufactures, industries, building and other like employment and as a domestic servant, boatman, porter or in any other occupation of a like nature, but not as a clerk, shop assistant, printer and the like, or if indentured or bound by any contract of apprenticeship or if engaged on piece work. " Servant "

also means any Native employed for hire, wages or other remuneration of any kind ... work by the Government, any local authority or any person engaged under contract ... construct a line of railway or harbour works.

.....

The next chapter [of the Law] specifies acts or omissions on the part of servants which shall constitute offences and are punishable in a magistrate's court if the offender is convicted.

These offences are as follows :

(1) Failing or refusing to commence service under a contract.

(2) Absenting himself during the operation of any contract without leave or other lawful cause.

(3) Rendering himself unfit through intoxication for work.

(4) Neglecting to do his work or performing his work negligently or carelessly.

(5) Making use without leave of his master's property.

(6) Refusing to obey his master's lawful orders.

(7) Making a disturbance on his master's premises—

(8) Using abusive, insulting or threatening language or action to a master or his family.

A second conviction within six months renders the offender liable to a heavier punishment, as does a second conviction within twelve months.

A further list of punishable offences is as follows :

(1) If a servant by wilful breach or neglect of duty or through drunkenness—

(a) does any act tending to the immediate loss, damage or serious risk of any property of his master; or

(b) refuses or omits to preserve in safety any property of his master committed to his charge.

(2) If a servant being a herdsman—

(a) fails to report the death or loss of animals ;

(b) fails to preserve parts of dead animals unless he can prove their deaths satisfactorily ; or

(c) loses stock irrevocably by his own act or default.

(3) If a servant, not being a herdsman, loses his master's property.

(4) If a servant deserts.

.....

Other provisions lay down that a servant must return to his master's service after completing a term of imprisonment unless his contract of service is cancelled ; that the period for which a servant is unlawfully absent or for which he is imprisoned for contraventions of the provisions of that law must be added to the term of his service ; that a servant can be ordered to pay compensation for losses and, in default of payment, punished ; that a master may obtain cancellation of a contract with a servant convicted of any offence under that law ;... that a servant whom there is reasonable cause to suspect of having committed an offence may be arrested by the police or ordered by a master to proceed with the latter in order to be tried and may be punished if he refuses to do so ; that a complainant who fails to be present on the day set down for investigating the complaint shall pay the other party's expenses ; ...

Another chapter relates to characters given by masters to servants and apprentices and lastly there is one dealing with the constraints of masters, servants and apprentices (pages 188-193).

(b) The number of masters and the number of servants included in the convictions under the Masters and Servants Law mentioned in paragraph 295 of the report are as follows : masters, 25 ; servants, 2,100 (page 193).

(c) ... In the cases of servants the offences were mostly absence without leave, refusal to obey lawful orders and desertion. There were a few cases of using bad language,

being intoxicated during work, negligence, and assaulting of employers. Practically all the cases, whether they were against the masters or the servants, were of a petty nature (page 193).

(d) The mines cannot hire as convict labour Natives who are imprisoned in the Territory of South-West Africa under the Masters and Servants Law (page 193).

18. Question 36 concerns the use of convict labour by private persons, companies, etc. (page 194). The Government reply includes the following statement :

It is the policy of the Government to employ all convict labour on public works. Municipalities are allowed to employ surplus convicts for street making, etc. In rare instances Government officials stationed at Windhoek, who are occupying Government houses, are allowed to employ a few convicts for the purpose of improving Government property (when prisoners are available).

It is, however, the practice at small gaols in the Territory to hire out hard labour convicts occasionally to private persons when the Administration is not able to provide work for them.

During the year under report the firm, L. A. Steens, which is under contract to the Administration, was supplied with 10,490 units of convict labour at the rate of 1s. 6d. per unit per diem....

Comments and Observations of the Government of the Union of South Africa

Union of South Africa

Prior to receipt of the reply of the Government of the Union of South Africa to the Committee's letter of 22 November 1952, the following letter, dated 13 December 1952, from the Acting Secretary of Labour of the Union of South Africa, and accompanying memorandum, were transmitted to the Committee :

With reference to the joint U.N.-I.L.O. press release of 16 October 1952 (No. ECOSOC 541/IS/102), dealing with allegations made by Mr. C. W. W. Greenidge at sittings of the Joint I.L.O.-U.N. Committee on Forced Labour, I am directed to forward the enclosed statement prepared by the Department of Prisons designed to correct the erroneous impression still prevailing in regard to the Union Government's policy in respect of farm prison outstations.

It will be appreciated if you will lay this statement before the Joint I.L.O.-U.N. Committee at the earliest opportunity.

Farm Prison Outstations

The Department of Prisons has for long been faced with a difficult problem in the detention of non-European prisoners in its prisons and gaols. The European can normally be employed within the precinct of the prison on work connected with some trade of other, but the non-European, who is largely of the unskilled labourer type, cannot be employed in this way. Furthermore, he is accustomed to an outdoor existence—this applies particularly to the Native—and his detention is greatly aggravated if he should be confined within the walls of a prison and his day not fully occupied.

In the Union of South Africa, therefore, it is necessary to employ the Native as much as possible on outdoor labour to which he is accustomed, and this makes

him a much more easy subject to handle during his period of incarceration. It has therefore, become a common practice to utilise non-European prison labour for certain Government services for which ordinary manual labour is required and to make teams available to outside employers for gardening work, farm work and other forms of casual ordinary manual labour.

The Prisons Department controls 197 prisons and gaols throughout the Union, many of which are centred in the smaller towns and villages. The larger prisons and gaols were originally located in the large urban centres, where the incidence of crime is at its greatest. With the tremendous influx to the cities of the Native rural population, to participate in the rapid industrial development and the problems of adjustment to the new environment, it naturally followed that the incidence of crime was greater in the centres mentioned, and this led to the overcrowding of the large urban prisons and gaols.

During the period of the last world war very little money was made available for the erection of new prisons and gaols, with the result that the facilities which were deemed sufficient some 12 years ago are now inadequate to handle the prison population. The Department was consequently forced to relieve the congestion in the prisons in the large urban centres by transferring prisoners to the smaller gaols in the country, from where certain classes of prisoners were made available to employers of manual labour, under the control of the Department's officers.

During 1947 the Department was approached by a poultry farmer in the Western Province, who proposed to construct accommodation satisfactory to the Department in which prisoners could be housed and which would be under the direct control and direction of the Department and its officers, and he would then employ the prisoners as labourers in connection with his farming activities. This was agreed to as an experiment and, as the results were satisfactory, the Department considered further applications from farmers in the districts of Bethal, Middleburg (Transvaal), Witbank, Ermelo, Kroonstad and Paarl. The area comprising these districts represents the country's highest food producing centres and, as labour was extremely short and there was therefore no competition with other labour offering, it was decided to approve of these applications. The Department required that an association of farmers should be established; that such an association should construct at its own cost buildings which were in accordance with plans and specifications laid down by the Department, and a proper contract was entered into with the associations determining the basis on which these prison outstations should be run and the conditions under which the Department could make prisoners available and terminate the contract. On completion of the buildings they are handed over to the Department, which then places its own officers in charge, and the farmers' associations have no say whatsoever in the administration of the prison outstations. All the provisions of the Prisons Act and the Regulations framed thereunder apply to these prison outstations, and the prison labour is made available to the farmers at the same tariff applicable to prison labour hired out to employers in the urban areas. The Department also requires that the conveyance of stores to the outstations be made by the associations, as also the daily conveyance of prisoners by lorries to and from their places of employment on the various farms. As stated earlier, the farmers' associations have no say whatsoever in regard to the running of the outstations, and any irregularities committed by the employers in dealing with the prisoners can result in their expulsion from the association or in the closing of the outstations. The labour teams are sent out to work under the control of the Department's warders, assisted in some instances by special Native warders engaged by the farmers. The hours of work conform to those laid down in the Regulations.

With this system the Department achieves three objectives: first, the

employment of non-European prisoners in a congenial occupation; secondly, relieving the congestion in its large urban prisons and gaols; and thirdly, removing the Native from the environment which led to his downfall. Cases have already come to the Department's notice where the prisoners, on discharge, have engaged themselves to the farmers on whose farms they had worked as prisoners.

The supervision of these outstations is vested either in specially appointed Superintendents of Prisons or in the Magistrate of the district, and the Department's own Inspectors of Prisons periodically visit the outstations. The District Surgeon regularly attends there as is required by regulation.

In conclusion, there is one aspect of this matter which requires special emphasis: in a certain section of the press, as well as by some uninformed individuals, it has been stated that passless Natives and those who fail to pay tax are transported to these outstations to provide the farmer with cheap labour. This is emphatically not the case. The only prisoners transferred to the outstations are those who have received sentences ranging from six months upwards for serious offences, and they comprise a large percentage serving sentences of up to ten years.

The *Ad Hoc* Committee on Forced Labour has received the following letter, dated 26 February 1953, from the Secretary for External Affairs of the Union of South Africa.

In your letter of 22 November 1952, transmitting summaries of allegations regarding the existence of forced labour in the Union and South-West Africa, you emphasised that at the present stage of its work the *Ad Hoc* Committee on Forced Labour had come to no conclusions either on the relevancy of the allegations or on the evidential value of the information and documentary material referred to in the summaries.

In order to assist the Committee in making its assessments, I submit the following comments:

Relevancy of the Allegations.

It is noted that the terms of reference of the *Ad Hoc* Committee were laid down in the Economic and Social Council's Resolution 350 (XII) as follows:

(a) 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;

(b) to report the results of its studies and progress thereon to the Council and to the Governing Body of the International Labour Office.

At its First Session, the Committee interpreted its terms of reference as including a survey, and thereafter a study of systems of forced labour. According to your letter, such systems of forced labour were alleged to take two forms, viz:

(1) for corrective purposes, *i.e.*, to correct the political opinions of those who differed from the ideology of the Government of the State for the time being, those persons being sent to prison camps for varying periods in order to enable the authorities to correct their political opinions and during detention being obliged to perform certain services;

(2) the second form was exemplified where persons were obliged involuntarily to work for the fulfilment of the economic plans of a State, their work being of

such a nature as to lend a large degree of economic assistance to the State in carrying out such economic plans.

It is submitted that the question of the relevancy of allegations against States should be decided in the light of *(a)* the terms of reference of the *Ad Hoc* Committee, and *(b)* interpretation of these terms as outlined above.

As mentioned in document No. E/AC.36/11, of 9 May 1952, the Union in reply to the Committee stated that no such systems exist in the Union.

As the Committee is aware, communism has been outlawed by the Suppression of Communism Act, 1950 as amended by Act No. 50 of 1951.[1] Under the Act the propagation of the doctrine of communism is a criminal offence, and persons guilty of an offence under the law are liable to imprisonment in the same manner as persons guilty of other offences—for example, fraud or theft or participating in an unlawful lockout. There is, however, no suggestion of any attempt being made to influence the political opinions of any offender while he is serving his sentence. Any such practice is entirely foreign to the penal system operating in the Union of South Africa or South-West Africa.

It is only because communism and the propagation thereof are designed to undermine the authority of the State and overthrow democratic government that it is necessary to take legal steps to deter agents. The number of convictions have been so insignificant that it could not conceivably be suggested that it plays any part at all in the economy of the country, as envisaged in the Committee's terms of reference.

None of the allegations, if examined in the light of the Committee's mandate, can be regarded as relevant to the question under examination. Comments are nevertheless offered in the annexure to this letter on the main headings of the allegations, in an effort to show how misleading it can be if certain aspects of legislation are extracted and divorced from the over-all pattern to which they belong and if no indication is given of the aims underlying them. The Union Government do not, however, recognise any obligation to furnish explanations in future on matters falling outside the terms of reference of the *Ad Hoc* Committee. Furthermore, these explanations are furnished because of the clear indication in your letter of 22 November 1952 that the Committee has come to no conclusions either on the relevancy of the allegations or the evidential value of the information received.

No comments are offered on the allegations concerning the political rights of non-whites or the residential segregation of the Indian population, since these political questions obviously have no connection whatsoever with the question under investigation.

The Pass Laws

The system of laws, known as the " pass laws " and now repealed by the Natives (Abolition of Passes and Co-ordination of Documents) Act, 1952, was not employed, as alleged, to furnish Native labour to European employers or to compel Natives to remain where they worked. The system was originally intended as, and in fact constituted, a protection to numbers of illiterate and unsophisticated beings, almost all of whom could speak only a Bantu language and who, as a result of economic circumstances, were required to leave the safety and tranquillity of their homes in the tribal reserves to seek employment in the complex and " foreign " environment of the towns and cities of the Union.

When the European landed in Southern Africa the Bantu people were settled in the eastern half of the country in those areas which today, in the main, constitute the Native reserves and have been set aside, in perpetuity, for occupation by the

[1] See below, pp. 423-425.

Bantu. As a result of the introduction of a money economy, the Bantu, in common with the rest of mankind, were required to work for their living and, as was only natural, they sought employment in the progressive and developing European areas. In course of time a passport system was evolved for the Natives, not with the intention of controlling the movement of work-seekers in the European areas, but purely for identification purposes. This position persisted until fairly recent times. The vast majority of the workers was still domiciled in the Native reserves, emerging from time to time to work in the industries and towns of the Europeans. Since the First World War, however, and particularly during the past two decades, there has been a phenomenal expansion, almost a revolution, in industry in the Union which has brought in its wake a mass migration of the Bantu population into the European areas. This resulted in overcrowding and unemployment and, as a further consequence, a serious decline in the health of the population and an increase in crime. Faced with these extraordinary conditions, the Government had no alternative but to convert the already existing passport system into a means of controlling, and often of preventing, the movement of the Bantu people towards the towns. Methods had also to be devised of alleviating the position in the towns themselves. The registration of contracts of employment was made compulsory, curfews were imposed, idle and undesirable persons were expelled from the towns, in fact every possible avenue of consolidating the position and of stopping any further influx into the towns was explored.

Collectively these control measures became known as the " pass laws ". They were, as they were intended to be, onerous in certain respects, but no one with full knowledge of the facts could regard them as unreasonable or unnecessary. In the meantime, however, large numbers of the Bantu had themselves advanced along the road of progress, had become educated and persons of substance. For them the pass laws were no longer a form of protection. The law recognised this fact and provided for exemption from the pass laws on a generous scale. Members of certain professions or classes (*e.g.*, teachers, lawyers, medical practitioners, social workers, registered voters, ministers of religion, public servants, owners of immovable property) were *de jure* exempt. Others qualified for exemption on purely education grounds or, if they had no education, on the strength of faithful service with any one employer for a period of from three to seven years. In all, close to half a million Natives were exempt or exempted from the pass laws.

Later it became apparent that, as a result of the various control measures, unexempted Natives were being required to carry a multiplicity of documents on their persons. The matter received the attention of various official commissions, but it was not until the Government decided in 1950 to compile a register of the population of the Union and to issue identity cards generally that a solution presented itself. This led to the passing of the Natives (Abolition of Passes and Co-ordination of Documents) Act, 1952, which provides for the issue of a reference book to every Native. This will contain the holder's identity card as well as other essential particulars (*e.g.*, particulars of employment contract, tax receipts, etc.). What is more important, however, is that the holder of a reference book is exempt from the pass laws which, in any event, are deemed to be abolished. The issue of reference books is now proceeding and it is hoped to complete the issue to adult male Natives within the next two years.

Compulsory Nature of Labour Contracts for Native Labourers

In terms of the definition of " Native labourer " in the Native Labour Regulation Act, 1911 (No. 15 of 1911), only those Natives who are recruited for employment or are employed or working on any mine or works (*i.e.*, a place where machinery

is used) are at the present time " Native labourers " for the purposes of the Act.

The total Native labour potential of the Union is 3,500,000, including manpower from extra-Union sources. Of this, approximately 500,000 Natives are employed on mines and works and are thus " Native labourers ". Except perhaps for a very small percentage, these are persons with little or no education, speaking one of a dozen different vernaculars, with strong tribal affiliations, mostly migratory unskilled workers, whose domicile is outside the Union. They have no conception of the binding nature of civil contracts or of the exigency of process of court. They have no fixed place of abode in the Union other than the compounds in which they are accommodated by their employers who, it may be mentioned, are legally obliged to arrange for their repatriation at the conclusion of their contracts. If, therefore, the penal sanctions provided by law for any breach of contract were to be abolished—if, for instance, any Native were to desert—the employer would be completely helpless. Even if he were able to locate the deserter, which is unlikely, he would have no means of detaining him, short of having him arrested *suspectus de fuga*, in order that the necessary process of the civil courts might be served on him. For these reasons it would indeed be foolhardy for any Government to consider the abolition of the sanctions provided by Act No. 15 of 1911.

Native Taxation

Under the Native Taxation and Development Act, 1925 (No. 41 of 1925) each adult male Native in the Union is required to pay a general tax of one pound per annum and, if he is domiciled in a Native reserve, a local tax of 10s. per annum for each hut occupied by a wife or wives. In practice he pays 10s. for each wife irrespective of the number of huts which they occupy, up to a maximum of two pounds per annum.

No provincial taxes may be imposed on the person, land, habitation or income of a Native, but if he pays income tax (the tax payable by persons of all races if their income exceeds a specified amount) he is exempted from the payment of general tax.

The allegation that Natives must seek work solely in order to pay their taxes is completely untrue. They have to work for their daily bread in common with the rest of mankind, and, as opportunities of employment inside the reserves are limited and as all cannot be full-time agriculturists even in those areas where the soil is reasonably productive, they proceed voluntarily to employment in the industries and occupations in the towns and cities and on the farms of the Union. Relatively speaking few of the Natives of the Union are recruited for employment (*i.e.*, become part of a contract labour force), as they prefer to offer their services in those occupations where wages are paid entirely in cash, rather than partly in kind or in invisible benefits (*e.g.*, food, lodgings, medical care). If it were not for this tendency there would, in fact, be no necessity for the gold and coal-mining industries, which rely almost entirely on " contracted " labour, to look to extra-Union sources for their Native manpower.

The Natives in the Union practise polygamy, a handsome bride-price being payable, in the shape of cattle, for each wife. There can be no doubt that the necessity of procuring the requisite number of cattle provides a powerful incentive for their having to proceed to employment outside the reserves. Under tribal conditions, moreover, most of the work in the reserves, except in so far as tending cattle is concerned, is performed by the women-folk.

As regards the suggestion that a tax of one pound per annum is prohibitive, it may be mentioned that of this amount one-fifth accrues to the South African

Native Trust Fund (which is administered solely for the benefit of the Natives) and the remaining four-fifths to the Central Government on the understanding that the Central Government will provide the necessary finances for Native education. Despite the fact that during the year 1952 general tax amounting to slightly less than £1,750,000 was collected, of which £1,400,000 accrued to the Central Government (it receives no other contribution from the Natives in direct taxation, apart from an insignificant amount of income tax) almost £8,000,000 was made available for Native education during the financial year 1951-1952. This in itself is adequate proof that the general tax is not prohibitive.

In 1952 local tax to the amount of £265,000 was collected, all of which was, in terms of the law, devoted to services or benefits for the Natives.

The general tax was fixed at one pound per annum in 1925 and has not since then been increased, while the average income of Natives has more than doubled itself since 1925.

Natives, together with the rest of the population, contribute indirect taxation such as the excise duty on the cigarettes they purchase and the Customs duty on any imported articles they acquire, but it is clearly impossible to assess what amounts, as a race, they contribute in this manner.

Utilisation of Penal Laws for the Supply of Africans for Work in Industry and Agriculture

The Natives (Urban Areas) Act.

The quotation in paragraph 48 of the document transmitted by the Chairman of the *Ad Hoc* Committee on Forced Labour is from Section *twenty-nine* of the Natives (Urban Areas) Consolidation Act No. 25 of 1945. This Section was repealed and a new Section was substituted in place thereof by Section *thirty-six* of the Native Laws Amendment Act No. 54 of 1952.

The new Section reads as follows :

Manner of dealing with idle or undesirable Natives.

29 (1) Whenever any authorised officer has reason to believe that any Native within an urban area or an area proclaimed in terms of Section *twenty-three*—

(a) is an idle person in that—

(i) he is habitually unemployed and has no sufficient honest means of livelihood ; or

(ii) because of his own misconduct or default (which shall be taken to include the squandering of his means by betting, gambling or otherwise) he fails to provide for his own support or for that of any dependant whom he is legally liable to maintain ; or

(iii) he is addicted to drink or drugs, in consequence of which he is unable to provide for his own support or is unable or neglects to provide for the support of any dependant whom he is legally liable to maintain ; or

(iv) he habitually begs for money or goods or induces others to beg for money or goods on his behalf ; or

(b) he is an undesirable person in that he—

(i) has been convicted of an offence mentioned in the Third Schedule to the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), other than an offence against the laws for the prevention of the supply of intoxicating liquor to natives or coloured persons ; or

(ii) has been convicted of selling or supplying intoxicating liquor other than kaffir beer, or of being in unlawful possession of any such liquor, or has been convicted more than once within a period of three years of selling or supplying kaffir beer or of being in unlawful possession of kaffir beer ; or

(iii) has been required under paragraph *(c)* of subsection (1) of Section *twenty-three* to depart from a proclaimed area and has failed to depart therefrom, or having been required under paragraph *(e)* of that subsection to depart from such an area has failed to depart therefrom within the period specified in terms of that paragraph or has returned thereto before the expiration of the period so specified ; or

(iv) being a female prohibited under paragraph *(d)* of subsection (1) of Section *twenty-three*, from entering any area for any purpose mentioned in that paragraph without the certificates prescribed in that paragraph, has entered that area for such a purpose without the said certificates or having entered the area, has failed to produce the said certificates on demand by an authorised officer,

he may, without warrant arrest that Native or cause him to be arrested and any European police officer or officer appointed under subsection (1) of Section *twenty-two* may thereupon bring such a Native before a Native commissioner or magistrate who shall require the Native to give a good and satisfactory account of himself.

(2) If any Native who has been so required to give a good and satisfactory account of himself fails to do so, the Native commissioner or magistrate enquiring into the matter shall declare him to be an idle or an undesirable person, according to the circumstances.

(3) If a Native commissioner or magistrate declares any Native to be an idle or undesirable person, he shall—

(a) by warrant addressed to any police officer order that such Native be removed from the urban or proclaimed area and sent to his home or to a place indicated by such Native commissioner or magistrate, and that he be detained in custody pending his removal ; or

(b) order that such Native other than a female referred to in subparagraph (iv) of paragraph *(b)* of subsection (1) be sent to and detained in a work colony established or deemed to have been established under the Work Colonies Act, 1949 ; or

(c) if such Native is declared to be an idle person, order that he be sent to and detained for a period not exceeding two years in a farm colony, work colony, refuge, rescue home or similar institution established or approved under Section *fifty* of the Prisons and Reformatories Act, 1911 (Act No. 13 of 1911), and perform thereat such labour as may be prescribed under that Act or the regulations made thereunder for the persons detained therein ; or

(d) if such Native agrees to enter and enters into a contract of employment with such an employer and for such a period as that Native commissioner or magistrate may approve, order that such Native enter into employment in accordance with the terms of that contract and, if he deems fit, that such Native be detained in custody pending his removal to the place at which he will in terms of that contract be employed.

(4) An order made under paragraph *(b)* of subsection (3) shall have the same effect as if it had been made under subsection (6) of Section *fifteen* of the Work Colonies Act, 1949.

(5) In addition to any order made in terms of subsection (3), the Native commissioner or magistrate may further order that the Native concerned shall not at any time thereafter, or during the period specified in the order, enter any urban area or proclaimed area indicated in the order, not being the area in which he was born and permanently resided at the date of the order, except with the written permission of the Secretary for Native Affairs.

(6) Any Native commissioner or magistrate having jurisdiction in the area in question may suspend the execution or any warrant or order issued in terms of subsection (3) for any period and on any conditions determined by him.

(7) If any Native enters any urban or proclaimed area in contravention of an order made under subsection (5), he shall be guilty of an offence, and the court convicting him of such offence shall by warrant order that, after he has paid any fine or served any period of imprisonment to which he may be sentenced in respect of that offence, he be dealt with as provided in paragraph *(a)* or *(b)* of subsection (3).

(8) Any dependant of any Native who is ordered to return home or is removed to any place, may at the request of the urban local authority or of such Native or dependant be removed, together with his personal effects, at the public expense, to the said Native's home or the place to which he has been ordered to be removed.

(9) A Native commissioner or magistrate enquiring into any matter under this section—

(a) may authorise the fingerprints of any Native who, in terms of this Section, is required to give a good and satisfactory account of himself, to be taken ;

(b) may from time to time adjourn the enquiry and may in such case order that the Native concerned be detained in a gaol or in a police cell or lock-up or other place which such Native commissioner or magistrate considers suitable, or release him on bail *mutatis mutandis* as if he were a person whose trial on a criminal charge in a magistrate's court is adjourned ;

(c) shall keep a record of the proceedings and may, in his discretion. summon to his assistance two Natives to sit and act with him as assessors in an advisory capacity.

(10) The provisions of the law relating to appeals and to any form of review in criminal cases shall *mutatis mutandis* apply in respect of any order made under paragraph *(b)* or *(c)* of subsection (3) as if such order were a sentence passed by a magistrate's court in a criminal case.

The intention behind the Section is the removal of the unprincipled, vagabond type of Native who exists by preying upon or exploiting the fellow members of his community, often in such a way that he does not expose himself to criminal action, to some place where he will no longer be able to batten upon such community and will be under some form of discipline, preferably where habits of industry can be instilled into him.

Somewhat similar provisions for all races are contained in the Work Colonies Act No. 25 of 1949.

There can be no question of a Native dealt with in terms of subsection (3) *(a)* being required to perform any work, but if sent to his home he would usually again fall under tribal or parental control and be subject to tribal discipline.

A Native dealt with in terms of subsection 3 *(b)* or *(c)* would be required to

perform such work as is usual at the institution to which he is sent but such work would be on behalf of the Department responsible for the institution and not for any industrial or other private undertaking. The purpose of the detention is, of course, rehabilitation rather than punishment.

In regard to subsection 3 *(d)*, the intention is to give the Native himself a chance to prove that, given the opportunity, he is prepared to lead a normal industrious life. The Native may not be ordered to enter employment unless he voluntarily agrees to do so and, in the circumstances, it is contended that there is no element of compulsion in this provision which, on the contrary, is intended to re-establish the Native as a useful self-respecting member of the community without in any way bringing him into contact with criminal elements.

Recruitment of Labour in Extra-Union Territories for Work on Mines in the Union

Here again there is a distortion of the truth. The Mozambique Convention and the agreements between the Transvaal Chamber of Mines and the Governments of Northern Rhodesia and Nyasaland merely authorise the recruitment of Natives in those territories. The recruitment is performed by the Witwatersrand Native Labour Association (a recruiting organisation of the Chamber of Mines) and not by the Governments concerned. There is no compulsion whatsoever. All labour contracts are entered into freely and voluntarily. In point of fact the demand for employment is so great that the recruiting association exhausts its quota of recruits within three or four months each year and is compelled to suspend its activities.

In all, there are at the moment 143,000 Natives from the above-mentioned Territories in employment on the mines. If they are being forced to enter into employment in the Union then it is indeed strange that no less than 265,000 other Natives from those countries have of their own accord entered the Union to seek employment.

The above-mentioned remarks also apply to Bechuanaland, the borders of which adjoining the Union lie completely open. No distinction is made between Union Natives and the Natives from the High Commission Territories (Bechuanaland, Basutoland and Swaziland) and they are free to come and go as they like. The suggestion that " the state of health of the workers was poor " is a complete fabrication, as a very high standard of health is required for employment on the mines and recruits have to undergo a rigorous medical examination before their contracts are attested. As Bechuanas are treated as South African citizens in the Union they may enter into any occupation whether in or outside the urban areas. It is consequently entirely a matter of choice for them whether they wish to work on the mines or in any other undertaking, industry or occupation in the Union.

Farm Prisons and the Prison Decentralisation Scheme

Comments have already been submitted to the *Ad Hoc* Committee on the allegations concerning farm prison outstations. [1]

It must be reiterated that passless Natives are under no circumstances transferred to farm prison outstations for labour purposes. The only prisoners detained at such outstations are those who have received sentences ranging from six months to ten years for serious crimes. (Pass law offenders are normally fined from 2s. 6d.

[1] See above, pp. 403-405.

to £1 with alternative periods of imprisonment of from four to 14 days. There is therefore, no question of sending such offenders to farm prison outstations.)

In paragraph 2 of the document submitted by the Chairman of the *Ad Hoc* Committee on Forced Labour, under the heading " Use of Penal Laws to obtain a supply of Africans for work in Industry and Agriculture ", it is stated that in 1949 the prison decentralisation scheme in rural areas had provided the large agricultural estates with the supply of free labour composed of workers convicted under the penal laws of the Union. The facts are that some 20 years ago a scheme was inaugurated to keep the petty offender (or short sentenced prisoner, *i.e.*, a person sentenced to up to three months' imprisonment with hard labour either with or without the option of a fine) out of gaol and thus prevent him from associating with the more hardened type of prisoner while undergoing his sentence. Under this scheme the prisoner could, after being admitted to gaol, intimate his preparedness to work in a rural area at a fixed wage. As soon as the period of his sentence has expired he is returned to the gaol, where his wages, previously deposited by the employer, are handed over to him and he is then discharged. There is no question of compulsion and the charge of forced labour is quite unfounded. It is only at the express wish of the prisoner that he is permitted to engage himself at labour for the period of his sentence and there can be no doubt that such a scheme is greatly to the benefit of the prisoner. For this reason it was recently extended to include prisoners with sentences of up to four months. It may be added that in those cases where the prisoner has the option of a fine every encouragement is given to him to pay the fine or to arrange with relatives and friends for the payment thereof on his behalf before he is allowed out of the gaol, with his consent, in terms of the scheme. Moreover, having regard to the short sentences normally imposed for infringements of pass laws, prisoners convicted of such offences are seldom eligible for release under the scheme, as the periods are generally too short to allow this.

South-West Africa

Allegation concerning Conditions of Indigenous Workers

The representative of Poland stated that " the Rev. Michael Scott, in a memorandum on South-West Africa addressed to the General Assembly, gave further facts concerning conditions of indigenous workers, which conditions approached slavery ".

Documentary Material Available to the Committee

This material consisted of documents submitted by the Rev. M. Scott and published in United Nations document A/C 4/L.66.

In paragraphs 5, 6, 7, 8, 9 and 10 of the document transmitted by the Chairman of the *Ad Hoc* Committee on Forced Labour there are excerpts from the papers submitted by the Rev. M. Scott. The following comments are made thereon.

Paragraph 5.

The nature of the pass laws is described in the reply to question 24 *(b)* contained in United Nations document T/175. The main object of these laws is to provide identification papers for those members of the indigenous population who have not advanced sufficiently to be able to do without some document of identity.

In recent years many persons who have progressed beyond this stage have been exempted from the provisions of the pass laws. In 1947, for example, 125 out of 143 applicants for exemption were successful. In 1948, 49 out of 58 were successful in 1950, 54 out of 72, in 1951, 45 out of 59, and in 1952, 34 out of 39. It may be observed that if the pass laws are as burdensome as is alleged, it is odd that so few applications for exemptions are received each year by the authorities.

As has been stated in the reply to question 24 *(b)* in United Nations document T/175, the Herero leaders are themselves in favour of their less advanced tribesmen being required to carry passes. It should be noted also that David Witbooi, the petitioner named in paragraph 5 of the Chairman's document, at a meeting of Native leaders held in 1950 and presided over by the Chief Native Commissioner, expressed the same view as that held by the Herero leaders.

A law providing for the abolition of passes and requiring every indigenous male inhabitant to carry documents of identity has been enacted in the Union. The desirability of the extension of the provisions of this Act to South-West Africa will receive consideration in due course.

Paragraph 6.

The quotation in the petition should read " where they were employed at starvation wages, namely 2s., 2s. 6d. per day, *or* were *otherwise* driven away without cause ".

During the period referred to, the southern districts of the Territory were in the grip of a very severe drought. The indigenous inhabitants of the reserves, in common with the European farmers, lost much of their stock. Although the administration instituted schemes for feeding children, which are still in existence, it became necessary for the breadwinners to seek employment in the urban areas in order to maintain themselves and their families. Because of the heavy losses suffered, employers were forced to offer reduced wages. The wages were nevertheless sufficient, in conjunction with the State feeding scheme for children, to enable the drought-stricken inhabitants to maintain themselves and their wives.

There is a marked tendency on the part of the indigenous inhabitants to flock to the urban areas which are set aside primarily for Europeans (in the same way as certain areas are reserved for the sole use and occupation of the indigenous inhabitants). On arrival in the urban areas, many become a burden on the local authorities or live on their friends, despite the fact that employment may be available. In order to prevent this unsatisfactory practice, regulations have been made in terms of which indigenous inhabitants who enter the urban areas, except for some special purpose such as visiting a sick relative, may remain for a limited period only, unless they find employment. In normal times this is not a hardship, as employment is readily obtainable in the urban areas. Extension of visiting permits are granted for legitimate purposes.

Paragraph 7.

See comments made under paragraph 6 above.

The allegation that under the pass laws the indigenous inhabitants " are daily persecuted and oppressed " is emphatically denied. These laws are enforced in the Territory in a moderate, sympathetic and just manner.

Paragraph 8.

It is difficult to see how any of the material mentioned in this paragraph can be adduced as evidence in support of the allegation. The passage which includes

the second, third and fourth sentences appears for example to be irrelevant except in so far as it may be held to constitute a rebuttal of the allegation.

The position in fact is that labour is at a premium in the Territory. Four years ago the South-West Africa Native Labourers' Commission estimated the immediate labour needs of the Territory to be between 60,000 and 65,000 male labourers. Today the figure is probably 65,000. The number actually employed in 1952 was 57,517, revealing a shortage of 7,483. This labour shortage is likely to grow progressively more acute. In these circumstances it is hardly likely that employers would make labourers work in conditions approaching slavery, knowing that the worker is free to seek other employment on the expiration of his contract. It can rightly be claimed that the conditions of service of the large majority of indigenous workers are satisfactory. As a result of the lead given by the State the quality of the food supplied to them has improved considerably of late. Similarly, housing conditions have been improved. Employers of labour are required to give an assurance that suitable accommodation is available for their employees. Publication by the Administration of details of economical and suitable housing structures is likely to improve the position still further.

There remains the last sentence of paragraph 8 which refers to the low wages paid to farm labourers. The minimum wages for extra-territorial Natives and Ovambos, as set out in the reply to question 28 *(b)* in United Nations document T/175, were increased with effect from 1 May 1951. This scale represents a *minimum* wage. It is estimated that more than half of the Natives concerned actually receive substantially higher payment. On the mines, for example, proficiency pay and long-service increments are paid. In the urban areas the average wage is higher then the minimum laid down, while on the farms there is a growing tendency to pay greatly enhanced wages to good workers.

Even the amended scales of pay are not permanent, and there is a prospect that further increases will be considered before long.

In addition to their wages, workers receive free food, housing, medical attention, free travel facilities between home and place of employment, as well as some clothing.

Wage scales have been fixed only in respect of extra-territorial Natives and Ovambos. Consideration has been given to the question of fixing minimum wage rates for local Natives, but it was decided that as the demand for labour exceeds the supply there is no danger of the local workers being exploited.

In summarising it is reasonable to say that in the majority of cases those who receive low wages cannot blame their employers. In South-West Africa most employers have no alternative but to pay good wages to good workers, owing to the strong demand for labour.

Paragraph 9.

Attention is invited to the comments made above on the question of wages paid to farm labourers. As regards the allegation of the ill-treatment of labourers, it is admitted that isolated instances have occurred. Offenders have, however, been brought to trial before the courts of the Territory and, if their guilt is proved, duly punished. In addition to the penalties of the law there is also an economic question. In a country where the demand for labour is greater than the supply, no one readily risks the stigma of becoming known as a bad employer.

Paragraph 10.

The allegations made here are false. In terms of the relative legislation a complainant may in the circumstances indicated proceed without a pass to the nearest authorised officer.

Allegation concerning Compulsory Labour of Natives in South-West Africa

The representative of Poland stated "... Natives had been subjected to compulsory labour in South-West Africa".

Documentary Material Available to the Committee

United Nations document T/175, containing the reply of the Union Government to the questionnaire of the Trusteeship Council arising from the report to the United Nations on the administration of South-West Africa for the year 1946.

As in the case of the previous allegation, comments are given below on the extracts from the above document set out in paragraphs 13, 14, 15, 16, 17 and 18 of the document transmitted by the Chairman of the *Ad Hoc* Committee on Forced Labour.

Paragraph 13.

As has been stated in a judgment of one of the Supreme Courts of the Union of South Africa with reference to similar provisions in a Union law—

> ... the Legislature had in mind the fact that idle hands may easily be put to evil work. The Section is apparently rendered preventative as well as reformative in purpose, the object being to prevent a person whose habits are likely to lead to crime from persevering in those habits and from continuing to live in surroundings that are dangerous to himself and to others.

A thorough investigation is carried out in each case and the following considerations mentioned in the judgment referred to above are taken into account:

> If idleness is the only or the outstanding objectionable feature of his mode of life, one must consider why he has been idle, what he has been doing with himself and what are the risks of his idleness leading to criminality. Various cases occur to one in which there is little or no risk of idleness leading to crime. There is the case of old or infirm persons who are sufficiently supported by their relatives or by charitable institutions. A man with accumulated savings may elect to live on those savings while they last. And there may be other explanations which will render it unlikely that the idler will have recourse to crime. Before an order can be made against a Native on account of his idleness the circumstances must show more than a bare possibility that he will lapse into crime; there must be some likelihood that this will happen.

Cases where idlers are sent out of urban areas to other areas where it is hoped they will fall under the good influence of relatives or of members of their tribes clearly do not fall into the category of "forced labour".

Paragraph 14.

There is provision for criminal penalties for breaches by employees of the terms of the contract already entered into by them. Those who have not entered into contracts cannot be penalised. It follows therefore that these provisions cannot be adduced in support of any allegation of "forced labour".

These provisions were introduced as a result of numerous instances of employees failing to honour the contractual obligations incurred by them. Theoretically the application of criminal sanctions for civil breaches of the law can hardly be upheld. In practice, however, it would not be possible to enforce contracts in respect of employees of this category were such sanctions not invoked. Many workers come

from the northern Native territories where they are governed according to Native law and custom, and where ordinary civil law is not applied. Furthermore, a large proportion of the employees own no property individually which could be attached in case of default. All property is vested in the kraal head.

As regards the provisions of regulation 12, it must be explained that it is the policy to allow into the European urban areas only those non-Europeans who have employment there. Because of the limited sanitary facilities, water, etc., it has been found necessary to ensure that the special class mentioned in regulation 12 either secure employment or leave the urban area. There is no intention of compelling these persons to work. If they do not wish to work they are at liberty to leave the urban area.

Similarly the provision in regulation 13 is aimed at preventing unemployed non-Europeans remaining indefinitely in the European urban area to the detriment and discomfort of the other non-Europeans living there.

Paragraph 15.

The material contained in this paragraph does not seem to be relevant to the allegation of " forced labour ". All the workers mentioned enter employment voluntarily.

Paragraph 16.

Since a reply was returned to question 29, the following international labour Conventions have been ratified and applied to South-West Africa :

(1) Convention No. 19, concerning equality of treatment for national and foreign workers as regards workmen's compensation for accidents.

(2) Convention No. 45, concerning the employment of women on underground work in mines of all kinds.

Paragraph 17.

The answers to the subdivisions of question 35 are dealt with *seriatim* below.

35 (a).

The only provisions which can be held to have even a remote bearing on the question of forced labour are those which lay down—

(a) that a worker must return to his employer's service after completing a term of imprisonment unless his contract of service is cancelled, and

(b) that a servant who fails or refuses to commence service under a contract or who deserts his employer is guilty of an offence.

The sole object of these provisions is to ensure that once a prospective employee enters into a contract he honours its terms. The employee enters into the contract voluntarily. As pointed out in the comments on paragraph 14 above, an employer would be unable to seek redress by civil action if an employee fails to honour his contract.

The regulations quoted in the remainder of the reply merely show that provision is made for the application of criminal sanctions in respect of civil breaches of the law. This aspect has been dealt with in the comments on paragraph 14 above.

As regards the Master and Servants Law, it must be observed that the Law operated as much in the interests of the employee as the employer. A servant,

for example, who leaves his place of service to lodge a complaint cannot be held to have deserted. Other sections of the Law provide that any master who withholds wages without reasonable and probable cause, or who unlawfully dismisses an employee, or who unlawfully detains his employee's animals, or who fails to comply with the terms of a contract, commits a punishable offence. Any contract which had not been faithfully observed by an employer may be cancelled by a court. The Law, therefore, regulates the rights and obligations of both parties to the contract which is entered into voluntarily by both employer and employee.

35 (b) *and* (c).

The replies to these questions do not seem relevant. They reflect the number of convictions for contraventions of the provisions of the Master and Servants Law. This figure represents only 4 per cent. of the total number of servants employed. In the majority of cases the sentence imposed was merely a small fine, certainly not more than that sum which the employer might have claimed in damages had a civil action been open to him, and in many cases considerably less.

35 (d).

No comments.

Paragraph 18.

In the reply to question 36 it is stated that it is the policy of the Union Government to employ all convict labour on public works. This remains the policy of the Union Government. Only in the very exceptional or unavoidable circumstances set out in the reply is there any departure from this policy. In this event every precaution is taken to ensure against abuse of this labour.

Additional Material

UNION OF SOUTH AFRICA

Addition to Paragraphs 5 to 33.

According to an official publication[1], the number of offences against the Native Pass Laws was 41,568 in 1946, 34,642 in 1947, 32,825 in 1948 and 44,903 in 1949. Over the same years, offences in connection with the registration and production of documents by Natives numbered 28,938, 38,629, 38,612 and 55,673.

In its reply to the letter sent by the Committee on 22 November 1952, the Government of the Union of South Africa pointed out that the pass law system had been repealed by the Natives (Abolition of Passes and Co-ordination of Documents) Act, 1952.

The main provisions of this new Act [2] are reproduced below—

2. (1) The Minister may by notice in the *Gazette* require every Native of a class specified in the notice who has attained the age of 16 years and is resident in an area defined therein, to appear before an officer during a period and at a time and place so specified, in order that a reference book in such form as the Minister may determine may be issued to such Native.

. . . . . .

[1] UNION OF SOUTH AFRICA, Union Office of Census and Statistics: *Official Year Book of the Union and of Basutoland, Bechuanaland Protectorate and Swaziland*, No. 25—1949 (Pretoria, 1950-1951), p. 444.

[2] *The Union of South Africa Government Gazette*, 11 July 1952, No. 4888, Extraordinary, p. 49.

3. (1) An officer before whom a Native appears in pursuance of a notice under subsection (1) of Section *two* shall, subject to the provisions of subsections (2) and (4)—

(a) in the prescribed manner take or cause to be taken the fingerprints of that Native and transmit such fingerprints to the bureau ; and

(b) issue to that Native a reference book in which shall be recorded the appropriate prescribed particulars relating to such Native.

.....

4. There shall in such manner as may be prescribed, be affixed in any reference book issued under this Act, any identity card issued to the Native concerned in terms of Section *thirteen* of the Population Registration Act, 1950 (Act No. 30 of 1950).

.....

8. (1) Any person who after the fixed date—

(a) enters into a contract of service (not being a contract which is required to be registered in terms of the regulations made under Section *twenty-three* of the Native Labour Regulation Act, 1911 (Act No. 15 of 1911)), with a Native of a class specified in a notice issued under subsection (1) of Section *two*, who has attained the age of 16 years, in terms of which such Native is to be employed in an area other than an area which has been proclaimed under Section *twenty-three* of the Urban Areas Act ; or

(b) enters into a contract of service with a Native of the class so specified who has attained the said age and who by virtue of subsection (2) of Section *twenty-three* of the Urban Areas Act is exempt from the provisions of subsection (1) of the last-mentioned Section,

shall within 14 days after entering into such contract lodge with the Native commissioner of the district in which such Native is to be employed and record in the reference book issued to such Native, prescribed particulars relating to such contract.

(2) Any such person shall if such Native deserts from his service or if such contract is terminated advise such Native commissioner within 14 days after such desertion or termination of the date of such termination or desertion and in the event of the termination of such contract also record the date thereof in such Native's reference book.

(3) The provisions of subsections (1) and (2) shall apply only in respect of any contract entered into for an indefinite period (not being a contract with a Native who is a *togt* or casual labourer or works as an independent contractor) or for a fixed period of not less than one month or terminable on not less than one month's notice.

(4) Every owner (as defined in Section *forty-nine* of the Native Trust and Land Act, 1936 (Act No. 18 of 1936)), of land as so defined shall within one month after the fixed date furnish to the Native commissioner of the district in which that land is situated, the prescribed particulars in respect of every labour tenant or squatter as so defined, who was resident on that land on the said date, and shall thereafter furnish to such Native commissioner the prescribed particulars of every Native who becomes or ceases to be such a labour tenant or squatter on that land.

(5) Every such owner shall record the prescribed particulars in the reference book of any Native in respect of whom particulars are in terms of subsection (4) required to be furnished to a Native commissioner.

(6) Every Native of a class specified in a notice issued under subsection (1) of Section *two* who has attained the age of 16 years, in respect of whom particulars are not required to be furnished to a Native commissioner under subsections (1), (2) or (4) shall once every three months furnish the Native commissioner of the district in which he is for the time being resident with such particulars in relation to himself as may be prescribed and the Native commissioner shall record those particulars in such Native's reference book in such manner as may be prescribed.

9. No Native not born in the Union, the territory of South-West Africa, Basutoland, Swaziland or Bechuanaland shall enter any district, otherwise than in the course of his employment, without the written permission of the Native commissioner or assistant Native commissioner of the district in which he resides.

.....

13. Any authorised officer may at any time call upon any Native of a class specified in a notice issued under subsection (1) of Section *two* who has attained the age of 16 years to produce to him a reference book issued to such Native under this Act.

.....

15. Any person—

(a) being a Native of a class specified in a notice issued under subsection (1) of Section *two*, who has attained the age of 16 years, who—

(i) after the fixed date, is not in possession of a reference book issued to him under this Act;

(ii) after the fixed date, fails or refuses to produce on demand of an authorised officer under Section *thirteen*, a reference book issued to him under this Act;

(iii) on demand of an authorised officer under Section *thirteen*, produces with intent to deceive a reference book which contains any false statement or which has been altered in any material respect;

(iv) having come into possession of a reference book belonging to another person represents it as his own;

(v) allows any other person to come into possession of a reference book belonging to him;

(b) who fails to comply with any provision of Section *eight* or *nine*; or

(c) who wilfully imitates, alters, defaces, destroys, or mutilates any reference book,

shall be guilty of an offence and on conviction liable—

(aa) in the case of an offence referred to in subparagraph (ii) of paragraph *(a)* or in paragraph *(b)* to a fine not exceeding ten pounds or imprisonment for a period not exceeding one month; and

(bb) in the case of an offence referred to in subparagraph (i), (iii), (iv) or (v) of paragraph *(a)*, or in paragraph *(c)*, to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months.

.....

17. The laws mentioned in the Schedule to this Act are hereby repealed or amended to the extent indicated in the fourth column of that Schedule—

(a) with effect from the fixed date; and

(b) in the case of any such law mentioned in Part I of that Schedule, in so far as it relates to a Native to whom a reference book has, prior to the fixed date, been issued under this Act, with effect from the date of issue of that reference book: Provided that for the purposes of this paragraph a reference book shall be deemed not to have been issued to any Native who fails to produce that book on demand by an authorised officer under Section *thirteen*.

The Schedule mentioned in Section 17 includes various Cape Province and Natal enactments and also the Native Administration Act, 1927, Section 29 of which is repealed[1], the Native Service Contract Act, 1932, and the Natives (Urban Areas) Consolidation Act, 1945. The amendments to the last two Acts do not affect the provisions quoted by the Committee in its summary.

[1] This Section is quoted in paragraph 25 of the Committee's summary.

Addition to Paragraphs 15 and 16.

Sections 27-30 of the Native Laws Amendment Act, 1952[1], amended Sections 10, 11 and 12 of the Natives (Urban Areas) Consolidation Act, 1945 and also added a new Section 10*bis*. Sections 10, 10*bis* and 11, as reproduced in Sections 27-29 of the Act of 1952, now read as follows :

10. (1) No Native shall remain for more than 72 hours in an urban area or in a proclaimed area in respect of which an urban local authority exercises any of the powers referred to in subsection (1) of Section *twenty-three* or in any area forming part of a proclaimed area and in respect of which an urban local authority exercises any of those powers, unless—

(a) he was born and permanently resides in such area ; or

(b) he has worked continuously in such area for one employer for a period of not less than ten years or has lawfully remained continuously in such area for a period of not less than 15 years and has not during either period been convicted of any offence in respect of which he has been sentenced to imprisonment without the option of a fine for a period of more than seven days or with the option of a fine for a period of more than one month ; or

(c) such Native is the wife, unmarried daughter or son under the age at which he would become liable for payment of general tax under the Natives Taxation and Development Act, 1925 (Act No. 41 of 1925), of any Native mentioned in paragraph *(a)* or *(b)* of this subsection and ordinarily resides with that Native ; or

(d) permission so to remain has been granted to him by a person designated for the purpose by that urban local authority.

(2) An officer so designated shall issue to any Native who has been permitted to remain in any such area a permit indicating the purposes for which and the period during which such Native may remain in that area : Provided that—

(a) where a Native has been permitted to remain in any area for the purpose of taking up employment, the period of validity of the permit shall be limited to the period during which he remains in the service of the employer by whom he has been engaged ;

(b) where a Native has been permitted to remain in any area for the purpose of seeking work, the period of validity of the permit issued to such Native shall be not less than seven or more than 14 days, unless such Native finds employment before the expiration of his permit, in which case the permit shall remain valid until the expiration of the period during which such Native remains in the service of the employer by whom he is engaged.

.....

(4) Any person who contravenes any provision of this Section, or who remains in any area for a purpose other than that for which permission so to remain has been granted to him, shall be guilty of an offence.

(5) In any criminal proceedings against a Native in respect of a contravention of the provisions of this Section, it shall be presumed until the contrary is proved that such Native remained in the area in question for a period longer than 72 hours.

10*bis*. (1) No person shall employ any Native in any urban area or in a proclaimed area in respect of which an urban local authority exercises any of the powers referred to in subsection (1) of Section *twenty-three* or in any area forming part of a proclaimed area and in respect of which an urban local authority exercises any of those powers unless permission to seek or take up employment has been granted to such Native by the officer designated under subsection (1) of Section *ten* or the provisions of paragraphs *(a)*, *(b)* or *(c)* of the said subsection apply in regard to such Native.

[1] *The Union of South Africa Government Gazette*, 27 June 1952, No. 4873, Extraordinary, p. 73.

11. (1) No person shall introduce into any area a Native who in terms of Section *ten* is prohibited from remaining in that area except under permit referred to in subsection (2) of that Section, or induce or assist such a Native to enter any such area, except with the written permission of the officer referred to in the said subsection, and subject to such conditions as he may determine, including, in the case of a Native who is intended to be employed in that area by the person to whom such permission is given a condition requiring that person to give security to the satisfaction of such officer that, at the termination of the contract of employment entered into with the Native, such Native will be returned to his home or last place of residence.

.....

(3) Whenever the Union Government (including the Railway Administration) or any provincial administration has introduced any Native who is in its employ or whom it intends to employ, into an area referred to in subsection (1), it shall at the request of the officer designated under subsection (1) of Section *ten* by the local authority concerned, at its own expense return that Native to his home or last place of residence if it does not take that Native into its employ or if any contract of employment entered into between it and that Native has expired or has been terminated.

For the words " other than a Native lawfully domiciled in the Union, the mandated territory of South-West Africa, Basutoland, the Bechuanaland Protectorate or Swaziland ", appearing in Section 12 of the Act of 1945, Section 30 of the Act of 1952 substitutes the words " other than a Native born in the Union who has entered the Union from any country or territory other than the territory of South-West Africa, Basutoland, the Bechuanaland Protectorate or Swaziland or, having entered any of the said territories from any other country or territory, has subsequently entered the Union from such territory ".

According to Section 13, as amended by Section 31 of the 1952 Act—

The provisions of Sections 10, 10*bis*, 11 and 12 shall not apply to or in respect of any Native employed or proceeding to employment in a mining industry or any industry to which the Minister may, by notice in the *Gazette*, after consultation with the urban local authority concerned, apply the provisions of this Section, but the said provisions shall be of full force and effect immediately upon termination of any contract of service in any such industry.

Addition to Paragraphs 20 and 47.

Section 29 of the Natives (Urban Areas) Consolidation Act, 1945, was amended by Section 36 of the Native Laws Amendment Act, 1952. The new text of this Section is reproduced in the reply from the Government of the Union of South Africa to the letter sent by the Committee on 22 November 1952.[1]

Addition to Paragraph 49 (Paragraph 532 of the Report of the Penal and Prison Reform Commission).

The *Official Year Book* quoted above in connection with paragraphs 5-33 states (page 444) that, in 1949, 65,257 non-Europeans were convicted for drunkenness, 137,913 for the illegal possession of Native liquor and 13,947 for the illegal possession of other liquor. The totals given for the numbers of non-Europeans convicted in the four years 1946-1949 for all the various offences listed are 744,771, 762,518, 800,381 and 877,038 respectively.

[1] See above, pp. 409—411.

Addition to Paragraph 55.

The *Official Year Book* mentioned above states that in 1939, by an exchange of letters between the Union Government and the Government of the Portuguese Republic, the 1928 Convention was extended for a further five years, which expired on 21 April 1944. It adds that—

... Thereafter the agreement is automatically in force, until such time as either signatory denounces it by giving one year's notice.

In 1940, by an exchange of notes again, the upper limits envisaged in Article 30 of the Convention were increased to 100,000 Natives.[1]

The *Official Year Book* also mentions that the number of Mozambique Natives employed in the mines of the Union of South Africa was 101,120 on 31 December 1948 and 108,733 on 31 December 1949.[1]

A statistical year book of the Colony of Mozambique for the year 1950 gives the following detailed statistics for the migration of workers from Mozambique to the mines in the Union of South Africa[2]:

PORTUGUESE NATIVES REGISTERED IN THE CURATORSHIP OF THE TRANSVAAL

Year	Total	In service in the mines	In private and miscellaneous service
1945	136,087	95,725	40,362
1946	145,681	96,389	49,292
1947	152,064	97,133	54,931
1948	152,625	94,364	58,261
1949	163,294	102,350	60,944
1950	157,611	94,837	62,774

Out of 69,964 Portuguese Natives emigrating to the Union of South Africa in 1950, 65,036 workers were recruited by the recruiting company and 4,928 were volunteers; 3,958 of them illicit emigrants.[3]

Out of the 68,977 Portuguese Natives repatriated from the Union of South Africa in 1950, 1,217 had been there less than six months, 4,033 less than a year, 61,036 less than two years, 1,304 less than three years, 431 between three and six years and 528 over six years.[4]

According to the 1940 census, the indigenous population of the colony of Mozambique numbers about 5,000,000.[5]

Suppression of Communism Act.

This Act, which is cited in the Government's reply[6], was promulgated in 1950[7] and amended in 1951.[8]

[1] *Op. cit.*, p. 504.
[2] COLÓNIA DE MOÇAMBIQUE, Repartição Técnica de Estatistica : *Anuário Estatistico, 1950* (Lourenço Marques, 1952), p. 601.
[3] *Ibid.*, p. 603.
[4] *Ibid.*, p. 604.
[5] *Ibid.*, p. 28.
[6] See above, p. 406.
[7] *The Union of South Africa Government Gazette*, 1950, Vol. CLXI, No. 44.
[8] *Ibid.*, 1951, Vol. CLXV, No. 50.

Its full title reads as follows :

Act to declare the communist party of South Africa to be an unlawful organisation; to make provision for declaring other organisations promoting communistic activities to be unlawful and for prohibiting certain periodical or other publications ; to prohibit certain communistic activities ; and to make provision for other incidental matters.

The chapter " Definitions " contains a detailed explanation of the meaning attributed, for the purposes of this Act, to the terms " communism " and " communist ".

The most important passages of this chapter are reproduced below—

... (ii) *communism* means the doctrine of Marxian socialism as expounded by Lenin or Trotsky, the Third Communist International (the Comintern) or the Communist Information Bureau (the Cominform) or any related form of that doctrine expounded or advocated in the Union for the promotion of the fundamental principles of that doctrine and includes in particular, any doctrine or scheme—

(a) which aims at the establishment of a despotic system of government based on the dictatorship of the proletariat under which one political organisation only is recognised and all other political organisations are suppressed or eliminated ; or

(b) which aims at bringing about any political, industrial, social or economic change within the Union by the promotion of disturbance or disorder, by unlawful acts or omissions or by the threat of such acts or omissions or by means which include the promotion of disturbance or disorder, or such acts or omissions or threat ; or

(c) which aims at bringing about any political, industrial, social or economic change within the Union in accordance with the directions or under the guidance of or in co-operation with any foreign government or any foreign or international institution whose purpose or one of whose purposes (professed or otherwise) is to promote the establishment within the Union of any political, industrial, social or economic system identical with or similar to any system in operation in any country which has adopted a system of government such as is described in paragraph *(a)* ; or

(d) which aims at the encouragement of feelings of hostility between the European and non-European races of the Union the consequences of which are calculated to further the achievement of any object referred to in paragraph *(a)* or *(b)* ; ...

.....

... *communist* means a person who professes or has at any time before or after the commencement of this Act professed to be a communist or who, after having been given a reasonable opportunity of making such representations as he may consider necessary, is deemed by the Governor-General or, in the case of an inhabitant of the territory of South-West Africa, by the Administrator of the said territory, to be a communist on the ground that he is advocating, advising, defending or encouraging or has at any time before or after the commencement of this Act, whether within or outside the Union, advocated, advised, defended or encouraged the achievement of any of the objects of communism or any act or omission which is calculated to further the achievement of any such object, ... or which engaged in activities which were calculated to further the achievement of any of the objects of communism ;

The Act further contains, *inter alia*, the following provisions :

... *Unlawful organisations.* 2. (1) The communist party of South Africa, including every branch, section or committee thereof and every local, regional or subsidiary body forming part thereof, is hereby declared to be an unlawful organisation.

(2) If the Governor-General is satisfied—

(a) that any other organisation professes or has on or after the fifth day of May, 1950, and before the commencement of this Act, professed by its name or otherwise, to be

an organisation for propagating the principles or promoting the spread of communism ; or

(b) that the purpose or one of the purposes of any organisation is to propagate the principles or promote the spread of communism or to further the achievement of any of the objects of communism ; ....

... he may without notice to the organisation concerned by proclamation in the *Gazette* declare that organisation to be an unlawful organisation, and the Governor-General may in like manner withdraw any such proclamation....

...*Certain persons may be prohibited from being within defined areas* ... 10. (1) Whenever the Minister is satisfied that any person is in any area advocating, advising, defending or encouraging the achievement of any of the objects of communism or any act or omission which is calculated to further the achievement of any such object, or is likely in any area to advocate, advise defend or encourage the achievement of any such object or any such act or omission, he may by notice under his hand, addressed and delivered or tendered to such person, prohibit him, after a period stated in such notice being not less than seven days from the date of such delivery or tender, and during a period likewise stated therein, from being within any area defined in such notice : Provided that the Minister may at any time withdraw or modify any such notice or grant such person permission in writing to visit temporarily any place where he is not permitted to be in terms of such notice....

... *Penalties.* 11. Any person who—

(a) performs any act which is calculated to further the achievement of any of the objects of communism ;

(b) advocates, advises, defends or encourages the achievement of any such object or any act or omission which is calculated to further the achievement of any such object ;

.....

(j) refuses or fails to answer to the best of his knowledge any question which an authorised officer or a liquidator has put to him in the exercise of his functions under this Act ;

(k) refuses or fails to comply to the best of his power with any requirement made by an authorised officer or liquidator under this Act ;

(l) hinders an authorised officer or a liquidator in the performance of his functions under this Act, ...

shall be guilty of an offence, and liable—

(i) in the case of an offence referred to in paragraphs *(a)*, *(b)* ... to imprisonment for a period not exceeding ten years ; ...

(iii) in the case of an offence referred to in paragraphs *(j)*, *(k)*, *(l)* ... to a fine not exceeding two hundred pounds, or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment....

... *Removal from Union of certain undesirable inhabitants.* 14. Any person who is not a South African citizen and who is deemed by the Governor-General, or in the case of an inhabitant of the territory of South-West Africa, by the Administrator of the said territory, to be an undesirable inhabitant of the Union or of the said territory, as the case may be, because he is a communist... may be removed from the Union or from the said territory, and pending removal, may be detained in custody in the manner provided for the detention, pending removal from the Union or from the said territory of persons who are prohibited immigrants within the meaning of the relevant law relating to the regulation of immigration ; and thereafter such person shall, for the purposes of such law, be deemed to be a prohibited immigrant....

UNION OF SOVIET SOCIALIST REPUBLICS

Summary of Allegations, of Replies to Allegations and of the Material Available to the Committee

I. Allegations

1. Allegations relating to the U.S.S.R. have been made—

(1) In the course of the debates on forced labour and measures for its abolition at the Eighth, Ninth, Tenth, Eleventh and Twelfth Sessions of the Economic and Social Council by the representatives of *Australia, Chile, France,* the *United Kingdom,* the *United States of America* and the *American Federation of Labor.*

(2) By the Governments of the *United Kingdom* and the *United States of America* and by the *International Confederation of Free Trade Unions* in files[1] submitted to the Secretary-General of the United Nations on 22 June, 26 July and 13 July 1951 respectively, in reply to his note No. SOA. 317/8/03 on the establishment of a Committee on Forced Labour. Supplementary files[2] were submitted by the Government of the *United States of America* on 27 June and 7 November 1952.

(3) In memoranda submitted to the Committee by the following non-governmental organisations: the *International Federation of Free Journalists,* on 4 October 1951 and 20 October 1952 ; the *International League for the Rights of Man,* on 18 June 1952 ; the *Christian Democratic Union of Central Europe,* on 23 June 1952 ; the *Estonian Consultative Panel,* on 31 March 1952 ; the *Hungarian National Council* on 29 May 1952 ; the *Latvian Consultative Panel,* on 27 March 1952 ; the *Lithuanian Consultative Panel,* on 28 March 1952.

(4) In oral statements made before the Committee at its Second and Third Sessions by the representatives of several non-governmental organisations and by one private individual. The organisations concerned were the following : the *International Confederation of Free Trade Unions,* the *Commission internationale contre le régime concentrationnaire,* the *International Federation of Free Journalists,* the *International League for the Rights of Man,* the *Association of Former Political Prisoners of Soviet Labour Camps,* the *Estonian Consultative Panel,* the *Hungarian National Council,* the *Latvian Consultative Panel* and the *Lithuanian Consultative Panel.*

2. These allegations, which are summarised below, related to—

(a) forced labour as an instrument of political repression ;

(b) forced labour imposed by the judiciary ;

(c) forced labour imposed by the administrative authorities ;

(d) the economic importance of forced labour ;

(e) the number of prisoners ;

(f) the location of camps ;

(g) life of prisoners in forced labour camps ;

[1] See United Nations document E/AC. 36/4.
[2] See United Nations documents E/AC. 36/4, Add. 1 and Add. 2.

(h) mass deportations;

(i) restrictions on freedom of employment.

3. According to the allegations, one of the main aims of the forced labour system which is said to exist both *de facto* and *de jure* in the Soviet Union at the present time is to crush all opposition, particularly as expressed in political opinions differing from those of the régime.

4. One of the foundations of the system, it is stated, is the criminal law and criminal procedure of the country, which are so conceived that many persons, especially those opposed to the régime, can be convicted and sentenced to forced labour without adequate provision being made for their defence and in circumstances which, in many other legal systems, would not be recognised as constituting an offence or involving their responsibility. It is furthermore maintained that the administrative authorities of the M.V.D. have extensive extra-judicial powers whereby persons can be subjected to forced labour.

5. The forced labour system, according to the allegations, is of great importance to the national economy, since it supplies cheap labour in large quantities for many different types of work, particularly in undeveloped and unhealthy areas.

6. It is stated in the allegations that the number of persons sentenced to forced labour runs into millions. These persons are allegedly confined in numerous camps located at widely scattered points throughout the Soviet Union. The conditions in the camps are bad, and the death rate among the prisoners is high.

7. It has further been alleged that millions of persons have been deported either from one part of the Soviet Union to another or from neighbouring countries to the Soviet Union. Many of these deportations are alleged to have involved forced labour.

8. It is maintained that, in the Soviet Union, the difference between the status of a free worker and that of a forced labourer is tending to diminish as a result of the many restrictions placed by law on the freedom of employment.

Forced Labour as an Instrument of Political Repression

9. According to the allegations, one of the main aims of the forced labour system in the Soviet Union is to crush all opposition and consolidate the régime. The repressive measures taken affect not only actual opponents, but also persons who are suspected of professing religious or political opinions running counter to the official ideology, as well as those who, rightly or wrongly, are regarded as potential adversaries. Most of the persons held in Soviet forced labour camps are political offenders, or "socially dangerous elements" as they are called, who have to choose between relinquishing their views and death.

10. This persecution of political opponents was particularly severe in the U.S.S.R. during the "purges" and has also occurred in the countries annexed by the Soviet Union after the Second World War.

11. In support of their assertions, the authors of these allegations quote from the Corrective Labour Code (Articles 1, 2, 3, 34 and 87), Article 46 of the Penal Code, a Decree dated 5 November 1934, and a number of passages from the *Large Soviet Encyclopaedia*.

12. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The *United Kingdom Government*, in a memorandum: "Forced labour is used in the U.S.S.R. as a weapon of political oppression".

(2) The representative of *Australia* at the Economic and Social Council.[1]

(3) The representative of *Chile*, who alleged that the Corrective Labour Code "authorised the subjection to forced labour of workers who did not agree with the Soviet Union Government".[2] A further allegation was made by the representative subsequently.[3]

(4) The representative of the *United Kingdom*—

In the Soviet Union, people were condemned to forced labour not only for ordinary crimes, but for holding opinions contrary to those of the Government and the ruling class. In fact, most of the people in camps and forced labour colonies were political offenders. They were known in the Soviet Union as "socially dangerous elements". The camps and colonies served as instruments of political oppression. The suppression of "heretics" was obviously the main objective of what was cynically described in the Codex as "corrective labour". It appeared that, if the Soviet Union Government did not like people's opinions, it condemned them to forced labour until such time as they renounced those opinions or died in a camp. That was persecution raised to the dignity of a system.[4]

In support of his allegation, he quoted the first three paragraphs of the Corrective Labour Code[5], which "reminded him of the worst form of religious persecution". He also cited passages from Chapter IX of the Corrective Labour Code and Article 46 of the Criminal Code.[6]

At a later meeting, he made another reference to paragraph 3 of the Corrective Labour Code and also mentioned paragraphs 34 and 87[7], stating "that the whole Code was based on political bias".[8]

Another Ordinance of the Central Executive Committee[9], signed by Mr. Kalinin and others on 5 November 1934, made it clear that people were condemned in the U.S.S.R. for holding political or religious views which the Government considered heretical ... the encyclopaedia, like the Codex, made it absolutely clear that the primary purpose of the forced labour system was to crush those who disagreed with the Communist Party and its leaders.[10]

Forced labour in the Soviet Union was the central core of both the political and the economic system, and represented something new in the world. It differed in many important respects from chattel slavery and from the penal and penitentiary systems, past or current, of other countries.

The U.S.S.R. representative had argued that the main purpose of the forced labour system in his country was to re-educate the condemned and restore them to the status of useful members of society. But according to volume 29 of the *Large Soviet Encyclopaedia*, an official publication of the State Publishing House, it was wrong to regard corrective labour establishments as purely educative or even purely economic establishments, since that view glossed over the element of compulsion and led to a denial

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[1] UNITED NATIONS, Economic and Social Council, 9th Session, 322nd meeting: *Official Records*, p. 569.

[2] *Ibid.*, 324th meeting: *Official Records*, p. 581.

[3] *Idem*, 10th Session, 366th meeting: *Official Records*, paragraph 28.

[4] *Idem*, 9th Session, 319th meeting: *Official Records*, p. 508.

[5] See below, paragraphs 88, 95, 97 and 104.

[6] See below, paragraph 114; cf. UNITED NATIONS, Economic and Social Council, 9th Session, 319th meeting: *Official Records*, pp. 508-509.

[7] See below, paragraphs 88, 104 and 150.

[8] UNITED NATIONS, Economic and Social Council, 9th Session, 322nd meeting: *Official Records*, p. 565 and *idem*, 10th Session, 366th meeting: *Official Records*, paragraphs 12-16.

[9] See below, paragraph 144.

[10] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting: *Official Records*, paragraphs 14 and 16.

of the class question in the application of corrective labour policy, and to a refusal to carry out the task of crushing class-hostile and corruptive elements. The only possible deduction to be made from that authoritative statement was that the main purposes of the system were, in order of importance : to crush class-hostile elements, to serve economic ends, and to re-educate or reindoctrinate the prisoners. Any objective study of the U.S.S.R. Decrees and regulations on the subject of forced labour would confirm the conclusions of the Soviet encyclopaedia.[1]

(5) The representative of the *United States of America*—

During the farm collectivisation drives and political purges, millions of persons had lost their liberty or even their lives. The collectivisation movement had been designed to " liquidate " the *kulaks* as a class ... in practice anyone had been considered a *kulak* who had antagonised the local communists.[2]

(6) The representative of the *American Federation of Labor*[3]—

Arguing from the Corrective Labour Code, the representative stated that one of the essential features of the forced labour system in the U.S.S.R. was that " forced labour was inflicted on so-called ' class-hostile elements ' as well as on the so-called ' unstable elements ' among the workers, because they disagreed with the régime in power ".[4]

The Federation was in possession of a strictly secret document indicating the categories of persons deported from the Baltic countries and sent to forced labour camps ; a photostatic copy of the document was available to representatives. The categories included " persons who had occupied prominent positions in the civil or communal services ", " prominent members of the anti-communist parties, social democrats, liberals, small farmers, active members of Jewish organisations, the Bund and Zionist organisations ", " mystics such as freemasons and theosophists ", " industrialists, wholesale merchants, owners of large houses, ship owners, owners of hotels and restaurants, persons who have been in the diplomatic service, permanent representatives of foreign commercial firms, relatives of persons who have escaped abroad ". Thus it was a crime to belong to certain professions or to be related to a person who had been successful in escaping to a free country.[5]

(7) The representative on the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

The overwhelming majority of the prisoners held in Soviet concentration camps are not criminals. ... Moreover, the real criminals ... are given preferential treatment.

(8) The representative of the *International League for the Rights of Man*, when heard at the same session.

(9) The representative of the *International Federation of Free Journalists*, when heard at the Committee's Third Session—

As regards the reasons for confining people in forced labour camps, as far as is known in Estonia these reasons are in the overwhelming majority of cases political. The person is sent or confined in a camp always because he is—except for criminal cases—undesirable to the régime or considered potentially dangerous.

(10) The private individual heard at the Committee's Second Session.

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 474th meeting : *Official Records*, paragraphs 45-46.
[2] *Ibid.*, 470th meeting : *Official Records*, paragraph 6.
[3] *Idem*, 8th Session, 238th meeting : *Official Records*, p. 117.
[4] *Idem*, 9th Session, 319th meeting : *Official Records*, p. 512.
[5] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraph 54.

Forced Labour Imposed by the Judiciary

Criminal Law.

13. It has been alleged that one of the foundations of the forced labour system in the Soviet Union at the present time is Soviet criminal law, which differs greatly from the law of many other countries, particularly in that—

(a) it rejects the concept of *res judicata* and the principle that the law may not be retroactive—

(b) it establishes collective responsibility for certain crimes;

(c) it adopts the principle of analogy in the application of criminal law;

(d) it takes no account of the subjective elements in guilt and even makes it possible for persons who have not committed an offence to be convicted;

(e) its definition of crime in general and counter-revolutionary offences in particular is so broad that all those who are opposed to the régime can be convicted and so sentenced to forced labour.

14. It has also been alleged that, under Soviet penal law, children can be sentenced to corrective labour from 12 years of age.

15. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The *United Kingdom Government* which states, in a memorandum, referring to Article 58 (1) *(c)* of the Penal Code [1]—

> It is ... clear that in the Soviet Union persons can be and are convicted of "crimes" which in most countries would never be regarded as a crime. Indeed, such conviction would normally be regarded as a gross violation of human rights.

(2) The representative of *Chile*—

> Penal legislation in the U.S.S.R. was disconcerting to Western minds, which believed that justice should take no account of particular interests and should be independent of the will of governments. That legislation did not take into consideration such principles as the non-retroactivity of the law, the principle that a man should not be tried twice for the same offence, the principle that collective responsibility could not be invoked, or the principle that there could be no crime without a violation of the law.[2]

In support of his statement, he referred to a passage in Article 58 of the Penal Code of the R.S.F.S.R.[1] whereby all the members of a family could be held collectively responsible for an offence.[3]

(3) The representative of the *United Kingdom*, who also inferred from Article 58 (1) *(c)*[1] that "... persons whose sole responsibility for a crime lay in their being related to the persons accused were punished for the crime".[4]

Under Article 22 of the Basic Criminal Code of the U.S.S.R.[5], exile could be decreed by the State Prosecutor against persons recognised as being socially dangerous, without

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[1] See below, paragraph 123.

[2] UNITED NATIONS, Economic and Social Council, 12th Session, 473rd meeting: *Official Records*, paragraph 32.

[3] Ibid., paragraph 33.

[4] *Idem*, 11th Session, 413th meeting: *Official Records*, paragraph 16, and 12th Session, 474th meeting: *Official Records*, paragraph 48.

[5] See below, paragraph 120.

any criminal proceedings being taken against those persons, and even in cases where they had been acquitted by a court of the charge of committing a specific crime.[1]

He made the same allegation at earlier meetings.[2]

(4) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

... the 14 Sections of Article 58 of the Penal Code of the R.S.F.S.R. [3] which deals with so-called " counter-revolutionary crimes " are formulated in such broad, vague, general terms and with such a deliberate lack of precision and are interpreted with such limitless latitude that they can be used and have been used solely as a means of arbitrary persecution. For example, in Section 5 of this Article, we find the expression "and so on ".

Changes in Soviet legislation, whereby penalties for various offences were substantially increased, must also be considered as an indication of the trend towards maintaining and strengthening the slave labour system.

In support of this last allegation, he referred to three Decrees, two of which were published on 4 June 1947 and the other on 9 June 1947.

(5) The representative of the *International League for the Rights of Man*, when heard at the Committee's Second Session—

The Criminal Code of the U.S.S.R. ... places the people in danger of sentence (by either courts or administrative organs) to forced labour by its loose provisions, which not only prescribe penalties to be imposed for acts committed with criminal intent, but sentence people because of accidents or breakdown of machines even when " no malicious intent " is present (Article 59, especially Section 3 *(c)*).[4]

(6) The representative of the *Association of Former Political Prisoners of Soviet Labour Camps*, when heard at the Committee's Second Session. Referring to Article 58 of the Criminal Code [5], he stated—

Men are not only arrested for what they did many years before, but for what their relatives did in pre-communist days.

(7) The representative of the *Commission internationale contre le régime concentrationnaire*, when heard at the Committee's Third Session. After maintaining that " forced labour is ... an overriding principle in the whole of the field of the penal legislation of the Union ", he affirmed that—

Article 28 of the Penal Code [6] indicates that all sentences providing for deprivation of freedom of over three years shall be purged in camps of corrective labour, which shows that most of the crimes which are dealt with under the provisions of the Soviet Penal Code are indeed punished by corrective or forced labour. We know, according to the provisions of the Ukase of the Supreme Council of the Soviet Union dated 4 June 1947 [7] that the penal responsibility for robbery as regards State or public property will be punished by deprivation of freedom with detention in corrective labour camps. The same applies as regards another Ukase of the Supreme Council dated 9 June 1947 as

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 474th meeting: *Official Records*, paragraph 48.
[2] *Idem*, 9th Session, 322nd meeting: *Official Records*, p. 568, and 11th Session, 413th meeting: *Official Records*, paragraph 16.
[3] See below, paragraph 116.
[4] See below, paragraph 127.
[5] See below, paragraph 125.
[6] See below, paragraph 87.
[7] See below, paragraph 117.

regards responsibility in connection with loss or divulgation of secret State documents containing State secrets.

... not only adult men and women can be, and are, sentenced in connection with the Code, but also children. ... According to Article 12 of the Code, we know that officially a child is considered as being of age when he or she reaches its twelfth year, as regards infliction of sentences to corrective labour.

(8) The private individual heard at the Committee's Second Session.

Procedure.

16. According to the allegations, criminal procedure fails to give the defendant any guarantee of an objective and fair trial and entirely innocent persons can be sentenced.

17. In this connection, it has been alleged that—

(a) prisoners have not the right to the assistance of a lawyer and, in general, are not entitled to defend themselves. They cannot, consequently, arrange to cross-examine witnesses or even produce witnesses in their defence ; the pleadings of the parties may be banned, and it is possible for the verdict of the court to be based on documents and testimonies which were not presented at the trial ;

(b) the M.V.D. is responsible for the criminal investigation of a number of offences, particularly those of a counter-revolutionary nature, and its officials resort to intimidation in order to extract confessions. The procedure followed by the M.V.D. in its investigations is not subject to the Code of Criminal Procedure, but is governed by regulations which have never been made public ;

(c) hearings are not always public and verdicts are very often pronounced in the absence of the accused ;

(d) the sentence passed by the court of first instance is final in the case of acts of terrorism and counter-revolutionary crimes, and the convicted person is not entitled to appeal against it.

18. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The representative of the *American Federation of Labor*—

All evidence obtained concurred on the following points : arrests were made and sentences were passed without public hearings ; the accused did not have the right to defend himself and could not have the services of a lawyer.[1]

(2) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

The Ministry of State Security (M.G.B.) assume, according to Article 108 of the Code of Criminal Procedure of the R.S.F.S.R.[2], the role of investigating magistrates. They follow a special procedure of investigation, the rules of which are not published. Trial procedure in the Soviet courts which have jurisdiction in political cases is such that the trial itself serves only to supplement the documents and testimony (most often extorted confessions) prepared by the political police as a basis for indictment by the public prosecutor (procurator). The court may, according to Article 394 of the Code

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 117.

[2] See below, paragraph 137.

of Criminal Procedure [1], stop the questioning of witnesses at any moment. It may refuse to permit pleading by the parties (Article 397) [1] and it may base its verdict on documents and testimony which were not presented at the trial (Article 396).[1]

(3) The representative of the *Association of Former Political Prisoners of Soviet Labour Camps*, when heard at the Committee's Second Session—

Not a single man of our Association was ever brought to trial, or permitted to confront witnesses or hire counsel to defend himself.

(4) The representative of the *Commission internationale contre le régime concentrationnaire*, when heard at the Committee's Third Session—

Under Articles 466 to 473 of the Code of Criminal Procedure [2], a speedy procedure is provided for without any appeal for the individual concerned. ... Whenever charges are made as regards terrorist action, the time for the enquiry should not exceed 10 days, the judgment should not be communicated to the criminal longer than 24 hours before the sentence is to be passed, there is no possible participation of the interested party in the trial, and there is no possible appeal to amnesty either. ... There is no difference as between the judicial procedure and the administrative procedure in respect of such crimes and, what is more important even, there is no power of defence of the interested party.

(5) The *Estonian Consultative Panel*, in a memorandum—

According to Chapter 33 of the Soviet Penal Code [3] ... counter-revolutionary cases are tried before special tribunals ... where no possibilities for defence or appeal to another court exists (Articles 469-472). These cases are heard in the absence of the accused ; the session is never public, not even when the sentence is pronounced (Article 468).

Organisation of the Judiciary.

19. It has been alleged with regard to the organisation of the Soviet judiciary and the importance which certain of its organs have for the operation of the country's system of forced labour that—

(a) the judges, having to allow for the directives issued by the Party and the State, do not, in fact, enjoy the independence guaranteed them by Article 112 of the Constitution ;

(b) the M.V.D. military tribunals have jurisdiction not only over military personnel, but also over civilians in certain cases involving counter-revolutionary crimes ;

(c) there are special tribunals—known as *troikas*—whose members are appointed by the M.V.D., which pass sentence without having heard the prisoner ;

(d) offences in forced labour and prisoner-of-war camps are dealt with by the M.V.D.'s special camp tribunals.

20. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The representative of the *American Federation of Labor* at the Economic and Social Council. [4]

[1] See below, paragraph 141.
[2] See below, paragraphs 141 and 142.
[3] The intended reference is obviously to the Code of Criminal Procedure ; see below, paragraphs 141 and 142.
[4] UNITED NATIONS, Economic and Social Council, 12th Session, 471st meeting : *Official Records*, paragraphs 9 and 10.

(2) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session. Quoting from Soviet authors to show that " the independence of the judge and his subordination only to the law, provided for by Article 112 [of the Stalin Constitution], does not signify his independence of the political directives of the Party and the directing Soviet organs ", he stated—

It is obvious that under these conditions there can be no genuine legal guarantee for protecting the individual against arbitrary acts of the Government or its organs.

In some cases, the political police may itself function as a court. There exist military tribunals of the troops of the N.K.V.D. In the Soviet Union, military tribunals have jurisdiction not only over military personnel, but also in certain cases involving so-called " counter-revolutionary crimes ".

Referring to the N.K.V.D. *troikas*, he alleged that—

During the great purge, these terror teams pronounced death sentences even without having the prisoner appear at the " trials ".

The special camp tribunals which have jurisdiction in cases of " offences committed in corrective labour camps and colonies " are nothing but the M.V.D. under another name.

(3) The *Estonian Consultative Panel*, in its memorandum.

(4) The representative of the *Commission internationale contre le régime concentrationnaire*, who quoted from the manual by Vyshinski and Undrevich[1] to affirm : " The personnel of the judiciary and staff of the courts offer no guarantee of independence or impartiality ".

Forced Labour Imposed by the Administrative Authorities

21. It has been alleged that one of the corner-stones of the forced labour system in the Soviet Union is the M.V.D., which controls the State police, and has the widest extra-judicial powers, extensively used or abused by the authorities to subject large sections of the population, not excluding women and children, to forced labour. It has further been alleged that—

(a) the principle that a sentence of forced labour can be passed by the administrative authorities is expressly stated in Articles 8, 12, 17, 20, 29 and 45 of the Corrective Labour Code ;

(b) two Legislative Decrees, dated 10 July and 5 November 1934, form the legal basis of an organ of the M.V.D., the Special Council, which has the power, once a person has been recognised as constituting a danger to society, to impose upon him a number of preventive measures such as expulsion or five years' detention in a forced labour camp, without giving him an opportunity to state his case or charging him with any definite offence.

22. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The *United Kingdom Government*, in a memorandum—

In the Soviet Union, persons can be condemned to forced labour without trial in a court of law. Articles 8 and 45 of the Corrective Labour Codex of the R.S.F.S.R.[2] make this fact quite clear.

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[1] See below, paragraph 131.

[2] See below, paragraphs 128, 143 and 150.

(2) The representative of *Chile*, whose arguments were based on Article 8 of the Corrective Labour Code [1] and an Ordinance issued by the Central Executive Committee on 10 July 1934.[2]

(3) The representative of *France*, who stated that the Corrective Labour Code contained the following points :

First, corrective labour could be imposed by administrative decision, with all the arbitrariness that involved.

Secondly, persons who had merely been charged could be sent to colonies or corrective labour camps and be subjected to harsher treatment than other prisoners, sentence being thus applied to persons who had not yet been declared guilty.[3]

He made a further allegation to the same effect at a later meeting.[4]

(4) The representative of the *United Kingdom*—

In the Union of Soviet Socialist Republics, people could be condemned to forced labour without trial in a court of law. Paragraph 8 of the Codex [*i.e.*, the Corrective Labour Code] [1] provided that—

> Persons shall be directed to corrective labour who have been sentenced thereto by :
>
> .....
>
> *(b)* decree of an administrative organ.
>
> .....

Similar references to sentence by administrative organs alone occurred in paragraphs 12, 17, 20, 29 and 45 of the Codex [5], and in each instance the ukase of the administrative organ was carefully distinguished from sentence by a court of law.[6]

At subsequent meetings he referred to paragraph 8 of the Code [1] and also mentioned paragraph 45 [7], each time repeating his allegation.[8]

Article 283, paragraph 8, of the Ordinance of the Central Executive Committee, which was included in the collection of laws of the U.S.S.R. Government, No. 36 of 10 July 1934 [9], signed by Mr. Kalinin and Mr. Enukidze, read—

> Under the People's Commissariat for Internal Affairs, U.S.S.R., a special council is to be organised, which, on the basis of regulations laid down for it, is to have the power of applying, as an administrative measure, expulsion, exile, imprisonment in corrective labour camps for a period of up to five years and expulsion beyond the confines of the U.S.S.R.

The words " as an administrative measure " meant that a man could be condemned to forced labour or exile without any trial in a court of law.

Another Ordinance of the Central Executive Committee, signed by Mr. Kalinin and others on 5 November 1934 [9], made it clear that people were condemned in the U.S.S.R. for holding political or religious views which the Government considered heretical.

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[1] See below, paragraphs 128 and 143.

[2] See below, paragraph 144 ; cf. UNITED NATIONS, Economic and Social Council, 12th Session, 473rd meeting : *Official Records*, paragraphs 34-35.

[3] UNITED NATIONS, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 556.

[4] *Idem*, 12th Session, 474th meeting : *Official Records*, paragraph 13.

[5] See below, paragraphs 86, 128 and 150.

[6] UNITED NATIONS, Economic and Social Council, 9th Session, 319th meeting : *Official Records*, pp. 507-508.

[7] See below, paragraphs 128 and 150.

[8] UNITED NATIONS, Economic and Social Council, 10th Session, 366th meeting : *Official Records*, paragraph 14, and 11th Session, 413th meeting : *Official Records*, paragraph 12.

[9] See below, paragraph 144.

For the Ordinance simply laid down a number of " measures against people who are regarded as socially dangerous " including confinement in corrective labour camps for a period of up to five years without there being any mention of the question of guilt.[1]

(5) The representative of the *United States of America*, who, supporting his statement with references to *The Law of the Soviet State*, by Andrei Vyshinski, alleged that—

> ... the Soviet police are authorised by law to imprison individuals in so-called " camps of corrective labour ", to exile them to a specific community somewhere in the U.S.S.R. or to bar them from residence in certain areas. These are facts which were brought out in earlier discussions of this Council and they have never been denied, let alone refuted.
>
> During the farm collectivisation drive in the late twenties and early thirties and during the many purges that have characterised the Soviet political scene, there was ample opportunity to fill the prisons and the many concentration camps through administrative processes only and in circumvention of the courts.[2]

(6) The representative of the *American Federation of Labor*.[3]

(7) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

> The Soviet police force has the power to send any person whom it considers " socially dangerous " to a concentration camp by administrative decision. This means that, in these instances, where such a decision is rendered without a trial, it is (according to the Decree of 5 November 1934) [4] not even necessary to charge the victim with having committed a specific offence.

(8) The representative of the *Commission internationale contre le régime concentrationnaire*, when heard at the Committee's Third Session. In support of his assertions, he referred to an Ordinance of 27 October 1934[5], transferring the corrective labour institutions and people's courts of the republics of the Union to the N.K.V.D. of the U.S.S.R., and the legislation dated 10 July 1934 and 5 November 1934.[4] He also cited Article 45 of the Corrective Labour Code to affirm that : " In the spirit of the Soviet legislation there is no difference whatsoever as between judicial and administrative procedure".

(9) The representative of the *Latvian Consultative Panel*, when heard at the Committee's Second Session—

> In one night alone [June 1941], 3,322 children under the age of sixteen, 5,302 women and 6,447 men were torn away from their homes and their families ... without any trial—by a single administrative order ...—were sent to slavery thousands of miles away from their native country, to work in most severe climatic conditions ... with little food and under the constant supervision of their guards.

(10) The *Lithuanian Consultative Panel*, in its memorandum.

Economic Importance of Forced Labour

23. According to the allegations, the forced labour institutions in the Soviet Union play a major and increasing part in the national economy. It is to a great

[1] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting : *Official Records*, paragraphs 13-14.
[2] *Idem*, 12th Session, 470th meeting : *Press Release*, No. 1159, p. 5.
[3] *Idem*, 9th Session, 319th meeting : *Official Records*, p. 513.
[4] See below, paragraph 144.
[5] See below, paragraph 148.

extent their efforts which have led to many of the achievements of which the Soviet Union is so proud.

24. The millions of persons sentenced to forced labour provide a supply of cheap manpower which the authorities can move at will from one part of the country to another to exploit unhealthy, undeveloped areas.

25. All the forced labour institutions are under M.V.D. control and the M.V.D. derives substantial profits from the use of convict labour by deducting from the prisoners' wages, as laid down in Article 138 of the Corrective Labour Code, and by hiring out the prisoners' services to various undertakings.

26. The construction of the canals linking Moscow to the Volga and the White Sea to the Baltic provide an insight into the importance of forced labour for the country's economic life. Mr. Molotov himself admitted, in a speech he made in 1931, that there were many branches in which convict labour was employed, *e.g.*, road and rail development, building, quarrying, forestry, metallurgy, etc. The State Plan for the Development of the National Economy of the U.S.S.R. in 1941 is particularly revealing in that it gives the M.V.D. considerable responsibilities for the fulfilment of the Plan in many sectors.

27. Apart from political considerations, the country's economic needs, together with the manpower shortage felt in certain spheres of industry, explain why so many persons are sentenced to forced labour.

28. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The *United Kingdom Government*, in a memorandum—

The industrial programme of the U.S.S.R. has been based on the legalised use of forced labour under the direction of the N.K.V.D.

(2) The representative of *Chile*.[1]

(3) The representative of *France*—

Corrective and forced labour institutions were under the control of the State police; they were managed in accordance with a definite financial and industrial plan and a balance sheet of their operations was established. They made profits by deducting from prisoners' wages and by hiring out workers. A portion of the profits was paid as a bonus to the State police officials. They actually constituted a tremendous trust of cheap labour, a network of forced labour camps which were an essential part of the economy and had contributed in large measure to the achievements of which the U.S.S.R. so often boasted. In the circumstances, it might well be asked whether the labour camps were to house the criminals or whether the criminals were made to fill the camps.[2]

(4) The representative of the *United Kingdom*—

It was clear that forced labour played a vast role in the economic system of the U.S.S.R., particularly in the exploitation of hitherto undeveloped areas. Thus, Article 138[3] [of the Corrective Labour Codex] gave a hint of the economic importance of forced labour in the accumulation of capital in the U.S.S.R. and indicated that bonuses were given to camp officials as an inducement to get the utmost possible production out of their prisoners. Obviously, what existed in the U.S.S.R. was not an ordinary peni-

[1] UNITED NATIONS, Economic and Social Council, 10th Session, 366th meeting: *Official Records*, paragraph 28.

[2] *Idem*, 12th Session, 474th meeting: *Official Records*, paragraph 13.

[3] See below, paragraph 150.

tentiary system but a vast economic enterprise run by the police and apparently employing more labour than any other organisation in the world.[1]

The U.S.S.R. Foreign Minister himself had admitted that there were many such projects [like the Baltic-White Sea and Moscow-Volga canals], for in 1931, when the forced labour system was still in its infancy, he had said[2]: "Mass projects employing those deprived of liberty are organised for a variety of different objectives: for highway construction ... in the building industry, in peat exploitation ... in metallurgical plants [etc.]". The authors of the *Great Soviet Encyclopaedia* had made no attempt to conceal the size of the forced labour contingent. It contained the statements—

> A brilliant example of success of Soviet corrective labour policy is the construction of the White Sea-Baltic Canal named after Stalin where tens of thousands of prisoners received labour habits and qualifications.
>
> The grandiose victories of socialism on all fronts made possible the wide employment of labour criminals in the general channel of socialist construction in the process of which the criminals are transformed into toilers of socialist society. At the present stage it has become possible to begin also the work of re-educating *déçlassé* elements from the shattered hostile classes by passing them through the "testing furnace" of de-kulakisation, isolation and labour coercion.
>
> With the entry of the U.S.S.R. into the period of socialism, the possibilities of exerting influence by corrective labour grew to an unlimited degree.

... At the present time, the rulers of the U.S.S.R. were boasting that they had eliminated unemployment; if they had done so, it was at the price of unlimited forced labour. The official U.S.S.R. publications alone provided overwhelming evidence that the amount of forced labour in the U.S.S.R. was immense and that it was a fundamental part of the U.S.S.R. economy.[3]

He returned to the subject at a later meeting.[4]

(5) The representative of the *United States of America*, who, speaking of the State Plan for the Development of the National Economy of the U.S.S.R. in 1941[5], stated—

That official Plan, which had been confidential, and which had come into the possession of the United States Government, gave a clear picture of the part played by forced labour in the economic life of the Soviet Union in 1941. He cited data from that Plan showing that the N.K.V.D.—the People's Commissariat of Internal Affairs which had administered the prison labour—had been assigned more than 14 per cent. of capital construction during that year, mainly in the fields of mining, logging camps and military and railroad construction. There were indications that in addition the N.K.V.D. had farmed out some of its forced labour for projects financed by other commissariats, so that the actual percentage of capital construction by means of forced labour was even higher. He quoted various provisions of the Plan showing the N.K.V.D. was also responsible for much of the timber production, Arctic freight towing, railroad construction and mining of chrome ore—work which had to be done in outlying regions with a harsh climate and where ordinary labour was difficult to find. In addition, the N.K.V.D. had a production quota for certain types of machinery and manufactured goods.

During the post-war years, the N.K.V.D.—which had become the M.V.D.—had maintained its functions especially in the field of capital construction. It was not mere chance that the leading engineers of some of the most important power, railroad and canal projects of recent years were wellknown forced labour specialists from the above-

[1] UNITED NATIONS, Economic and Social Council, 10th Session, 366th meeting: *Official Records*, paragraph 16.

[2] See below, paragraph 174.

[3] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting: *Official Records*, paragraphs 19-20.

[4] *Idem*, 12th Session, 474th meeting: *Official Records*, paragraphs 45-46.

[5] See below, paragraph 172.

mentioned Ministry, a further indication of the fact that forced labour had become an integral part of the Soviet economic life.[1]

(6) The representative of the *American Federation of Labor*—

According to information supplied by an informant whose name had to be withheld for very understandable reasons, the M.V.D.—the Soviet secret police—directed and developed slave labour projects of such major importance that they formed an integral part of U.S.S.R. economic planning. In some economic sectors, undertakings directed by the M.V.D. dominated or even actually monopolised the field. Information from persons close to the GOS planned administration indicated that the plans prepared immediately before the German invasion showed that the M.V.D. was the main construction agency of the U.S.S.R. According to the plans for 1941, the M.V.D. and its supporting agencies were assigned 14 per cent. of all capital construction, a greater amount than any other Ministry. The aviation Ministry was second highest, but its construction allotment was less than two-thirds of the M.V.D. programme.

The M.V.D. was also in charge of the building and maintenance of all national roads as well as the construction of railroads in isolated regions. Since the end of the war, the M.V.D. had been given additional responsibilities : the construction and operation of all atomic developments, the extraction of timber, gold, coal, chrome ore and oil and the production of some consumer goods. The same informant from the GOS planned administration states that the M.V.D. participation in the planned production under the economic plan amounted to from one-tenth to one-half of the total production in certain industries of the U.S.S.R.

In all the plans, the share of the M.V.D. in industrial production was greatly undervalued in terms of roubles. The M.V.D. probably supplied the cheapest labour because it paid only very low salaries and provided no social services. Forced labour projects under M.V.D. control supplied one-eighth of the total timber production, 10 per cent. of all furniture and kitchenware production and 40 per cent. of the total chrome production of the U.S.S.R. Since 1938, 75 per cent. of the gold production had been the result of forced labour. The Komi Republic was almost entirely in the hands of the M.V.D. Agricultural collective farms in that region were worked largely by families from the south who had been exiled to the Komi Republic for resisting the policy of collectivisation in the 1930's.[2]

The same representative had also made an allegation at an earlier meeting.[3]

(7) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

Post-war reports indicate that the network of Soviet concentration camps is steadily spreading from its original centres in the remote parts of the country into the heart of the Soviet Union, into the more densely populated areas. This process has a far-reaching effect on the Soviet economy. Slave labour in the Soviet Union was first used in the lumber industry. Then it was used in the construction and mining industries. The secret Soviet economic plan for 1941, which became known in the West after the war, showed that, in addition to the forementioned sectors of the Soviet economy, the use of slave labour had been extended to some branches of manufacturing. This process has continued after the war. Prisoners are today used as unskilled manpower in many industries.

(8) The representative of the *International League for the Rights of Man*, when heard at the Committee's Second Session—

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[1] UNITED NATIONS, Economic and Social Council, 12th Session, 470th meeting : *Official Records*, paragraphs 7-8.

[2] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraphs 49-51.

[3] *Idem*, 9th Session, 319th meeting : *Official Records*, p. 513.

Forced labourers are not only, in the main, sentenced because of their poli views; they are sentenced so that the insatiable demands of the State economy can be m

(9) The representative of the *Commission internationale contre le régime co trationnaire*, when heard at the Committee's Third Session—

In the main it can be said that, be it for agricultural or industrial work, the un takings and the plant are attached to the concentration camps, but it also happ according to the seasonal variations and changes, that surplus labour becomes avail in the camps. This surplus labour force is then hired out for very high salaries to ci undertakings. It goes without saying that such a salary is not paid to the indivi himself. ... Since skilled labour is very scarce at times, the big Soviet trusts are larg dependent on this surplus labour in the concentration camps.

From the point of view of the central administration of each camp the essen task is to carry out that portion of the economic plan of the country that has b assigned to the particular camp.

(10) The representative of the *Estonian Consultative Panel*, when heard the Committee's Second Session.

(11) The private individual, when heard at the same Session—

It is necessary for a dynamic government, with far-reaching goals everywhere the world, to have at its disposal a great labour force which can be transferred in few weeks or months from one end of the country to another.

Number of Prisoners

29. It is alleged that, unlike other countries, the Soviet Union never publis statistics for its prison population, and the secrecy with which the Governm surrounds its system of forced labour makes it difficult to quote figures with a degree of accuracy.

30. Occasionally, however, certain most revealing data have been publish in regard to the camps. As an example, 127,000 prisoners were amnestied to m the completion of the canals linking Moscow to the Volga and the White Sea to t Baltic. This figure, in itself enormous, is even more remarkable when it is remem bered that it only represents the number of prisoners who were amnestied, and n the total number employed on building these canals, and furthermore, that th are only two among the hundreds of different projects undertaken by the M.V.

31. It is acknowledged that such scattered evidence is not enough to warra putting forward, with any certainty, a figure for the present prison population the Soviet Union. Hence, it is argued that any estimate is bound to be arri at by a process of deduction or by some method the results of which must be accepte at least to some extent, with reserve. From discrepancies in certain Soviet statist one investigator has come to the conclusion that the number of persons senten to forced labour in the Soviet Union is as high as 13 million. This is an aver estimate, since other specialists with other data have produced a figure of s two to three million, while others again have calculated that the prison popula is even in excess of 20 million.

32. The forced labour contingents include hundreds of thousands of prison of war, particularly Germans and Japanese, as well as many thousand Germ Japanese and Czech civilians deported from the areas occupied by the Soviet U after the Second World War.

33. It is further alleged that many citizens of the Baltic States are compe to do forced labour.

34. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The representative of the *United Kingdom*—

The most conservative estimate reached after a perusal of Soviet publications placed the number of prisoners in the U.S.S.R. at 1,830,000; non-Soviet estimates placed that number at several million.[1]

... the U.S.S.R. representative ... had tried to convey the impression that the conditions of forced labour to which from eight to 14 million persons were subjected in the U.S.S.R. could be compared with the conditions prevailing in camps of the International Refugee Organisation or in prisons in the United States.[2]

He wondered how it was possible to reconcile the figure of one million German prisoners of war which according to Mr. Molotov were in the Soviet Union, with the number given in Soviet war communiqués, the total of which amounted to approximately 3,740,000 men. ... The Soviet authorities were still detaining 200,000 prisoners of war in Germany and there was reason to believe that there were 40,000 German prisoners in Poland, as well as 50,000 civilians working under the control of the Red Army in Western Poland.[3]

[He] went on to explain certain aspects of the National Service Act of the United Kingdom, and stated that since the war direction of labour had been applied in his country in only 29 cases. He compared that figure with the accusation that there existed eight to 12 million slave labourers in the Soviet Union.[4]

Anyone could obtain accurate figures of the number of people in prisons in the United Kingdom. However, the secrecy with which the Government of the Soviet Union surrounded its widespread and dreadful system made it difficult to give precise figures....

According to the most reliable information his Government had been able to obtain, rather more than 10 million people in the Soviet Union were at present subjected to forced labour.[5]

He repeated this allegation at a later meeting.[6] He also stated—

... a Soviet publication entitled *From the White Sea to the Baltic in the Name of Stalin* contained the information that out of an unknown number of prisoners engaged in the construction of the Baltic-White Sea and Moscow-Volga canals, 127,000 had been amnestied. That number was nearly the same as the total prison population in the Russian Empire in 1914. The figure was staggering when it was considered that it represented amnesties of persons connected with only two projects out of the hundreds of different enterprises undertaken by the M.V.D.[7]

The same allegation was made at another meeting[8], where the figures for the two canals were quoted as being 72,000 and 55,000 respectively.[9] It was repeated at two later meetings.[10]

The United Kingdom Government had expressed the view in 1948, after careful calculations based on such figures as were then available, that there were more than 10 million people condemned to forced labour in the U.S.S.R. Perhaps the actual figure

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[1] UNITED NATIONS: *Official Records of the 3rd Session of the General Assembly, Part I ... 3rd Committee*, 103rd meeting, p. 160.

[2] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting: *Official Records*, p. 111.

[3] *Ibid.*, p. 113.

[4] *Ibid.*, 262nd meeting: *Official Records*, p. 459.

[5] *Idem*, 9th Session, 319th meeting: *Official Records*, p. 505.

[6] *Idem*, 12th Session, 474th meeting: *Official Records*, paragraph 49.

[7] *Idem*, 10th Session, 366th meeting: *Official Records*, paragraph 17.

[8] *Idem*, 9th Session, 319th meeting: *Official Records*, p. 506.

[9] See below, paragraphs 169 and 170.

[10] UNITED NATIONS, Economic and Social Council, 9th Session, 322nd meeting: *Official Records*, p. 567: *idem*, 11th Session, 413th meeting: *Official Records*, paragraph 19.

was at present greater than 10 million, since there had recently been mass deportations from some of the smaller countries of the U.S.S.R. About three million people from the Baltic States and from Moslem communities such as that of the Chechens had been deported to Siberia or Central Asia.[1]

(2) The representative of the *United States of America*—

From the diverse information available it was estimated that in the U.S.S.R. there were about from eight to 14 million persons subjected to forced labour.[2]

The Soviet Government, unfortunately, does not see fit to publish statistics on its prisoners and so the outside world has to rely on its own computations. These calculations differ among themselves, but they have one thing in common : not a single estimate places the number of Soviet prisoners at less than several million people.

The most cautious observers, those who prefer to err on the lower side, are of the opinion that there are at least two to three million forced labourers in the Soviet Union ; five years ago a generally conservative student of the Soviet economy came out with an estimate of five to seven million people ; one scholar thought that certain discrepancies in Soviet statistics pointed to a prison labour force of 13 million ; others believe that there are more than 20 million forced labourers.

I do not pretend to know the exact figure ; it must have varied over the years and the divergence in estimates reflects to some degree the different periods to which they refer. But I am impressed by the height of even the most cautious estimates. If the number of forced labourers were only two to three million, it still would be 10 to 15 times as much as can be found in what the communists call a rotten bourgeois society. And if the maximum estimate were correct, the difference would be a hundredfold.[3]

(3) The representative of the *American Federation of Labor*.[4] This representative also stated—

An idea of the vastness of one of the camps, that of Ukhta-Pechora, in the Arctic Circle, could easily be obtained from an examination of the great variety of occupations mentioned in the manual in question. Besides unskilled labour the manual contained a list of 26 trades.[5]

(4) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

Immediately after the war, hundreds of thousands of Russians who had been held by the nazis as war prisoners—or who had been deported by them for compulsory labour in the German economy—were sent by the Soviet authorities to various forced labour camps in the U.S.S.R.

The German and Japanese war prisoners who had fallen into the hands of the Soviet armies constituted another slave labour reservoir for the Russian concentration camps. Other post-war additions to Stalin's reservoir of slave labour were about 700,000 German and 25,000 to 30,000 Japanese civilians, Czechoslovak citizens deported to Soviet concentration camps when the Carpatho-Ukraine was torn off from Czechoslovakia.

(5) The representative of the *International League for the Rights of Man*, when heard at the Committee's Second Session. He spoke of " ten or more million victims in the camps of the Soviet Union ", and alleged that " in the Soviet Union

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[1] UNITED NATIONS, Economic and Social Council, 11th Session, 413th meeting : *Official Records*, paragraph 18.

[2] *Idem*, 8th Session, 236th meeting : *Official Records*, p. 102.

[3] *Idem*, 12th Session, 470th meeting : *Press Release*, 1159, pp. 3-4.

[4] *Idem*, 8th Session, 237th meeting : *Official Records*, p. 104 ; *ibid.*, 238th meeting : *Official Records*, p. 117.

[5] *Idem*, 12th Session, 471st meeting : *Official Records*, paragraph 4.

in the Soviet satellite States of Eastern Europe one out of every 40 persons in working force are in forced labour camps ".

(6) The representative of the *Commission internationale contre le régime entrationnaire* when heard at the Committee's Third Session.

(7) The representative of the *International Federation of Free Journalists*, n heard at the Committee's Third Session—

At present in Estonia there are 42 labour camps with at least 30,000 inmates. When y 30,000 I am taking the conservative estimate.... According to the information ished by the Estonian Central Statistical Bureau until 1939 ... the number of istrial workers in Estonia in 1939 was 66,200, and the number of agricultural labourers 497, which totals 182,697. ... I assume that the number of workers at present least larger by one-third, which makes up 240,000 workers. Of these, 30,000 prisoners ld constitute 12.5 per cent.

(8) The private individual, when heard at the Committee's Second Session.

Location of Camps

35. According to the allegations, there are many camps of varying sizes tered over the Soviet Union. The location of these camps, which for the most have been opened in the remoter areas of the country, is quoted in the alle- ons.

36. Lists of alleged camps were submitted to the Committee by the represen- ves of one government and by various non-governmental organisations.

37. The relevant allegations, the main passages of which are reproduced ow, were made by—

(1) The representative of *Chile*—

According to the information available, there appeared to be more than 100 cor- ive labour camps in the U.S.S.R., 66 of which were in Asia, particularly Siberia.[1]

(2) The representative of *France*, who mentioned Karaganda and Kolyma.[2]

(3) The representative of the *United Kingdom*—

The system of exile ... was practised in vast enterprises such as those in the remote ntain region of Dalstroi, in Eastern Siberia, and in Karaganda in the deserts of tral Asia, which had been peopled by that means.
the great penal area of Karaganda in the Kazakh Desert, the concentration of camps Dalstroi in the Far East, including the coal-mining camp on the Kolyma River, Pechora group in the north of Europe, the Lake Baikal group in Siberia, the Yagri up in the Archangel region and the groups in Lapland, Novaya Zemlya, Sakhalin Kamchatka, and in the Novosibirsk, Krasnoyarsk and Arctic regions. The repre- tative of the United Kingdom had stated that the information in his possession gested that those camps contained only a fraction of the total forced labour ulation of the Soviet Union.[3]

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 473rd meeting : *Official Records*, graph 37.
[2] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraph 131.
[3] *Idem*, 9th Session, 319th meeting : *Official Records*, pp. 509, 511.

(4) The representative of the *American Federation of Labor*, who asserted that forced labour camps existed in the Urals and on the Kolyma; in the Komi Republic, Northern Europe, Siberia and the Far East; and at Ukhta-Pechora, in the Arctic Circle.[1]

(5) The *International Federation of Free Journalists*, which, in its memorandum, mentions camps at Starobilsk, Nikopol and in the Donbas, which are said to have existed in 1945-1949.

(6) The *Lithuanian Consultative Panel* in its memorandum—

The Lithuanian deportees were transported to the remote regions of the U.S.S.R., to Siberia, to the Arctic regions of the Autonomous Territory of Komi, Altai and Kazakstan and more recently to the coal-mining basin of Donets and to the forest region of Kyrov-Vologda in North Russia.

The memorandum also mentions the Vorkuta and Kraslag camps.

(7) The private individual, when heard at the Committee's Second Session—

In my book, there is a list of perhaps 70 or 80 camps which existed before the war, but the situation today is different. A small number of huge camps existed before the war and does exist today. Of this I am sure—such camps as Karaganda still exist today, covering a very large area, possibly as large as France. Each one consists of " points ", as they say in Russia. That means small settlements of five or ten thousand men. . . . But there are others—perhaps seven or eight—which are also huge institutions in the Far East and southern part of Asia and north of European Russia. There are scores, perhaps 200, of small camps—small meaning under 5,000.

Life of Prisoners in Forced Labour Camps

38. According to the allegations, the living and working conditions in forced labour camps in the Soviet Union are extremely rigorous. The following allegations have been made in this regard :

(1) Common criminals are placed in charge of political offenders by virtue of Articles 86 and 87 of the Corrective Labour Code.

(2) When the profits of a forced labour institution are shared out, some are put back into the institution and used for its development and some go towards a bonus fund for its officials (Article 138 of the Code). It is consequently to the advantage of the officials to obtain a maximum output by setting very high production norms, to keep down expenditure on upkeep and food, to use hunger as a means of exploitation and even to eliminate the less productive elements altogether.

(3) The prisoners are kept on a starvation diet, they are forced to do work beyond their physical capacities and their living conditions are extremely primitive. They are poorly clothed and are exposed to all the rigours of the climate. Medical care is either entirely lacking or totally inadequate. The sickness and death rate caused by such a life is very high and the convicts have but slender chances of survival. In this respect, the regulations of the Ukhta-Pechora camp are particularly revealing as to the inhuman fate reserved for prisoners and their children.

(4) Since most of the prisoners in the camps are regarded as being opposed to the régime, the Government has even adopted a systematic policy of extermina-

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 237th meeting : *Official Records*, p. 104 ; 10th Session, 365th meeting : *Official Records*, paragraphs 51, 60 ; 12th Session, 471st meeting : *Official Records*, paragraph 4.

tion. In the Vorkuta camp in 1938, for instance, 1,300 prisoners were shot on the orders of a *troika* which had come from Moscow.

(5) The forced labour camps in the U.S.S.R. can be divided into three categories, depending on the severity of the treatment they accord their prisoners. In the first category, 40 per cent. of the prisoners are political offenders whose sentences do not exceed four years. In the second and third categories, 60 and 80 per cent. of the population are political offenders. The third category includes the punitive camps in the Arctic, which the prisoners call " death camps ".

39. The camps are not the only places of detention. Prisoners may be held in several other types of institution, depending on the stage reached in the trial of their case, their length of sentence, age and other factors.

40. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The *United Kingdom Government*, in a memorandum—

Political offences are considered the more serious and political prisoners are more rigorously treated than common criminals.

(2) The representative of *France*—

... prisoners could be selected as guards in the detention camps and could even be armed. It was specified [in the Corrective Labour Code] that they must be persons convicted of " ordinary crimes ". Thus common law and political prisoners were not only housed in the same camps, but the latter could be subordinated to the former and placed at their mercy ...

.....

... the corrective institutions described at length in the Soviet Union Corrective Labour Codex were very largely autonomous, with their own organisation, budget, resources, and profits. The resources included the work done by those undergoing detention, some of whom were paid normal wages, less a percentage, others at a special rate, probably lower than normal wages. Others again could be hired out to firms at a rate which left a margin of profit for the institution. The profits were partly ploughed back into the institution—*i.e.*, were used for its development, while a part went towards a bonus fund for officials. The system thus made for intensive production. It was to the advantage of the officials to obtain a high output and hence to insist on hard work, to keep down expenditure on upkeep and food, and even to eliminate altogether the less productive elements. What a temptation ! And the situation was made worse by the fact that the State police had the right to inflict penalties of one or even two years' imprisonment.[1]

(3) The representative of the *United Kingdom*—

... throughout the Codex there was repeated evidence that political offenders were more rigorously treated than common criminals, and Articles 86 and 87 [2] made it plain that they were frequently placed under the control of armed criminals.[3]

The same allegation was made at an earlier meeting.[4] He also stated—

One particularly offensive feature of that system of hiring out human beings without their consent was that the camp officials got a share of the proceeds, presumably as an inducement to get the utmost work out of their prisoners. Paragraph 138 of the

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[1] UNITED NATIONS, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, pp. 556-557.

[2] See below, paragraph 150.

[3] UNITED NATIONS, Economic and Social Council, 10th Session, 366th meeting : *Official Records*, paragraph 15.

[4] *Idem*, 9th Session, 319th meeting : *Official Records*, p. 509.

Codex [1] provided that " out of the net income from production activity " there should be an assignment of " 5 per cent. to the bonus fund for officials of the corrective labour institutions ". Was that the " socialist emulation " which was stated to be the goal of forced labour in paragraph 2 ? [2] It was not far removed from the classical definition of slavery.[3]

(4) The representative of the *United States of America*—

... the system meant untold suffering. A large number of former inmates of Soviet prisons and concentration camps had testified to the harsh conditions, starvation, overwork, misery and appalling death-rate in those places. Their stories were all similar. Some of these testimonies might be exaggerated and biased, but there were enough accounts which had the ring of authenticity. For example, at the Rousset Trial held in Paris in November and December 1950, Mrs. Buber-Neumann and Mr. Valentin Gonzales ... had given an account of the arbitrariness of the Soviet legal system.[4]

(5) The representative of the *American Federation of Labor*, who stated that the Corrective Labour Code confirmed that one of the essential features of the forced labour system in the Soviet Union was " that sources of financing the system of corrective labour institutions and the industrial establishments they served were: (i) income from the productive activities of the corrective labour institutions; (ii) deductions from the wages of persons condemned to corrective labour ". " Another feature was that incitement to utmost exertion was practised by setting abnormally high production norms, and by using hunger as a means of exploitations. " [5]

At a later meeting, the representative produced a photostat copy of the regulations of the Ukhta-Pechora camp [6] and stated—

As regards the diet of the prisoners, the chart setting up the monthly norms indicated that 1,292 calories per day were allotted for each worker. The minimum calorie requirements for a man weighing 154lb. was estimated at 2,500 calories, if he was engaged in sedentary work. It must also be remembered that that figure had been established for temperate climates, while the camp in question was situated on the 67th parallel, inside the Arctic Circle, which meant that the minimum calorie ration should certainly be increased in view of the rigours of the climate. It could thus be seen that sub-normal diet for labourers was at a starvation level. Further, the vitamin content of the food was so low that the manual gave detailed instructions for scurvy treatment. On the other hand, according to page 7, paragraph 1, it was possible for a prisoner of the forced labour camp to receive a better food ration if he was a Stakhanovite or shock worker. Thus the cruel system of using the whip of hunger to stimulate workers to greater efforts was followed. It was a vicious circle, because more work caused greater exhaustion with a resulting need for more calories.

That illness was widespread in the camp could be seen from the detailed instructions for the minimum feeding of patients. On page 20, paragraph 21, it was stated that outgoing patients, such as those with dysentery and fever, might be given a diet, which was not to exceed the value of the food ration previously fixed for the camp inmate and was to correspond to his average wages five days prior to his falling ill. It was left to chance whether convalescent labourers recovered or died. Workers punished for offences committed within the camp were allowed only 716 calories per day, while it was indicated in section 24, paragraph 156, that the minimum ration for dogs was to be 1,184 calories. What was more, it appeared from paragraph 157 that all the kitchen

[1] See below, paragraph 150.
[2] See below, paragraph 97.
[3] UNITED NATIONS, Economic and Social Council, 9th Session, 319th meeting: *Official Records*, pp. 510-511.
[4] *Idem*, 12th Session, 470th meeting: *Official Records*, paragraph 9.
[5] *Idem*, 9th meeting, 319th meeting: *Official Records*, p. 513.
[6] See below, paragraph 173.

scraps from the guards' quarters were to be given to the dogs in addition to the above-mentioned rations.

The manual contained other instructions which gave an idea of the filth in which the workers had to live. It was indicated, for example, that clothing was to be used until completely worn out ; and it was also specified that clothing was not to be exchanged and that a sick person must turn in his clothing before entering the prison hospital. There were severe punishments for those accused of wasting clothing, as follows : for the first offence : the prisoner's working days were not credited to his account for six months and the cost of the articles must be covered by him ; for the second offence : solitary confinement for one year, cancellation of all past entries to his credit and the repayment of the cost of the articles.

Children of all ages were subject to imprisonment in forced labour camps, as was revealed by the large number of pages dealing with the instructions on children's food and clothing.[1]

Mr. Michel Rozanov, a Soviet economist who was a refugee in Western Europe and who had spent 11 years in Russian concentration camps, said that the correctional labour camps were divided into three categories, which were as follows :

1. Camps with military guards where escape was impossible ; 40 per cent. of the inmates in those camps were political prisoners sentenced to not more than four years of forced labour. The camps were situated at the central and southern borders of the U.S.S.R.

2. Camps in Northern Europe, Siberia and the Far East. Living conditions in those camps were extremely hard. Sixty per cent. of the prisoners in that category were political prisoners.

3. Punitive or closed camps, which the prisoners themselves called death camps. Those camps were situated in various parts of Siberia and the Far East, in the midst of the deserts of snow and ice and the polar night. Living and working conditions were terrible. It was impossible to think of escaping from those camps. Persons who were sent there were not supposed to return. Eighty per cent. of the prisoners were political prisoners ; the other 20 per cent. were incorrigibles.[2]

(6) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

Heavy work, systematic starvation, disease and insufficient medical care, lack of protection against work accidents and harsh climate have brought in their wake an extremely high death-rate in the Soviet concentration camps. . . .

However, it is not only slow death which menaces the inmates of Soviet concentration camps. On several occasions Soviet prisoner camps have been the scene of mass assassination of the defenceless victims of the Soviet régime. In 1937-1938, about 1,300 political prisoners—Trotskyites, social democrats, socialist revolutionaries (S.R.)—were executed in the brick plant of the Vorkuta Camp on orders of an N.K.V.D. *troika* consisting of State Security Captain Grigorovich and State Security Lieutenants Koshketin and Chernin.

(7) The representative of the *International League for the Rights of Man*, when heard at the Committee's Second Session.

(8) The representative of the *Association of Former Political Prisoners of Soviet Labour Camps*, when heard at the Committee's Second Session—

The individual's chance of survival depends not only on the camp to which he had been assigned, but also on the type of work. Persons who were fortunate enough to be assigned to office work or to skilled labour, or in a supervisory capacity, had a much

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 471st meeting : *Official Records*, paragraphs 5-8.

[2] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraphs 58-61.

better chance of living through their term of imprisonment than those assigned to labour under conditions of frightful cold, short rations and wholly inadequate medical care.

(9) The representative of the *Commission internationale contre le régime concentrationnaire*, when heard at the Committee's Third Session—

The normal working day should be 12 hours, not counting the time necessary for going to the normal place of work. The normal day is therefore extended under varying circumstances to 14 or 15 hours.... Food is allocated according to the performance of the individual.... What is called a normal performance entails the maximum effort of the individual ; if this maximum level is not obtained then the food ration comes below normal standard, that is, it becomes grossly insufficient at the expense of the strength of the individual who obviously is not able, the following day or the following week, to reach even the minimum performance and this opens the way to the process of slow death.

The representative also mentioned—

... a Circular dated 25 November 1933 of tho O.G.P.U., where special provisions are commented upon as regards the treatment to be inflicted on indolent individuals and malingerers, who should be deported to the northern regions of the Union, and who should be deprived of their freedom. The same applied to persons of ill-faith. Disciplinary measures are also provided in a very harsh way against those who violate the regulations of the camps, and an iron discipline is advocated in such cases. This iron discipline and this strict repression is imposed regardless of the performance of the individual as a worker or labourer, or regardless of his general behaviour, or of the part he plays in the life of the camp.

The corrective camp is not the only institution in existence. There are various other camps and prisons....

There are first of all special prisons of the Ministry of Safety of the State where the inmates are severely isolated. There are transfer prisons where we find those people who have been sentenced but who have not yet reached the camp to which they have been assigned.... Then we have prisons for people under detention pending investigation and these establishments are under the M.V.D., the Ministry of the Interior. People stay there one year or more and they are at the entire disposal of the police. In the third place, there are isolation places. In the fourth place, we have colonies which are also under the M.V.D. for short sentences up to two years and for children between 12 and 16 years of age. In the fifth place we have special colonies where people are placed under restricted residence. In the sixth place we have labour colonies where people are sent when they have finished their sentence and where they are placed under police regulations and, finally, we have the concentration camps proper.

(10) The representative of the *International Federation of Free Journalists*, when heard at the Committee's Third Session.

(11) The private individual, when heard at the Committee's Second Session—

First, there are these forced labour camps—officially called I.T.L., corrective labour camps. That has been the name since the thirties. Any man imprisoned for a term of more than three years is sent to such a camp. A person sentenced to a term of one, two or three years—below three years, in other words—is not sent to the forced labour camps ; he is sent to a colony. Conditions are better in the colonies than in the camps. That is why no political prisoner will ever be sent to a colony. Only ordinary criminals are sent to a colony.

Mass Deportations

41. According to the allegations, millions of persons have been deported, in many cases the deportees being subjected to forced labour. Within the Soviet

Union, it has been asserted, 700,000 Chechens and 300,000 Crimean Tartars were transferred under a Decree, dated 26 June 1946, abolishing their Autonomous Republics. In Estonia, Latvia and Lithuania, large sections of the population were deported in 1941 and the deportations began again with the reoccupation of those territories by the advancing Soviet forces in the latter part of the war; allegedly, they still continue. It is asserted, furthermore, that large numbers of Hungarian and Rumanian civilians and prisoners of war were taken to the Soviet Union and have not yet been repatriated. Meanwhile, they are being made to do forced labour. Prisoners have also been taken to Siberia from the Democratic Republic of Germany.

42. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The representative of the *United Kingdom*—

From the evidence of prisoners, it appeared that 17,000 prisoners at Buchenwald had been sent to Siberia in April 1947 and that, on 31 January 1948, 47,600 prisoners had been deported from the internment camp at Feuenfeichen for labour in the Kuzbas factories in Siberia.[1]

The United Kingdom Government had expressed the view in 1948... that there were more than 10 million people condemned to forced labour in the U.S.S.R. Perhaps the actual figure was at present greater than 10 million, since there had recently been mass deportations from some of the smaller countries of the U.S.S.R. About three million people from the Baltic States and from Moslem communities such as that of the Chechens had been deported to Siberia or Central Asia.[2]

On 26 June 1946 *Izvestia* had published a Decree abolishing the Chechen-Ingush and Crimean Autonomous Soviet Socialist Republics.[3] The Decree stated that the abolition had been due to collaboration by part of the population with the German invaders and the fact that the innocent majority had taken no counter-action. The Decree indicated that the populations of those Republics (700,000 Chechens and 300,000 Crimean Tartars) had been resettled in other parts of the Soviet Union .... The same thing had also happened to the Volga Germans and the peoples of the Baltic Republics. During the past years, from two to three million people had been removed from their homes to the interior of the country and the world had hardly been aware of it. The estimated figures for forced labour in the U.S.S.R. had been described as preposterous, the argument being that if there were that many persons in forced labour camps, the world would know about it. But were those figures necessarily so ridiculous in view of the mass transfers of the population which had taken place almost unnoticed?[4]

(2) The representative of the *United States of America*—

On 25 April 1950 the *New York Times* had contained the information—said to be the best available—that so far between 800,000 and 1,000,000 Lithuanians out of a total population of less than 3,000,000, more than 500,000 Latvians out of a total population of 2,000,000, and more than 200,000 Estonians out of a population of 1,150,000, had been deported from those countries, most of them at less than one hour's notice without more of their belongings than they could themselves carry.[5]

(3) The representative of the *American Federation of Labor*—

The secret police constantly found reserves among displaced and deported persons to replenish its labour force. In June 1949, for example, 30,000 persons of Greek, Turkish

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting: *Official Records*, ... 113.

[2] *Idem*, 11th Session, 413th meeting: *Official Records*, paragraph 18.

[3] See below, paragraph 171.

[4] UNITED NATIONS, Economic and Social Council, 12th Session, 474th meeting: *Official Records*, paragraph 36.

[5] *Idem*, 11th Session, 413th meeting: *Official Records*, paragraph 28.

and Jewish origin had been deported from the Black Sea coastal region at only two hours' notice. Entire populations such as the Crimean Tartars and the Chechens from the northern Caucasus had been transferred *in toto* to Central Asia. Those measures clearly came within the category of genocide....

The Federation was in possession of a strictly secret document indicating the categories of persons deported from the Baltic countries and sent to forced labour camps; a photostatic copy of the document was available to representatives....

Giving testimony before an investigation committee in the United States, Dr. R., former President of the Republic of Estonia, had stated that just before Christmas 1945 and in February 1946 two great mass deportations had taken place in his country. Moreover, the former Estonian Ministry of Foreign Affairs had stated that, in October 1946, the ill-famed deportation centre of Vorkuta in the tundra of northern Russia had held 100,000 Lithuanians, 60,000 Latvians and 50,000 Estonians. Although 25 to 30 per cent. of the inmates died each year, they were replaced by new victims, who arrived in groups of 1,500 to 3,000 from each of the three Baltic States.[1]

Another allegation was made by the representative at an earlier meeting.[2]

(4) The *International League for the Rights of Man*, in its memorandum, in which it claims to have " information of at least five different places in the Soviet Union where Rumanians are deported and required to do forced labour ", the five places being listed as Moscow, Kriovograd, Nikolayev, Ossipenko and Dniepropetrovsk. The memorandum also asserts that " Besides the deportees, in the Soviet Union there are about 230,000 Rumanian prisoners of war who are doing forced labour in different camps ".

(5) The representative of the *Estonian Consultative Panel*, when heard at the Committee's Second Session—

I would like to give you some figures as an illustration of Soviet achievements in only one year, 1940-1941. These were established after a careful study when the communists were ousted from Estonia by the German army in the summer of 1941.

According to investigations, from a population of about 1,200,000, there were: (1) over 67,000 deported, 9,728 in only one night ; (2) over 7,600 arrested ; (3) 1,618 found murdered in mass graves, among them 162 women.

I would like to add that just at this time [in 1949] in Estonia there was collectivisation of farming. Of course, no free man or woman wanted to go into this collectivised farming ; they were not willing to go. This deportation was undertaken to frighten these people to go quickly into this collectivised farming. The size of this deportation was more important than it had been in 1941.

There is a further reference to these deportations in 1949 in the memorandum submitted by the Panel—

According to the data received, the deportees were sent to the slave labour camps in Vorkuta and Novosibirsk, the districts on the river Amur and East Lake of Baika, the Comi district and the region of Krasnajarsk.

The memorandum also alleges that—

The majority of Estonians sentenced for criminal offences serve their sentence in the home country, while many of those sentenced for political offences—and they compare to the criminals about ten to one—are sent to forced labour camps in the more isolated regions of the Soviet Union.

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[1] UNITED NATIONS, Economic and Social Council, 10th Session, 365th meeting : *Official Records*, paragraphs 52, 54, 55.

[2] *Idem*, 8th Session, 238th meeting : *Official Records*, p. 117.

(6) The representative of the *Hungarian National Council*, when heard at the Committee's Second Session, who asserted that, out of a total of 620,000 Hungarians (325,000 prisoners of war and 295,000 civilians), deported to the U.S.S.R. at the end of the war by the Red Army, only 251,000, comprising both civilians and prisoners of war, had been repatriated, which meant that some 370,000 still remained outside the frontiers of Hungary. Allowing for deportees of Hungarian nationality living outside the present boundaries of Hungary (whose numbers he estimated at 150,000) there still remained 110,000 prisoners of war and 109,000 civilians detained in the U.S.S.R. for " slave labour and forced labour ". Referring more specifically to the territory of " Carpatho-Ukraine ", the representative stated that 80,000 Hungarians, or about two-thirds of the total Hungarian population of the area, had been deported in the first two months of Russian occupation.

The memorandum submitted by the same organisation states that—

> In the spring of 1945, the Soviet Army ... deported ... 295,000 civilians in Hungary. A great majority of these deportees were, or still are, doing forced labour in the Soviet Union.

(7) The representative of the *International Federation of Free Journalists*, when heard at the Committee's Third Session—

> A ... record of deportations in Estonia has been compiled by the Central Statistical Bureau in Tallin.... It contains 59,967 names ... 35,000 of those ... deportees during the first occupation were young men conscripted into military service. However, very few of them managed, or were allowed, to do any military service. This happened only in the last years of the war, beginning with 1943. Most of them were confined in labour camps ...
>
> In September 1944 Estonia was reoccupied by the Soviets.... In the first month of the occupation the Soviets proceeded to new deportations.... Until 1949 there were no large-scale deportations, people were merely arrested one by one.... In 1949 a very large deportation took place in all the Baltic countries, which was larger than that of 1941.... It has been established by witnesses—a conservative estimate is that this deportation comprised 30,000 people.

In its memorandum, the same organisation asserted that 295,000 Hungarian civilians had been deported by the Soviet authorities in 1945 and that more than 80,000 deportees are still being " used for forced labour " in the Soviet Union.

(8) The representative of the *Latvian Consultative Panel*, when heard at the Committee's Second Session. Speaking of alleged deportations from Latvia to the Soviet Union in 1941, he stated—

> In one night alone, 3,332 children under the age of 16, 5,302 women and 6,447 men were torn away from their homes and their families in the middle of the night and without any trial—by a simple administrative order of some officials of the Occupying Power.

He further alleged that the deportees included—

> ... fifteen or sixteen thousand people who were taken from their homes in the middle of the night in June 1941. They were not prisoners. They were never tried. They were all in the first mass deportation. Their homes were visited by teams of three people who sometimes read a little paper to them saying that they had to leave their homes and proceed to an unknown destination. On most occasions nothing was told to them but simply that they were to get their belongings ready and leave their apartments and go to the trucks that were waiting downstairs.

In its memorandum, the organisation stated—

After the re-occupation of Latvia by the Soviet Union in 1944-1945, the deportation scheme was carried on. At first the new deportations affected mostly farmers because of their resistance to the Kolkhoz system and their assistance to the guerilla movement. . . .

A new increased wave of deportations took place in Latvia in the spring of 1951, as is reported by fishermen, who escaped from Lithuania in July 1952. This time all those farmers who were regarded as dangerous to the communist régime were deported.

Engineers, technicians and other skilled workers are deported under the pretext of so-called " voluntary " migration. It is stated that the exchange of technical experience is stimulated. Siberian industry, it is said, needs the experience of Latvian technicians.

(9) The representative of the *Lithuanian Consultative Panel*, when heard at the Committee's Second Session—

The deportations, and then the confinement of the deportees in the Soviet forced labour camps, are an instrument designed for the physical destruction of a nation because the deportations take place on quite a large scale. The population of Lithuania is a little more than three million, and out of these three million, several hundred thousands have been deported to Soviet Russia, especially to Siberia, and confined in the concentration camps. And there they are dying.

In its memorandum, the Panel alleges—

Carrying out the pre-arranged plan laid down in the " Instruction " of the Soviet People's Deputy Commissar for State Security, Serov, of January 21, 1941, the Soviet Russian administration deported, on June 14 to 21, 1941, 34,260 Lithuanian citizens. The lists of these deportees have been established by the Lithuanian Red Cross. Six more waves of mass deportations ravaged Lithuania in the period from the second invasion of the country by the Soviet armed forces, *i.e.*, from the end of 1944 up to 1952. The number of deportees reached several hundred thousand.

The Lithuanian deportees were transported to the remote regions of the U.S.S.R. to Siberia, to the Arctic regions of the Autonomous Territory of Komi, Altaï, and Kazakstan and more recently to the coal-mining basin of Donets and to the forest region of Kyrov-Vologda in North Russia. They were taken to different camps according to the category to which they belonged. Most of the Lithuanian deportees are confined in the Soviet slave labour camps administered by the *Gulag* and can receive neither passes nor letters.

Restrictions on Freedom of Employment

43. According to the allegations, many restrictions are placed on the freedom of labour and employment in the Soviet Union, and the difference between the status of a free worker and that of a forced labourer is tending to diminish. Allegedly—

(a) strikes are forbidden;

(b) legislation dated 20 December 1938 introduced work books, in which all the breaches of labour discipline committed by the holder are inscribed. This book must be produced before a worker can be hired;

(c) under legislation dated 26 June 1940 workers are not allowed to leave their jobs without permission from the administration of their undertaking or institution;

(d) legislation dated 2 October 1940 stipulates that, every year, a contingent of young persons must be drafted into the vocational training centres and that, once their studies are completed, they must be sent for three or four years to work

in undertakings or institutions. Provision is also made for persons graduating from universities and specialised schools to be drafted in a similar manner ;

(e) the compulsory transfer of workers from one area to another has been authorised by legislation dated 19 October 1940 ;

(f) legislation dated 8 June 1946 on the fulfilment of the Plan allowed overtime to be required of workers ;

(g) on Sundays and after working hours, employees are expected to do " voluntary " work. In Latvia, the amount of such " voluntary " work done every year is estimated at 50 million man-hours.

44. The relevant allegations, the main passages of which are reproduced below, were made by—

(1) The representative of the *United States of America*—

The idea of forced labour was recognised in U.S.S.R. labour legislation, which was defined by decrees. Thus in a publication relating to legislation concerning labour, issued in 1947, many decrees could be noted under which workers who left their job could be sentenced to up to eight years in corrective labour camps. Those decrees seemed, however, to be but one source from which the slave labour camps of the Soviet Union were filled.[1]

First, compulsory inductions are made for the vocational training system. The Decree of 2 October 1940 [2], establishing labour reserve schools, specifically authorises the use of the draft if the number of volunteers falls below the desired quota....

Second, graduates of the labour reserve schools as well as of universities and other specialised schools are compelled to work for a specified number of years—three or four, as a rule—at whatever job is assigned to them by the authorities....

Third, a Soviet worker may not leave his job without a specific authorisation by his employer, in other words, the State. The Decree of 26 June 1940 [3], which continued in force after the war and is still in force, forbids under threat of imprisonment " ... the voluntary departure of wage earners and salaried workers from State, co-operative and communal enterprises and institutions, and also voluntary transfer from one enterprise to another or from one institution to another. Only the director of an enterprise or the chief of an institution may permit departure from an enterprise or institution, or transfer from one enterprise to another, or from one institution to another." ...

Fourth, large numbers of peasants are conscripted annually to do obligatory work in repairing roads and the like....

Fifth, punishment for absenteeism in factories may consist in compulsory work at a low wage in the same enterprise for up to six months.[4]

(2) The representative of the *International Confederation of Free Trade Unions*, when heard at the Committee's Second Session—

As the slave labour system expands, the actual difference between the conditions of the workers not in the forced labour camps and those within these stockades tends to diminish. The vanishing of differences between voluntary employment and conscript labour in Russia is openly admitted by Soviet legal experts themselves.

In support of his statement, he quoted a passage from a book by Dogadov, published in the U.S.S.R. in 1949. Later he stated—

The Law of 26 June 1940[3] declared illegal the breaking of the labour contract by any worker without permission of the employer.

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[1] UNITED NATIONS, Economic and Social Council, 8th Session, 236th meeting : *Official Records*, p. 101.

[2] See below, paragraph 153.

[3] See below, paragraph 162.

[4] UNITED NATIONS, Economic and Social Council, 12th Session, 470th meeting : *Press Release* 1159, pp. 2-3.

The former right of the worker to leave his plant has been abolished. By an Order of the Presidium of the Supreme Soviet of 19 October 1940 [1], the compulsory or forcible removal of workers to another locality is permitted by the order of the All-Union and Republic Ministries. Any worker who dares disobey this order of removal of himself assumes a criminal responsibility and faces a prison term of two to four months.

(3) The representative of the *Commission internationale contre le régime concentrationnaire*, when heard at the Committee's Third Session—

Once camp inmates are released ... they are not by a long stretch free people; they have no freedom of movement, they are restricted to certain areas of residence, they carry special passports and identification, indicating the time spent in the camp and the place of the camp, and they have to show that identification whenever they try to obtain work. In most cases they are considered to be dangerous elements of the population and to find work ultimately they are compelled to turn again to the N.K.V.D.

(4) The representative of the *Estonian Consultative Panel*, when heard at the Committee's Second Session. In his statement he alleged that strikes were forbidden by Soviet law.

In its memorandum, the Panel stated—

In accordance with the Law of 26 June 1940 [2], all labourers and officials are forbidden to leave or go over to other places to work without the positive permission of the administration. In accordance with the Law of 20 December 1938 [3], all labourers must have a so-called personal labour book, in which all infractions against labour discipline and punishments are written. These books contain the cases and the causes of the dismissal of labourers from service. No one can be taken into service without presenting his book. The fulfilling of the State production plan is carried out in accordance with the law of 8 June 1946, the application of which has grown into a forced labour system with mandatory overtime work.

(5) The representative of the *International Federation of Free Journalists*, when heard at the Committee's Third Session. He alleged that in 1949 the Soviet authorities forced many Estonian farmers to choose between voluntary work in the Estonian oilfields and deportation.

(6) The *Latvian Consultative Panel*, in its memorandum—

Latvian industrial workers are forced by the occupants to join socialistic competitions and to accept "voluntary" obligations for the realisation of the Five-Year Plan.

The memorandum also refers to—

... so-called "voluntary" bondage work, which is compulsory. This bondage is performed on Sundays or after regular working hours.... A cautious estimate shows that this "voluntary" bondage exceeds 50 million work-hours yearly.

The memorandum further speaks of the Labor Reserve Law of 2 October 1940 [4]—

... This Law authorises the drafting of boys 12 to 17 and girls 16 to 18 for work-training, which is to last six months to two years. Upon termination of the training period the youth is kept with the enterprise in which he took his training for four more years. In most cases his release coincides with his drafting into the army ...

[1] See below, paragraph 159.
[2] See below, paragraph 162.
[3] See below, paragraph 165.
[4] See below, paragraph 153.

After the re-occupation of Latvia, the Soviet Labor Reserve Law was applied to its inhabitants. Under this Law, youths were ordered to distant regions in the Soviet Union. At first some of the youths were permitted to remain in Latvia, but later they were ordered to follow the others. A typical example is the fate of pupils attending the technical school of the State Electrical Plant in Riga. In 1951 these pupils " voluntarily " joined Latvian engineers and technicians assigned to the Volga Canal project.

(7) The *Lithuanian Consultative Panel*, in its memorandum, which states that no adult man or woman in Lithuania has the right " to leave or change work without the permission of his superior ".

The memorandum further states that a worker " must possess a labour book, without which a person can obtain no employment and is considered an enemy of the Bolshevist régime ".

II. Replies to the Allegations

45. Statements and replies relating to the allegations listed in Part I were made at the Eighth, Ninth, Tenth and Twelfth Sessions of the Economic and Social Council by the representatives of the *U.S.S.R.*, the *Byelorussian S.S.R.*, *Czechoslovakia*, the *Ukrainian S.S.R.*, *Poland* and the *World Federation of Trade Unions*.

46. In their statements, these representatives maintained that there was no forced labour in the Soviet Union and that the allegations made were groundless. The documents submitted to the Council as evidence were tendentious, inaccurate and entirely unreliable.

47. Criminal labour in the Soviet Union was governed by the law. The penal system was progressive and aimed at re-educating criminals to help them to take their places in a socialist society. It had yielded excellent results. The Corrective Labour Code was a humanitarian document, applying only to persons who had committed an offence.

48. All sentences were pronounced by courts of law, though special commissions did exist within the local soviets for dealing with offenders who had failed to pay fines for certain minor offences. They could not, however, inflict more than one month's corrective labour or deprive offenders of their freedom.

49. It was completely false to maintain that the Soviet Union used forced labour for economic ends.

50. The astronomical figures quoted in the Council for the number of prisoners in the Soviet Union were a pure invention and were, moreover, refuted by statistics.

51. The advent of socialism had given the worker his true place in society and had opened the way to free and creative labour. The workers now knew not only freedom of labour but also freedom from labour.

Existence of Forced Labour

52. According to the representatives' replies, it was a gross libel to insinuate that forced labour existed in the Soviet Union. The slanderous campaign waged by the United Kingdom and the United States of America at the instance of the American Federation of Labor was devoid of all foundation.

53. The documents submitted to the Council as evidence by those who made the allegations were inadequate, defamatory, tendentious and inaccurate. Some of

the documents were false and had been fabricated by German fascists. Others were based on the testimony of traitors employed by the American and British intelligence services. Others again had been obtained by torture.

54. The evidence supplied by the American Federation of Labor could be dismissed at once as tainted.

55. In connection with the Corrective Labour Code, which was another source of information quoted in the Council, it should be remembered that it had been mistranslated and distorted.

56. The relevant statements, the main passages of which are reproduced below, were made by—

(1) The representative of the *U.S.S.R.*, who submitted a resolution in which the Council was invited to recognise that the material submitted to it was "wholly inadequate, in many respects lacking in objectivity and truth, and grossly libellous and defamatory of the Union of Soviet Socialist Republics".[1]

The representative of the United Kingdom had said that his conclusions were based on what he called fundamental proof of the existence of forced labour in the Soviet Union. In an attempt to mislead public opinion, he had resorted to cheap sensationalism. The main thesis of his speech was that the authorities of the Soviet Union were trying to hide the existence of forced labour in that country; but he had contradicted himself, since he had said that the conclusions he drew were based on an official publication of the Soviet Union authorities—namely, the Corrective Labour Codex of the Russian Soviet Federal Socialist Republic.

The Codex had been adopted in 1933; prior to that date there had been other laws governing the treatment of prisoners and convicts in the Soviet Union. The United Kingdom representative, hoping to stir up hatred against the Soviet Union, would have people believe that the Codex had recently been brought out of concealment; but it had been published in the English language by the firm of Sweet and Maxwell in 1936.

... the English translation of the Codex had distorted the facts. For example, the Soviet term "Comrades' Court" had been translated as "Labour Court".... The mistranslation, or rather distortion ... was only one of forty-three "mistakes" which had occurred in the translation of the Codex. A further example was provided by the fact that in the English translation the places in which Russian prisoners awaited trial were called "solitary confinement cells". That was a flagrant violation of the truth.[2]

The United Kingdom representative was guilty of attempting political blackmail by means of sensational trickery, but he had been unsuccessful. His tactics for distorting Soviet Union policy in the field of crime and misrepresenting the normal Corrective Labour Codex had been exposed for what they were worth.[3]

In no country of the world was the dignity of labour more highly esteemed than in the Soviet Union. Forced labour was non-existent, since the exploitation of man by man had long since been abolished.[4]

... it was not the first time that the question of what was called "forced labour" had been brought before the Economic and Social Council. It should, however, be noted from the outset that the documents so far submitted to the Council on that point by the State Department and the Foreign Office, which had taken the initiative in having the item placed on the agenda, were entirely inadequate, besides being tendentious and inaccurate, and contained grossly slanderous statements about the Soviet Union.[5]

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[1] UNITED NATIONS, Economic and Social Council, 8th Session, 254th meeting: *Official Records*, p. 345.
[2] *Idem*, 9th Session, 319th meeting: *Official Records*, pp. 515 and 519.
[3] *Ibid.*, 324th meeting: *Official Records*, p. 586.
[4] *Ibid.*, pp. 589-590.
[5] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraph 4.

He disputed the United States representative's statements, which were based either on false documents fabricated by German fascists or on the testimony of traitors employed by the American and British intelligence services. The evidence of former Japanese prisoners of war repatriated from the U.S.S.R., to which reference had also been made in that connection, had frequently been obtained by means of torture.[1]

(2) The representative of the *Byelorussian S.S.R.*—

Their [the proposers of the item under discussion]s election of material containing untruthful and slanderous statements manifested a strong political bias against the U.S.S.R. and a complete lack of impartiality.[2]

The British fabrications as to the existence of so-called " forced labour " in the Soviet Union had subsequently been taken up by Goebbels and used by him as a propaganda weapon against the Soviet Union during the period of preparation for the Second World War.[3]

What were the sources of information on which the United Kingdom charges had been based ? The evidence furnished by the American Federation of Labor could be dismissed at once, since its sources could only be described as tainted. Another source had been the Soviet Union Corrective Labour Codex. Without mentioning the distortions and mistranslations of that document, it should be stressed ... that the Codex concerned only felons and criminals who had been convicted by Soviet justice.[4]

(3) The representative of *Czechoslovakia*—

... the inclusion of the subject of forced labour on the agenda of the Eighth Session of the Council at the instigation of the American Federation of Labor had been the signal for a malicious and slanderous campaign by the United States and United Kingdom delegations against the U.S.S.R.[5]

(4) The representative of *Poland*—

... the evidence of former prisoners presented by the American Federation of Labor could hardly be considered as objective. Naturally criminals had a grievance against the authorities which had condemned them. Allegations made by those people were being used as a political weapon in a slanderous campaign.[6]

A further statement was made by this representative at a later meeting.[7]

(5) The representative of the *World Federation of Trade Unions*.[8]

Soviet Penal and Penitentiary System

57. In their statements, the representatives maintained that the work of prisoners in the Soviet Union was governed by the law, the guiding principles being embodied in the Corrective Labour Code, which was, in fact, a set of regulations for the administration of camps and prisons. Every country had similar regulations and every country required its prisoners to work. The Soviet Union was therefore no exception.

58. The Soviet Union did not recognise the theory of inherent criminality, and its penal system was progressive in that it aimed at correcting and re-educating

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 475th meeting : *Official Records*, paragraph 2.
[2] *Idem*, 8th Session, 262nd meeting : *Official Records*, p. 457.
[3] *Idem*, 9th Session, 322nd meeting : *Official Records*, p. 560.
[4] *Ibid.*, p. 561.
[5] *Idem*, 12th Session, 472nd meeting : *Official Records*, paragraph 15.
[6] *Idem*, 8th Session, 244th meeting : *Official Records*, p. 174.
[7] *Idem*, 12th Session, 473rd meeting : *Official Records*, paragraphs 3 *et seq.*
[8] *Ibid.*, 470th meeting : *Official Records*, paragraph 24.

criminals to help them to resume their places as law-abiding citizens in a socialist society and to take part in constructive work.

59. Similarly, as compared with the penal codes of many other countries, the Corrective Labour Code was a humanitarian document. Corporal punishment and all violations of human dignity were banned, hours of work and pay were regulated, the prisoners themselves played a large part in the administration of their institutions and elected their own courts.

60. This system had yielded excellent results and criminals had been brought to understand the crimes they had committed. The working of the system, as exemplified in the camp at Bolshevo, had been studied and described by several foreign sociologists.

61. The relevant statements, the main passages of which are reproduced below, were made by—

(1) The representative of the *U.S.S.R.*—

Another fact which must be recognised ... was that prison labour existed in many countries.

There were two ways of regarding such labour: as disciplinary, or as re-educative.... The Soviet Union penal system was progressive, and the labour régime was aimed at re-educating offenders to enable them to resume their rightful place in the community.

In that connection he quoted paragraph 2 of the Corrective Labour Codex[1] which showed that corrective labour sought to prevent offenders from harming the socialist community, and was designed to re-educate them so that they might do constructive work. ... The Soviet Union did not believe in the theory of inherent criminality; it attached great value to human personality, even that of those who had committed offences. ... The entire system was designed to correct criminals, with a view to their participation in the constructive work of socialism in their country....

Soviet Union methods of re-educating criminals had yielded excellent results. Some of them had come to understand the crimes they had committed against the socialist system, and had attempted to reform. It had been possible to release many convicted persons before the end of their sentences, and they had been rewarded for their labour and behaviour....

The fact that a code regulating the labour of criminals existed in the Soviet Union proved that such labour was based on clearly established legal principles, whereas the United Kingdom representative had sought to prove that it had no legislative or juridical basis.[2]

Speaking of the " Comrades' Courts ", for which the Corrective Labour Code makes provision, he maintained—

Soviet Union legislation recognised that criminals themselves should establish their principles of law and order, and that if any one of them violated those principles he should be sentenced by a court made up of his fellows.

The United Kingdom representative forgot that the Soviet Union was a union of peasants and workers, and that its laws were intended to protect the power of workers and peasants against anyone who attempted to undermine the foundations of the new society. That attitude was not unlawful. The Soviet Union would continue to act as it had done in the past, and to punish any British spies found in its territory.[3]

In comparison with the penal codes of the capitalist countries, the Corrective Labour Codex of the Soviet Union was a humanitarian document since it was aimed not at punishing but at reforming felons....

[1] See below, paragraph 97.

[2] UNITED NATIONS, Economic and Social Council, 9th Session, 319th meeting: *Official Records*, pp. 518-519.

[3] *Ibid.*, p. 519.

Soviet Union law excluded all ... violations of human dignity, and expressly forbade any kind of corporal punishment.[1]

The variety of inhuman measures practised in United States prisons and on the Negro population in that country were in striking contrast with the just and reasonable provisions of the Soviet Union Corrective Labour Codex. That Codex had been drawn up in a humanitarian rather than in a vindictive spirit, and its aim was to transform criminals into law-abiding citizens....

The United Kingdom delegation had obviously found it strange that the Soviet Union should provide safeguards for detainees. For example, there was legislation providing for the supervision of prisons by the trade unions and, in the prisons themselves, prisoners enjoyed the benefit of a " Comrades' Court ", a special tribunal elected from among the prisoners themselves. The Soviet Union attitude to prisoners was based on respect for individual human dignity, as was demonstrated by the numerous cultural and educative activities encouraged among detainees.[2]

As regards the treatment of prisoners for which the Soviet Union had been criticised, the system applied to delinquents was particularly humane. Its aim was to re-educate criminals, to inculcate in them the habit of work, and thus to enable them to resume their places in the society of workers. Convict labour was used in the U.S.S.R. only for work which was of benefit to society as a whole and to the prisoners themselves. Prisoners were not subjected to any treatment which was degrading to their human dignity. Corporal punishment was forbidden. Prisoners worked eight hours a day and received wages. Absurd and cruel conditions of work designed to exhaust and humiliate the prisoners, such as were prevalent in the United Kingdom and the United States of America, were unknown in the Soviet Union. The U.S.S.R. system did not countenance the theory of the born criminal ; its purpose was to re-educate the prisoners, and to make them active and willing participants in the building of the socialist society, but not to use them as cheap labour. The Soviet system of re-education of criminals had produced excellent results.[3]

(2) The representative of the *Byelorussian S.S.R.*—

It should be stressed, first, that the Codex concerned only felons and criminals who had been convicted by Soviet justice. Secondly, the Codex prescribed corrective measures designed to transform the criminal into a law-abiding citizen. Thirdly, persons subjected to corrective labour were paid regular wages and protected by law. No one was allowed to beat or overwork them, they were given medical assistance, they could submit complaints against their treatment, and they had access to newspapers and books. ...

In every country felons were compelled to perform forced labour and the Soviet Union could not therefore be singled out for indictment on that charge.[4]

(3) The representative of *Poland*—

The conception of crime in Soviet countries differed from the conception of it in the capitalist countries ; in the former, exploiters were sent to prison, while in the latter they were the rulers of society.

It was no secret that corrective labour camps existed in the U.S.S.R. In March 1931, Mr. Molotov had told the All-Union Congress of Soviets : " The prisoners' camps are settlements where the prisoners work without guard in the territory of their respective constructional work ; cultural and educational work is well-developed, books and magazines are received ". According to an American sociologist, Henry Pratt Fairchild, the Bolshevo camp in the U.S.S.R. was a self-governing community with a university, a

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[1] UNITED NATIONS, Economic and Social Council, 9th Session, 324th meeting : *Official Records*, p. 588.
[2] *Ibid.*, p. 589.
[3] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraph 40.
[4] *Idem*, 9th Session, 322nd meeting: *Official Records*, p. 561.

hospital, stores, apartment houses, special quarters for married inmates, factory and recreational facilities. The workers received the same wages and were working under the same conditions as free men.[1]

The Codex was not in fact a penal code, but regulations governing the administration of camps and prisons. Such prison regulations existed in every country....

The capitalist press had greeted the Codex as a sensation. The United Kingdom representative had used it to prove what had never been disputed in any country—namely, that prisoners were made to work. He [the Polish representative] did not wish to enter into a detailed comparison of penal systems to decide which was preferable, on the one hand the system that aimed at re-education of the prisoner to be a useful member of society, which paid him 75 per cent. of his normal wages while in prison and the balance on his release, which granted him an early discharge for good behaviour, and which relied for administration of the prisons primarily on the prisoners themselves, or, on the other hand, the system prevailing in British prisons and in the prisons of the British colonies.[2]

The United Kingdom representative had alleged that no prison camp in the Soviet Union had ever been visited by foreign observers. This statement was incorrect. Many foreigners had seen the Bolshevo camp, including a number of American sociologists who had studied the new methods of re-education applied there. Whole families were allowed to remain together and to move freely about the camp. A number of books has been written on the subject by persons who could not in any sense be branded as partisans of the Soviet Union régime.[3]

Infliction of Corrective Labour as a Penalty on Persons who have not Committed an Offence

62. The relevant statements, the main passages of which are reproduced below, were made by—

(1) The representative of the *U.S.S.R.*—

The Codex did not concern individuals who had not committed an offence.[4]

It [the Codex] affected only a comparatively small number of people—namely, those punished for serious offences. It in no way affected non-delinquents, as the United Kingdom representative had alleged.[5]

(2) The representative of the *Byelorussian S.S.R.*—

It should be stressed ... that the Codex concerned only felons and criminals who had been convicted by Soviet justice.[6]

Infliction of Corrective Labour as a Penalty by the Administrative Authorities

63. The relevant statements were made by the representative of the U.S.S.R. They read—

Paragraphs 23, 45, 62, 63, 66, 74 and others of the Codex showed that persons could be sent to places where they were deprived of their freedom only on the order of a court or legally authorised organ.[7]

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[1] UNITED NATIONS, Economic and Social Council, 8th Session, 244th meeting: *Official Records*, pp. 174-175.
[2] *Idem*, 9th Session, 321st meeting: *Official Records*, p. 548.
[3] *Ibid.*, 322nd meeting: *Official Records*, p. 572.
[4] *Ibid.*, 319th meeting: *Official Records*, p. 518.
[5] *Ibid.*, 324th meeting: *Official Records*, p. 589.
[6] *Ibid.*, 322nd meeting: *Official Records*, p. 561.
[7] *Ibid.*, 319th meeting: *Official Records*, p. 519.

The United Kingdom representative had also asserted that the Codex allowed sentences of forced labour to be passed without court verdicts. In reply, it should be pointed out that neither the organs of the Ministry for Internal Affairs nor those of the militia could pronounce verdicts or decrees and that all sentences in the Soviet Union were pronounced by courts of law. Special commissions existed within local soviets for dealing with delinquents who had failed to pay fines for certain minor offences. They could not inflict corrective labour for a period of more than one month, or deprive offenders of their freedom. They had no power to deal with major offenders.[1]

Economic Importance of Forced Labour

64. The relevant statement was made by the representative of the *U.S.S.R.*, and reads—

The United Kingdom, in developing its hostile campaign against the Soviet Union, had alleged that the latter used criminal labour for economic ends in order to compete with countries where labour was " free ". That was completely false.[2]

Number of Prisoners

65. According to the statements, the astronomical figures quoted for the number of prisoners in the Soviet Union were a pure invention. If the figure of 12 to 14 million mentioned were correct and the high mortality rate among the prisoners were accepted, a simple reference to statistics would suffice to show that the entire male population of the Soviet Union would disappear in 12 to 15 years.

66. It was further maintained that a British journalist had contested these figures, saying that it was inconceivable that the Russian people should have shown such loyalty and patriotism during the war if every family had had a member in a concentration camp. Attention was also drawn to the wide disparity between the various figures quoted, which in itself made the estimates seem doubtful.

67. According to the replies, the accusations were based on the affidavits of criminals or deserters to whom it would be difficult to give much credence.

68. The allegation that the Soviet Union had 12 million prisoners had been officially denied by the Tass Agency.

69. The relevant statements, the main passages of which are reproduced below, were made by—

(1) The representative of the *U.S.S.R.*—

... the alleged charges that 12 million people were in forced labour camps were baseless and of a scurrilous nature. He was surprised to note, however, that the United Kingdom representative was unaware that an official refutation of those charges had been made by the Tass Agency and had been published in the newpaper *Izvestia* on 29 December 1948.[3]

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[1] UNITED NATIONS, Economic and Social Council, 9th Session, 324th meeting : *Official Records*, p. 589.

[2] *Ibid.*, 319th meeting : *Official Records*, p. 519.

[3] *Idem*, 8th Session, 262nd meeting : *Official Records*, p. 460 ; the Tass Agency statement reads as follows :

" According to a report from Reuter's Berlin correspondent, the United States Secretary of the Army, Mr. Royall, made a statement at a press conference in Berlin on 27 December in which, referring to ' reliable information ' from American intelligence, he spoke of 13 million Russians, Czechs, Poles, Germans and others who are supposed to be imprisoned in concentration camps in the Soviet Union.

" Tass is authorised to refute this absurd fabrication by Mr. Royall as a patent falsehood and base slander of the Soviet Union.

" It should be observed that this is not the first time that ' American intelligence ' has let the United States Government down with such ridiculous ' reliable information '."

Some of the information submitted to the Council by the United States and United Kingdom delegations and by the representatives of the American Federation of Labor was ... a complete fabrication—as in the case of the astronomical figures purporting to represent the number of prisoners alleged to be in Soviet "regeneration-through-labour" camps.[1]

(2) The representative of *Poland*, who stated that he—

...was amazed at the audacity of bringing before the United Nations a case resting on the testimony of three criminals and on their attempts to calculate the total number of prisoners in labour camps. He stressed the fact that the three witnesses had been duly sentenced by a legally operating court for crimes they had committed. Other speakers who had made statements concerning labour camps in the U.S.S.R. had cited no proof at all. Neither the United States nor the United Kingdom representative had quoted a single document or given an exact figure.

It had been said that 12 to 14 million prisoners were held in labour camps in the U.S.S.R. According to an American statistician, in 1940, the total male population of the U.S.S.R. between the ages of 15 and 59 had been about 47 million. If the figures given for the population of the labour camps and the high mortality rate supposed to prevail there were accepted, a simple calculation would show that the entire able-bodied male population of the U.S.S.R. would disappear in the space of 12 to 15 years.

Alexander Werth, an eminent British journalist, had also disputed those figures, saying that it was inconceivable that the Russian people would have fought and worked during the war with such loyalty and patriotism if practically every family had had a member in the labour camps. One of the witnesses cited by the American Federation of Labor consultant had spoken of a camp containing one million prisoners. It was ridiculous to imagine that such a camp could have remained secret. ... He [the Polish representative] called attention to the fact that the figures of the total number of prisoners in U.S.S.R. labour camps advanced by various experts varied from 10 to 37 millions. That variation in itself laid them all open to doubt.[2]

With regard to the charges that the Soviet Union had from eight to 12 million people in forced labour camps, Mr. Katz-Suchy [the Polish representative] doubted whether the United Kingdom representative himself believed those accusations. They had been based on affidavits supplied by men who had been proved to be either criminals or deserters from the U.S.S.R.; such men would inevitably have grievances against their Government and would be prepared to say anything that was expected of them when they reached the United Kingdom or the United States.[3]

An ... inaccurate allegation had been made at the Eighth Session of the Council, to the effect that the whole port of Odessa was being operated by inmates of forced labour camps, housed, allegedly, in Nalchik. But Nalchik was a well-known summer resort, in which it would be difficult to conceal the alleged one million prisoners.[4]

Finally, he doubted the validity of the United Kingdom representative's statement that the nazis had fought for six years with 10 million people in their concentration camps, since most of those people had been foreign workers and not Germans. The same doubts as to the mathematics of the United Kingdom representative could be entertained in respect of his reference to the amnesty of 127,000 prisoners after completion of the Baltic-White Sea Canal and the Moscow-Volga Canal projects.[5]

Freedom of Employment

70. According to the statements, the advent of socialism and the abolition of private ownership of the means of production had given the worker his proper

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 469th meeting: *Official Records*, paragraph 4.
[2] *Idem*, 8th Session, 244th meeting: *Official Records*, pp. 169 and 174.
[3] *Ibid.*, 262nd meeting: *Official Records*, p. 460.
[4] *Idem*, 9th Session, 322nd meeting: *Official Records*, p. 572.
[5] *Ibid.*, 324th meeting: *Official Records*, p. 594.

position in society and opened the way to free and creative labour. Furthermore, the Constitution and other laws of the U.S.S.R. granted, guaranteed and implemented the right of every citizen to work. As a result, there had been great improvements in the material and social well-being of the population, contrasting sharply with conditions in capitalist countries. The workers in the Soviet Union now knew not only freedom of labour but also freedom from labour.

71. The relevant statements, the main passages of which are reproduced below, were made by—

(1) The representative of the *U.S.S.R.*—

Neither the United States representative nor the consultant from the A.F.L. had so much as mentioned the real forced labour which existed in capitalist countries and which was the very basis of capitalist economy. So long as the means of production were in the hands of private enterprise, which used them in its own interest, to speak of the freedom of labour was merely to delude the masses. Workers in the capitalist countries were not free : they were economically dependent upon capitalist employers who exploited them and who enjoyed the fruits of their labours. . . .

Real freedom of labour could not exist side by side with unemployment. Whereas the latest official data showed that there were over three million unemployed in the United States, unemployment was a phenomenon unknown in the U.S.S.R., where the freedom of labour—a true freedom—rested on the public ownership of the chief means of production. The U.S.S.R. Constitution not only granted every citizen the right to work but, together with other laws, it guaranteed and implemented that right. Moreover, in the U.S.S.R. the right to work was exercised without any distinction as to nationality, sex, race, religion, etc. ; that entailed the right to do the type of work for which each person was best qualified. The U.S.S.R. Constitution was not an abstract statement of political and moral principles ; it was not a programme for the future ; it was the legal recognition of rights already attained and enjoyed by all.

One of the salient characteristics of socialist economy was that rational planning and the steady growth of production had eliminated those recurrent scourges of the capitalist world : depressions and unemployment. . . . The wages of workers in the Soviet Union had steadily risen and the real purchasing power of those wages had steadily increased. The superiority of the socialist to the capitalist system was further demonstrated by the comprehensiveness of the social insurance scheme in effect in the U.S.S.R. Operating on funds contributed entirely by the State, it covered sickness, old age, disability, whether temporary or permanent, special maternity benefits, etc. . . .

The Government of the U.S.S.R. also operated rest homes and sanatoria for the benefit of the workers. . . .

An altogether different picture was presented by labour conditions in the capitalist countries and in particular the United States.[1]

The charges against labour conditions in the U.S.S.R. were completely incomprehensible. In that country labour was emancipated ; factories, mines and other undertakings did not belong to monopolies but to the people themselves. Although the charge that millions of workers were subjected to conditions of forced labour in the U.S.S.R. had already been officially refuted in the U.S.S.R. press, the libellous accusation was still being made.[2]

. . . the situation in the Soviet Union, a country in which socialism had triumphed, presented a striking contrast to that prevailing in the capitalist countries. As Mr. Malenkov had stated on 9 March 1950, the improvement in the material situation of the workers and the organisation of a socialist society were due to the free and creative labour of the workers. The free and creative labour had revealed many heroes in the socialist working classes and explained the rapid increase in the productivity of labour which facilitated the constant increase in the well-being of the people of the U.S.S.R.[3]

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 237th meeting : *Official Records*, pp. 105-106.

[2] *Ibid.*, 263rd meeting : *Official Records*, pp. 468-469.

[3] *Idem*, 12th Session, 469th meeting : *Official Records*, paragraph 39.

The representative made similar statements at earlier meetings.[1]

(2) The representative of the *Byelorussian S.S.R.*—

In Tsarist days, Byelorussia was considered a colony. It was a backward country where the living conditions of the workers were deplorable. The October Revolution had transformed the living conditions of the working masses. Since then, workers, peasants and intellectuals worked for themselves, for the country, and for the State. They were entitled to all material benefits and to the educational facilities which modern civilisation could provide. The abolition of private ownership had put an end to the exploitation of man by man and work had become a source of well-being which had provided the incentive to the working masses to transform Byelorussia into a highly-developed country....

The Constitution of the Byelorussian S.S.R. guaranteed to every citizen the right to work and to receive remuneration for that work. The exercise of that right was safeguarded by the socialist system of national economy, which had brought about the elimination of unemployment and of economic crises. Moreover, there was no inequality in the remuneration of men and women workers.[2]

(3) The representative of *Poland*—

It was obvious to all that in any society where private ownership existed and where the worker was but one link in a chain of workers, where he gained only a part of the fruits of his labour and where he had the choice between working or perishing, it was not possible to speak of free labour. Only a socialist society, which nationalised the means of production and gave the worker his proper place in society, could provide not only freedom of labour but also freedom *from* labour, allowing the worker adequate time for cultural enjoyment.[3]

The representative made a similar statement at the next meeting.[4]

(4) The representative of the *World Federation of Trade Unions*—

Workers enjoyed true economic and social freedom in the U.S.S.R.; that was why the American Federation of Labor had been obliged to resort to such a diversion. Because of its socialist system, the U.S.S.R. had been able to clean up all inconsistencies and build up a harmonious society.[5]

III. Material Available to the Committee[6]

Material on the *de jure* Situation

Sources

72. Documentary material on the Soviet Union in general or certain of its constituent republics has been submitted to the Committee in connection with the allegations referred to in Part I by—

(a) the United Kingdom Government, on 22 June 1951[7], in reply to a note from the Secretary-General of the United Nations requesting it to submit the

[1] United Nations, Economic and Social Council, 9th Session, 319th meeting: *Official Records*, p. 520, and 324th meeting: *Official Records*, p. 590.

[2] *Idem*, 8th Session, 238th meeting: *Official Records*, p. 118.

[3] *Ibid.*, 262nd meeting: *Official Records*, p. 456.

[4] *Ibid.*, 263rd meeting: *Official Records*, p. 467.

[5] *Idem*, 10th Session, 365th meeting: *Official Records*, paragraph 107.

[6] The titles of Soviet publications are given in Russian the first time they are mentioned, followed by the English translation of the title in parentheses. In subsequent references only the English translation of the title is given.

[7] United Nations document E/AC. 36/4.

documents mentioned by its representatives during the debates on forced labour in the Economic and Social Council ;

(b) the Government of the United States of America, on 26 July 1951, 27 June 1952, and 7 November 1952[1], in reply to the same note ;

(c) the International Confederation of Free Trade Unions, on 13 July 1951[2], in reply to the same note ; the Confederation submitted additional documents to the Committee in letters dated 2 and 12 October 1951 and 30 April 1952, as well as when it was heard by the Committee on 25 June 1952 ;

(d) the *Commission internationale contre le régime concentrationnaire*, when it was heard by the Committee on 17 October 1952 ;

(e) the Association of Former Political Prisoners of Soviet Labour Camps, when it was heard by the Committee on 24 June 1952 and subsequently in a letter dated 8 July 1952 ;

(f) the Estonian Consultative Panel, on 31 March and 4 April 1952 ;

(g) the Latvian Consultative Panel, on 27 March 1952 and subsequently when it was heard by the Committee on 19 June 1952 ;

(h) the Lithuanian Consultative Panel, on 28 March 1952 and subsequently when it was heard by the Committee on 24 June 1952 ;

(i) the National Repatriation Council, Tokio, in June 1952 ;

(j) the North Korean Federation of Cultural Organisations, on 17 June 1952.

73. The Committee has also assembled a certain amount of material in the course of its research work.

74. The following summary has been prepared from such Soviet legislation and commentaries published in the U.S.S.R. as have become available to the Committee. Wherever possible, direct quotations have been given ; elsewhere, for the sake of brevity or clarity, the text is based on indirect quotations annotated to facilitate reference to the source.

75. The material available to the Committee on the *de facto* situation has been summarised in a later section.[3]

Corrective Labour Law and Theory

The Main Texts forming the Legal Basis for Corrective Labour in the Soviet Union, as found in the Material Available to the Committee.

76. The most important legislation on corrective labour in the Soviet Union available to the Committee is to be found in the Penal and Corrective Labour Codes of the R.S.F.S.R.

77. The Penal Code of the R.S.F.S.R. was introduced on 1 January 1927 by an Ordinance issued on 22 November 1926 by the All-Russian Central Executive Committee.[4] Since that time, it has frequently been amended and expanded, as may be seen from the series of editions published by the Ministry of Justice in Moscow. The latest known edition gives the text in force on 1 July 1950, and all subsequent

[1] United Nations documents E/AC.36/4,Add.1 and Add.2.
[2] United Nations document E/AC.36/4.
[3] See below, paragraphs 168-217.
[4] *Sobranie Uzakonenii R.S.F.S.R.* [Collection of Enactments of the R.S.F.S.R.], 1926, No. 80, Article 600.

references will be to that edition. The edition generally quoted in the Economic and Social Council was the one published in 1948.

* 78. It has not been possible to obtain the corresponding Codes in force in the other constituent Republics. It is clear, however, from an official publication on Soviet penal law [1] that a great deal of uniformity has been achieved in the criminal law of the various Republics, even though there would appear to be some differences on certain points. With one exception, the Penal Codes of the Republics all date from the period 1926-1928 and are based on All-Union directives issued in 1924.[2] The book on Soviet criminal law just mentioned points out that this uniformity has been ensured not only in the fundamental principles but also in the repression of the most dangerous offences (all offences against the State, all military offences, many kinds of economic offences, offences against the established order of government and offences against the individual). This has been achieved through the enactment of All-Union legislation which, for the most part, has been textually reproduced in the Codes of the various Republics. In addition, the Penal Code of the R.S.F.S.R. is also in force in the Kazakh, Kirghiz, Karelo-Finnish, Latvian, Lithuanian and Estonian Union Republics.

79. The Corrective Labour Code of the R.S.F.S.R. was introduced by a Decree issued on 1 August 1933 by the All-Russian Central Executive Committee and the Council of People's Commissars of the R.S.F.S.R.[3] It replaced the Code of the same name issued on 16 October 1924, and introduced reforms of some importance which will be dealt with later in connection with the general theory of corrective labour in the Soviet Union.

* 80. With its note dated 22 June 1951 [4] the United Kingdom Government enclosed the Russian text of the Corrective Labour Code as published in 1940 in Volume IX of the *Chronological Collection of Laws and Decrees of the Presidium of the Supreme Soviet and Ordinances of the Government of the R.S.F.S.R.* A comparison of the 1933 and 1940 texts shows that several changes were made in the intervening period. No later edition has been traced, and it has consequently not been possible to check whether any amendments have been made since 1940. There would seem to be no doubt, however, that the Code is still in force, as it is quoted in two or three of the notes in the 1950 edition of the Penal Code of the R.S.F.S.R.[5] and in two Soviet books published in 1947 and 1948.[6]

Throughout the rest of this summary all references will be to the 1940 edition submitted by the United Kingdom.

81. Corrective Labour Codes resembling that of the R.S.F.S.R. apparently exist in the other Union Republics for, in an article headed "Corrective Labour Policy", the *Large Soviet Encyclopaedia* [7] mentions that the 1924 Corrective Labour Code of the R.S.F.S.R. was followed in 1925-26 by similar Codes in the other Republics and that, after the 1933 Code had been issued in the R.S.F.S.R., new

[1] *Ugolovnoe Pravo* [Criminal Law] (Moscow, Legal Publishing House of the Ministry of Justice of the U.S.S.R., 1948), pp. 226-228.

[2] *Osnovnye Nachala Ugolovnovo Zakonodatelstva S.S.S.R. i Soyuznyx Respublik* [The Basic Principles governing the Penal Legislation of the U.S.S.R. and Union Republics], adopted by virtue of an Order of the Central Executive Committee of the U.S.S.R., dated 31 Oct. 1924, and published in *Sobranie Zakonov S.S.S.R.* [Collection of Laws of the U.S.S.R.], 1924, No. 24, Article 205.

[3] *Collection of Enactments of the R.S.F.S.R.*, 1933, No. 48, Article 208.

[4] United Nations document E/AC.36/4, p. 7.

[5] Pp. 12, 163 and 181.

[6] *Osnovy Sovetskovo Gosudarstva i Prava* [The Principles of the Soviet State and Law] (Moscow, Legal Publishing House of the Ministry of Justice of the U.S.S.R., 1947), p. 540; and *Criminal Law*, *op. cit.*, p. 510.

[7] *Bolshaya Sovetskaya Entsiklopediya* (Moscow, Unified State Publishing House of the R.S.F.S.R., 1935), Vol. 20, cols. 601-608.

Codes were produced in several of the other Republics. Moreover, the notes in the Penal Code of the R.S.F.S.R. which refer to the Corrective Labour Code of the R.S.F.S.R. also mention the corresponding provisions of the Corrective Labour Codes of the other Republics.[1]

The Various Forms of Corrective Labour, as revealed in the Penal and Corrective Labour Codes.

82. An initial comment on the use of the expressions " forced labour " and " corrective labour " in Soviet legislation may not be out of place.

In a note on Section 112, entitled " Corrective Labour ", the publication *Criminal Law*, produced in Moscow in 1948, explains (page 509) that up to 1933 this measure was called " forced labour " and that the expression " corrective labour ", introduced by the Corrective Labour Code in 1933, acquired currency after 1935, though the old name " forced labour " has survived in various pieces of All-Union legislation.

The original text of the Penal Code did, in fact, speak of forced labour, but more recent editions produced by the Ministry of Justice have used the term " corrective labour ", to follow the terminology introduced by the Corrective Labour Code. In fact, the expression " forced labour " is still to be found here and there in the text of the Penal Code.

Throughout the rest of this summary only the term " corrective labour " will be used, since this expression is now the most common in Soviet legislation.

83. The Corrective Labour Code mentions three forms of corrective labour : *(a)* corrective labour without deprivation of liberty, *(b)* deprivation of liberty in corrective labour colonies and *(c)* exile with corrective labour.

These three penalties reappear in the Penal Code which, among the various " measures of social defence of a judicial-corrective character "[2], including deprivation of liberty in ordinary places of imprisonment, lists " deprivation of liberty in corrective labour camps in distant areas of the U.S.S.R. " (Article 20 *(b)*), " corrective labour without deprivation of liberty " (Article 20 *(d)*) and " banishment " [*udalenie*] (Article 20 *(g)*) with or without corrective labour (Article 35).

Corrective Labour without Deprivation of Liberty.

84. Article 5 of the Corrective Labour Code describes the penalty of corrective labour without deprivation of liberty as the basic measure of corrective labour treatment for all convicted persons whose isolation is not necessary. It further states that " the aim of such labour is to impart a sense of discipline through compulsory labour, without the restrictions applicable to persons deprived of liberty, and to combine this with politically educative influences ".

In this penalty Soviet criminal law differs from the criminal law of " bourgeois " States.[3] Introduced to take the place of deprivation of liberty[4], it has become one

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[1] *Penal Code of the R.S.F.S.R.*, Official edition (Moscow, 1950), pp. 163 and 181.

[2] A footnote on the title of Part IV of the General Section of the 1947 edition of the Penal Code of the R.S.F.S.R. states that—

> In Ordinances of the Central Executive Committee and Council of People's Commissars of the U.S.S.R., beginning with that dated 8 May 1934, adding Articles on treason to the Statute governing crimes against the State (*Collection of Laws*, No. 33, Article 255) the term " punishment " has been used instead of the expression " measure of social defence of a judicial-corrective character ".

[3] *Criminal Law, op. cit.*, p. 508.

[4] B. S. UTEVSKI : *Sovetskaya Ispravitelno-Trudovaya Politika* [Soviet Corrective Labour Policy] (Unified State Publishing House, 1935), p. 38.

of the penalties most frequently imposed [1] and is the sentence normally ordered by the courts for less serious offences [2] where the convicted person does not constitute such a danger to society as to need isolating from it.[2]

85. Corrective labour without deprivation of liberty is imposed for periods of from one day to one year [3], and is performed either at the convicted person's normal workplace or, exceptionally, on work organised by the corrective labour authorities [4], who are responsible for arranging mass work and production enterprises for persons serving corrective labour terms.[5] Such persons may also be directed into seasonal work in agricultural colonies where, if circumstances permit, they are provided with separate accommodation and are not subject to any of the restrictions imposed on persons deprived of liberty.[6] If the convicted person does not serve his sentence at his normal workplace, the corrective labour has to be performed within a specified distance of his place of residence, the maximum distance varying with the length of sentence from a ten-kilometre limit to the borders of the territory, region or republic, or where necessary, beyond.[7]

86. Subject to certain exceptions, the working conditions of persons performing corrective labour without deprivation of liberty are governed by general labour legislation.[8] Deductions from their wages may be made, however, up to a maximum of 25 per cent.[9] and they are not entitled to take leave except in certain special cases.[10] Moreover, Article 30 of the Penal Code states—

> The time spent in serving a sentence of corrective labour, including any time served by a convicted person at his workplace, shall not count towards his general period of service as a worker, his period of probation prior to being recognised as skilled, or his period of service entitling him under the legislation of the U.S.S.R. and the R.S.F.S.R. to the grant of pensions and other privileges and advantages (increases in wage rates for length of service, additional holidays, etc.).
>
> The payment of increases in wage rates for length of service shall be suspended during the time spent in serving a sentence of corrective labour.

Deprivation of Liberty with Corrective Labour.

87. Article 20 of the Penal Code makes provision for two forms of deprivation of liberty, namely, deprivation of liberty in corrective labour camps in distant areas of the U.S.S.R. (paragraph *(b)*) and deprivation of liberty in ordinary places of imprisonment (paragraph *(c)*). According to Article 28, paragraph 1, " deprivation of liberty shall be imposed for a period of from one to ten years; for cases of espionage, wrecking and diversionary acts (Articles 58 (1) *(a)*, 58 (6), 58 (7) and 58 (9) of the present Code), it shall be imposed for longer periods, but not for more than 25 years". Article 28, paragraph 2, lays down that " A sentence of deprivation of liberty for a period of less than three years shall be served in ordinary places of imprisonment.

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[1] *The Principles of the Soviet State and Law, op. cit.*, p. 540.
[2] *Criminal Law, op. cit.*, p. 509.
[3] *Penal Code*, Article 30.
[4] *Corrective Labour Code*, Article 9, and *Criminal Law, op. cit.*, p. 510.
[5] *Corrective Labour Code*, Article 11.
[6] *Ibid.*, Article 16.
[7] *Ibid.*, Article 15. According to S. S. STUDENIKIN : *Sovetskoe Administrativnoe Pravo* [Soviet Administrative Law] (Moscow, State Publishing House for Literature on Law, 1949, p. 137) it is only in exceptional circumstances that a sentence of corrective labour without deprivation of liberty is served away from the convicted person's place of residence, and in no case may the work be done at a distance of above 10 kilometres.
[8] *Corrective Labour Code*, Article 19.
[9] *Ibid.*, Article 20.
[10] *Ibid.*, Articles 24 and 25.

A sentence of deprivation of liberty for a period of three years or more shall be served in corrective labour camps."

All-Union legislation issued on 20 April 1930[1] contains a Statute governing these " corrective labour camps " and stating in Article 2 that " only persons sentenced by a court to deprivation of liberty for at least three years or persons convicted by a special decision of the Unified State Political Department may be sent to a corrective labour camp ". Article 3 makes the Unified State Political Department (O.G.P.U.) responsible for the administration of these camps.

88. Article 28 of the Corrective Labour Code lists the various places where persons may be deprived of liberty and, in addition to isolation establishments for persons under investigation, transit points, institutions for the medical treatment of persons deprived of liberty and institutions for minors deprived of liberty, mentions corrective labour colonies, which according to Article 3 of the same Code are " the basic type of place where persons are deprived of liberty ". These colonies are of different types, viz.—

(a) factory and agricultural colonies, organised " to train persons deprived of liberty in labour habits, raise their labour qualifications, subject them to politically educative and disciplinary influences and familiarise them with life and work in an organised community " on the basis of factory and agricultural labour[2];

(b) mass-labour colonies situated in distant areas, which receive " persons from the milieu of class-hostile elements who have been deprived of liberty and workers who, because of the nature of the crime committed, constitute the greatest class danger and need to be subjected to more severe conditions "[3];

(c) punitive colonies, which receive " convicted persons deprived of liberty who have previously been in other colonies and have displayed systematic insubordination to the established régime or labour discipline ".[4]

* 89. The " corrective labour camps " referred to in paragraph 87 are not mentioned in the Corrective Labour Code. It seems that, since 1933—and possibly even earlier—two sorts of corrective labour institutions for persons who have been deprived of liberty have existed side by side, *i.e.*, the corrective labour camps and the corrective labour colonies, the latter, together with the prisons[5], constituting the " ordinary places " where persons are deprived of liberty[6] referred to in Articles 20 and 28 of the Penal Code. Volume 29 of the *Large Soviet Encyclopaedia*[7], published in 1935, clearly draws this distinction in the following passage :

Sentences involving de privation of liberty are served in establishments of different types. The corrective labour colonies are intended for persons with up to three-year sentences and the corrective labour camps for those sentenced to three years or more.[8]

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[1] Published in the *Collection of Laws of the U.S.S.R.*, 1930, No. 22, Article 248.

[2] *Corrective Labour Code*, Article 33, paragraphs 1 and 2.

[3] *Ibid.*, Article 34, paragraph 1.

[4] *Ibid.*, Article 35.

[5] Under an Ordinance dated 20 September 1936, quoted in a note on Article 28 in the 1940 edition of the *Corrective Labour Code*, " persons sentenced to deprivation of liberty may be directed to serve their term in prison only if the court sentence contains a specific reference to the detention of the convicted person in prison ". Prison would not therefore seem to be the usual place where persons are deprived of liberty.

[6] B. S. UTEVSKI (*op. cit.*, pp. 58-59) mentions these colonies in a section entitled " Ordinary Places where Persons are deprived of Liberty " which follows immediately after a section entitled " Corrective Labour Camps ".

[7] In an article entitled *Ispravitelno-Trudovye Uchrezhdeniya* [Corrective Labour Establishments], cols. 603-604.

[8] And, apparently, persons sentenced by the O.G.P.U. (and later by the N.K.V.D. and M.V.D.—see below, paragraph 144) as indicated in Article 2 of the Statute of 1930 mentioned in paragraph 87.

Furthermore, whereas Article 2 of the Statute governing corrective labour camps[1] states that " only persons sentenced by a court to deprivation of liberty for at least three years ... may be sent to a corrective labour camp ", Article 44, paragraphs *(b)* and *(c)*, of the Corrective Labour Code lay down that the places of deprivation of liberty indicated in Article 28 of the Code[2] receive persons condemned to terms not exceeding three years; persons condemned to longer terms may be received if the sentence of the court so orders.

In addition, the expression " corrective labour camps " appears in legislation issued after 1933. One example may be found in an Ordinance of 1934 empowering the N.K.V.D. to impose penalties.[3] An Ordinance dated 20 September 1936 (quoted in a note on Article 79 of the 1940 edition of the Corrective Labour Code) even speaks in one and the same sentence of " corrective labour camps and colonies ". Even after 1933, Soviet authors sometimes speak of corrective labour camps and sometimes of corrective labour colonies.[4]

It would therefore seem that sentences involving corrective labour with deprivation of liberty are served either in " colonies " or in " camps ". The administration of these institutions will be dealt with in a separate section.

Exile with Corrective Labour.

90. According to Article 6 of the Corrective Labour Code, " the special purpose of exile with corrective labour is to isolate convicted persons from their previous milieu by removing them to specified localities and simultaneously imparting to them a sense of discipline through corrective labour ".

91. This penalty was introduced by an Ordinance dated 10 January 1930.[5] In his manual, Utevski explains this change as follows:

> The importance of exile as a punishment increased in the reconstruction period when the accentuated opposition of class-hostile elements to socialist construction made it necessary to find new ways of countering such opposition.[6] At the same time the possibility of organising exile on the principle of providing persons sentenced to this penalty with a re-education in labour on large-scale socialist construction projects in distant areas of the Soviet Union which were in need of manpower provided opportunities of so arranging exile that, while acting as a powerful repressive measure, it also served to instil a sense of discipline in workers who committed serious crimes.[7]

Previously, Soviet criminal law only made provision for banishment with or without an obligation to reside in a specified locality, *i.e.*, exile and expulsion[8], and neither of these penalties was coupled with compulsory labour.

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[1] See above, paragraph 87.

[2] See above, paragraph 88.

[3] See below, paragraph 144.

[4] B. S. Utevski, for example, who, on p. 8 of his book published in 1935 *(op. cit.)*, distinguishes between " corrective labour camps ", administered by the N.K.V.D., and " corrective labour institutions ", administered until 1934 by the Republics and subsequently by the N.K.V.D.

[5] *Collection of Enactments of the R.S.F.S.R.*, 1930, No. 5, Article 63. A book entitled *Soretskoe Ugolovnoe Pravo* [Soviet Criminal Law] by V. D. Menshagin and Z. A. Vyshinskaya, published in Moscow by the State Publishing House for Literature on Law in 1950, contains a reference to this Ordinance on p. 172, stating that it governs the infliction of the penalty of exile in the R.S.F.S.R.

[6] According to Article 5 of the Ordinance dated 10 January 1930 and Article 36, paragraph 2, of the Penal Code, exile with corrective labour may be ordered by a court only in cases involving the offences listed in the Articles. These offences include certain crimes against the State and the system of administration.

[7] *Op. cit.*, p. 48.

[8] The expressions " exile " and " expulsion " are defined by V. D. Menshagin and Z. A. Vyshinskaya (*op. cit.*, pp. 171-172) as follows:

> Exile [*ssylka*] is the term used for the banishment [*udalenie*] of a convicted person from the

According to Article 5 of the Ordinance dated 10 January 1930 and Article 35, paragraph 2, of the Penal Code, exile with corrective labour may be imposed for periods ranging from three to ten years.[1]

The Ordinance dated 10 January 1930 defines the procedure to be followed in imposing penalties of exile with forced labour and, in Article 9, lays down that—

In determining the period of exile or expulsion to be ordered in individual cases within the limits established by the present Ordinance, a court shall be guided exclusively by its assessment of the danger to society which the convicted person constitutes and shall not be bound by the periods stipulated for deprivation of liberty in the appropriate Articles of the Penal Code.

92. According to Article 101 of the Corrective Labour Code—

Persons sentenced to exile combined with corrective labour shall perform such labour : *(a)* on hire in State, co-operative and public undertakings and institutions on the basis of contracts between such undertakings and institutions and the corrective labour institutions ; *(b)* in undertakings specially organised for this purpose by corrective labour institutions ; *(c)* on mass work organised under contracts between the corrective labour institutions and the State and co-operative authorities ; *(d)* in mass-labour colonies.

Persons sentenced to deprivation of liberty with corrective labour may also serve their sentences in the colonies mentioned under *(d)*.[2] According to the second paragraph of Article 102 of the Corrective Labour Code, however—

Persons serving a sentence of exile with corrective labour in mass-labour colonies shall not be subject to any of the restrictions laid down for persons deprived of liberty.

93. As regards working conditions and pay, persons serving a sentence of exile with corrective labour receive the same treatment as similarly qualified workers employed under contracts of employment, subject to deductions from their basic wages varying between 5 and 15 per cent.[3]

94. According to Utevski, this penalty was rarely ordered by the courts. He explains that—

This was largely due to the successful approach of the corrective labour camps and the brilliant results that they achieved in matters of re-education ; this led the courts to opt for direction to corrective labour camps rather than for exile with corrective labour.[4]

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confines of any area, coupled with an obligation for him to settle in any specified area for the period of time laid down in the sentence. . . .

Expulsion [*vysylka*] is the term used for the banishment of a convicted person from the confines of a given area for the period of time laid down in the sentence, without any obligation for him to settle in any other specified area.

Hence, the specific difference between exile and expulsion is that in the case of expulsion a person convicted of a crime of any kind is not entitled to reside in a specified area or areas, but is at liberty to reside in any others. In the case of exile, on the other hand, a convicted person is obliged to settle in a specified area and is not allowed to leave it until his period of sentence has expired.

Comments on the penalties of exile and expulsion are to be found in two recent Soviet books, one by S. S. STUDENIKIN (*op. cit.*, pp. 189-190) and the other by I. I. EVTIKHIEV and V. A. VLASOV : *Administrativnoe Pravo S.S.S.R.* [The Administrative Law of the U.S.S.R.] (Moscow, Legal Publishing House of the Ministry of Justice of the U.S.S.R., 1946), pp. 244-245. These both observe that, although a person sentenced to expulsion may choose the place where he desires to spend his period of expulsion, he may not choose any of a number of prohibited localities, which include the capital cities, large towns and industrial centres.

[1] This is confirmed by V. D. MENSHAGIN and Z. A. VYSHINSKAYA, *op. cit.*, p. 172.
[2] B. S. UTEVSKI : *op. cit.*, p. 50.
[3] *Corrective Labour Code*, Article 103.
[4] *Op. cit.*, p. 51.

Corrective Labour Policy, Its Aims and Methods.

General Aims.

95. The *Large Soviet Encyclopaedia* defines corrective labour policy as—

... the branch of the criminal law policy of the proletariat concerned with the execution of penalties coupled with corrective labour influences (corrective labour without deprivation of liberty, exile in combination with corrective labour and deprivation of liberty).[1]

The Corrective Labour Code opens with a definition of penal policy, Article 1 reading—

... the task of the penal policy of the proletariat during the period of transition from capitalism to communism is to protect the dictatorship of the proletariat and the socialist construction it is undertaking against encroachments by class-hostile elements and infractions not only by *déclassé* elements but also by unstable elements among the workers.

96. The objective of penal policy, in so far as it is concerned with class-hostile elements, is defined more closely by Utevski in a chapter headed "Corrective Labour Policy, Its Object and Its Methods"—

The organs of proletarian dictatorship which, by their coercive action, safeguard the interests of the proletarian State, include the N.K.V.D. authorities, the courts, the public prosecutors' offices and the corrective labour institutions.

They all perform a single task and apply a single penal policy. They all participate to the same extent, though in different ways, in the class struggle of the proletariat by suppressing the opposition of class enemies and of workers disorganising socialist construction and by forcibly instilling a sense of discipline in convicted persons.[2]

The same idea recurs in a book by A. Ya. Vyshinski and V. S. Undrevich who maintain that—

In the U.S.S.R., both the courts and other authorities are, from the organisational standpoint, independent parts of a single proletarian dictatorship machine safeguarding the conquests of the proletarian revolution and combating those who disturb the revolutionary order. The difference between them lies in the methods they adopt to carry out this task, *i.e.*, in their procedure. Their activities are alike in substance, but differ in the way they are carried out.[3]

97. After explaining the task of penal policy in Article 1, the Corrective Labour Code defines the aims pursued by corrective labour policy (Article 2); these are—

(a) to place convicted persons in conditions where they are deprived of the possibility of committing acts harmful to socialist construction, and

(b) to re-educate and adapt them to the conditions of a communal life of labour by directing their work to ends of general utility and by organising it on the principle of the gradual approximation of forced labour to voluntary labour on the basis of socialist competition and shock-work.

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[1] Vol. 29, col. 598.

[2] *Op. cit.*, p. 3.

[3] A. Ya. VYSHINSKI and V. S. UNDREVICH: *Kurs Ugolovnovo Protsessa* [A Course in Criminal Procedure] (Unified State Publishing House, 1936), p. 28.

This text compares with Article 9 of the Penal Code, which reads—

Measures of social defence shall be applied in order to—

(a) prevent offenders from committing further crimes ;

(b) exercise an influence upon other unstable members of society ; and

(c) adapt persons having committed criminal acts to the conditions of communal existence in the working people's State.

Measures of social defence may not be taken with the object of inflicting physical suffering or abasing human dignity, and the question of retribution or of punishment shall not arise.

The idea expressed in the last paragraph of this Article recurs in Article 7 of the Corrective Labour Code, which reads—

Labour, action in the sphere of political education, the régime and system of privileges in all corrective labour institutions shall be in conformity with the basic tasks of the corrective labour policy of the proletarian State and may not be accompanied either by the infliction of physical suffering or by the abasement of human dignity.

The Evolution of Corrective Labour Policy.

98. Although the long-term purpose of corrective labour policy—that of combating class enemies—seems to have remained the same ever since the revolution, its immediate objectives, and particularly its methods, show a definite development between 1920 and 1933, as may be seen from the works of several Soviet writers.

This development is traceable in the role of labour as a part of penal policy, in the significance of class considerations and in the importance, and more particularly the forms, of re-educative work among the convicts.

99. Forced labour camps were organised in Soviet Russia as early as 1919.[1] A Decree dated 15 September 1918 pointed to the need " to protect the Soviet Republic from class enemies by isolating them in concentration camps ".[2] Other Decrees on the same subject followed in April and May 1919.[2]

The purpose of these initial camps, however, seems to have been to punish convicts and to isolate them (and so render them innocuous) rather than to re-educate them and make them work. This is what Averbakh would seem to have in mind in writing—

It would, however, be the grossest of political mistakes to identify the part played by the camps in the reconstruction period with their role in the period of war communism. The task which lies ahead of them, the importance of which will increase the further we progress towards the complete elimination of the hostile classes, is not only one of isolation and repression, but also one involving the re-education and refashioning of the minds of men.[3]

100. It was recognised at an early stage that convicts who were fit to work should be required to do so and that they should, moreover, be subject to politically educative influences.[4] These dual aims, however, were pursued in isolation, since

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[1] B. S. UTEVSKI : *op. cit.*, p. 32.

[2] Quoted by I. L. AVERBAKH on p. 15 of his book *Ot Prestupleniya k Trudu* [From Crime to Labour], published by the Institute of Soviet Construction and Law, Academy of Sciences of the U.S.S.R., Moscow, 1936.

[3] *Ibid.*, p. 16.

[4] B. S. UTEVSKI : *op. cit.*, p. 33. See also the article by A. ESTRIN and V. TRAKHTEREV in the book *Ot Tyurem k Vospitatelnym Uchrezhdeniyam* [From Prisons to Educational Establishments] (Moscow, State Publishing House, 1934), pp. 17 *et seq.*

the idea of re-educating prisoners by means of labour had not as yet been fully recognised. Moreover, since plant and workshops were inadequate, only a very small proportion of the prisoners were effectively employed (2.5 per cent. in 1919, 9 per cent. in 1920 and 10.8 per cent. in 1921).[1] The educative work, although intended as political, degenerated into empty culture and trivial entertainment.[1]

101. According to Utevski, the restoration period (1921-1925) was an important phase in the development of the aims and methods of corrective labour policy. The opposition of class enemies assumed new forms and steps were therefore taken to suppress it.[2] It was at this time that the first Corrective Labour Codes were issued in the Union Republics. That of the R.S.F.S.R., which dates from 1924, played an important part in the development of Soviet corrective labour policy.[3] It marked the final break with the prison policy of capitalist countries [2] and replaced the prison buildings left over from the past by a network of factory, workshop and agricultural labour colonies which were, in principle, self-supporting.[3] It further stated the essential principle that an influence must be exercised on convicts by two inseparable methods, namely, compulsory labour and politically educative action.[4] Lastly, it recognised the need for a class-differentiated approach in the execution of sentences involving deprivation of liberty.[2]

102. In practice, however, the Code of 1924 was found to have grave defects.[5] According to Utevski [6], the most serious defect in the policy followed at this time was that it failed to draw a clear distinction between the repression and isolation of class enemies, on the one hand, and the education of unstable and *déclassé* elements among the working people, on the other. Being too much under the influence of bourgeois-liberal penitentiary theories, it placed all convicts on what was virtually an equal footing. In the process, the corrective labour authorities deviated from the policy followed by the courts, which adopted a class approach in passing sentences. In addition, though the Code of 1924 quite definitely made provision for the close association of compulsory labour and politically educative action, these two methods of re-education were not in fact co-ordinated. This was due in part to the fact that the work imposed on convicts was not sufficiently educational and in part to the fact that the educative influences continued to be non-political in character.

103. It was these two aspects—the class approach and the close relationship between corrective labour and educative influences—that were stressed during the period of reconstruction (1930-1934). Moreover, the two principles are clearly reflected not only in the Code of 1933, but also in the Soviet publications which appeared in later years. It seems that at this time the corrective labour institutions assumed an economic importance which, apparently, had hitherto been lacking, and began to play a part in the national economy. These three points will now be examined in more detail.

The Class Approach.

104. Many Soviet authors [7] emphasise the point that, since the main purpose of corrective labour policy is to protect the dictatorship of the proletariat by means

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[1] B. S. UTEVSKI : *op. cit.*, p. 33.
[2] *Ibid.*, p. 34.
[3] *Large Soviet Encyclopaedia*, Vol. 29, col. 601 (article on the Corrective Labour Code).
[4] *Ibid.*, and B. S. UTEVSKI : *op. cit.*, p. 35.
[5] B. S. UTEVSKI : *op. cit.*, pp. 34-35 and *Large Soviet Encyclopaedia, loc. cit.*
[6] *Op. cit.*, pp. 7, 34-35, and 37.
[7] See, *inter alia*, B. S. UTEVSKI : *op. cit.*, pp. 7, 34-35, and 37 ; A. Ya. VYSHINSKI and V. S. UNDREVICH : *op. cit., passim* ; I. L. AVERBAKH : *op. cit.*, pp. 15-16 ; and the *Large Soviet Encyclopaedia*, Vol. 29, col. 598, which connects this policy with instructions issued by Lenin.

of the elimination of class enemies[1], the class approach must naturally have its part to play in the application of the policy. It is in the following respects that differences of approach are mainly evident :

(1) According to Article 3 of the Corrective Labour Code, convicted persons are sent to different types of corrective labour colonies, one of the factors in the choice of colony being " the degree of class danger which they represent ".

(2) According to Article 34 of the same Code, the colonies for mass labour situated in distant areas are intended for " persons from the milieu of class-hostile elements who have been deprived of liberty and workers who, because of the nature of the crime committed, constitute the greatest class danger and need to be subjected to more severe conditions ".

(3) On the other hand, class enemies are excluded from the agricultural colonies, as is evident from the book *From Prisons to Educational Establishments*. This states (page 139) that "under the class policy applied in places where persons are deprived of liberty, workers are the only persons to be directed to the agricultural colonies. Persons not belonging to the working people (class-alien elements and *kulaks* in particular) are not to be directed to such colonies."

(4) As a general rule, only class enemies are sentenced to exile with corrective labour.[2]

(5) According to Article 65 of the Corrective Labour Code, various duties in places where persons are deprived of liberty may be entrusted to prisoners " from among the working people who have committed crimes which constitute a lesser danger to society " ; on the other hand, Article 69 lays down that " persons deprived of liberty belonging to the category of class-hostile elements may not be chosen for responsible offices in any of the self-governing cells or social organisations of persons deprived of liberty ".

(6) According to Article 110, the supervisory commissions, which deal with matters such as leave, the alteration of penalties and transfers to other institutions, take account, in their consideration of individual cases, of the degree of class danger of the crime committed and the social circumstances of the convicted person.

(7) The class approach also plays a part in the procedure adopted by the courts.[3]

Re-education of Convicts.

105. The educative influences to which convicts are subjected are intended "to promote their re-education, to accustom them to work and live as members of the labouring community and to bring them into association with socialist construction ".[4] According to a resolution passed in 1931 by the All-Russian Congress of Workers of the Judiciary, " the purpose of politically educative work is to eradicate from convicted workers the old habits and traditions born of the conditions prevailing in the pattern of life of former times ".[5] This activity, comments Utevski[6], " cannot be divorced from politics ; it must be imbued with a class content, seek to overcome the survivals of capitalism both in economics and the

[1] See above, paragraphs 95 and 96.
[2] Under an Ordinance of 25 Mar. 1932 quoted by B. S. UTEVSKI, *op. cit.*, p. 49.
[3] This is evident from several passages in the *Course in Criminal Procedure* by A. Ya. VYSHINSKI and V. S. UNDREVICH ; see also below, paragraphs 136 *et seq.*
[4] *Corrective Labour Code*, Article 4, paragraph 3.
[5] Quoted by B. S. UTEVSKI, *op. cit.*, p. 69.
[6] *Ibid.*, p. 70.

human mind and take as its foundation the struggle for a classless socialist society". In other words, as Averbakh states[1], it is a question of "refashioning the minds of men" or, according to the *Large Soviet Encyclopaedia*[2], "of re-educating the *déclassé* elements among the shattered hostile classes by passing them through the furnace of 'dekulakisation', isolation and labour influences" or, again, in the words of Maxim Gorki[3], "of changing their nature, finding and developing in the individual those qualities which are of value to the community".

106. This re-education—which by no means excludes repression and coercion, closely linked with education in the doctrines of Lenin and Stalin[4]—is achieved first through the convicts' participation in work of benefit to society, and secondly through politically educative influences[5], these two methods being closely linked and complementary.[6]

(a) *Education by and through labour* is most effective if convicts are employed on mass work, which develops in them a socialist attitude to labour, makes them keen to work, helps them to acquire a better understanding of shock work and makes possible a more extensive application of socialist methods of labour organisation (socialist competition, technical propaganda, production meetings and so on).[7] Moreover, the fact that convicts receive vocational training offers a possibility of using them to some purpose while they are deprived of liberty; at the same time it prepares them for a useful place in the national economy after their release.[8] The re-education of the most hostile elements among the convicts is facilitated if they are surrounded by elements which are socially more reliable and set a good example.[9] According to Article 67 of the Corrective Labour Code—

> ... the mass production section of the cultural council shall direct the organisation of shock work, socialist competition and other socialist methods of labour organisation among persons deprived of liberty and shall, by measures of a social character, promote the fulfilment by persons deprived of liberty of the industrial and financial plan of the place of deprivation of liberty.

(b) *Politically educative influences* must also be exerted on persons sentenced to deprivation of liberty, to corrective labour without deprivation of liberty, or to exile with corrective labour.[10] Such political education is the responsibility of the "mass-cultural section of the cultural council".[11] According to Utevski[12], such influences must be predominantly political, and non-political culture is to be avoided.[13] Again according to Utevski[12], this education has to be associated with the convicts' work, inasmuch as the main aim is to help them understand the principles of the Soviet system as those principles apply in the particular sector of construction which has been allotted to them. Here again, class considerations have a decisive part to play, and the educational sections, the members of which

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[1] *Op. cit.*, p. 16.
[2] Vol. 29, col. 600.
[3] Article in *Pravda*, 5 Aug. 1933, entitled "Education through Truth".
[4] See B. S. UTEVSKI: *op. cit.*, p. 7; the *Large Soviet Encyclopaedia*, Vol. 29, cols. 600-601; and I. L. AVERBAKH: *op. cit.*, p. 16.
[5] *Large Soviet Encyclopaedia*, Vol. 29, cols. 598 and 599.
[6] B. S. UTEVSKI: *op. cit.*, pp. 35 and 70.
[7] *Ibid.*, p. 74. See also I. L. AVERBAKH: *op. cit.*, *passim*; and Maxim GORKI: *op. cit.*, who speaks of "the re-education of men through the truth of corrective labour".
[8] B. S. UTEVSKI: *op. cit.*, pp. 74-75.
[9] *Ibid.*, p. 73.
[10] *Corrective Labour Code*, Articles 4 (paragraph 2), 5, 7, 33 (paragraph 1) and 105.
[11] *Ibid.*, Articles 66 and 68.
[12] *Op. cit.*, p. 70.
[13] The *Corrective Labour Code* of 1924 referred to "cultural enlightenment" and not "political education" (see the *Large Soviet Encyclopaedia*, Vol. 29, col. 601).

are recruited from the elements nearest the régime, take part in the class struggle through the influence they exert upon the other convicts.[1]

Role of Corrective Labour in the National Economy.

107. The role of corrective labour in the national economy since the period of reconstruction (1930-1934) has been stressed by several Soviet authors.

It is stated in the collection of articles edited in 1934 by A. Ya. Vyshinski [2] that, between 1928 and 1930, increasing recognition was given to the need for the corrective labour institutions to increase capacity, become self-supporting and be integrated in the general economy of the country. To this end, the colonies' equipment was improved by mechanising plant and by investing large amounts of capital. From that time, the corrective labour institutions took part in the general competition to fulfil the country's economic plans.[3]

In his book *From Crime to Labour*, Averbakh writes—

> Concentration of effort on gigantic projects is the first principle which has been evolved in the work of the N.K.V.D. camps. By concentrating on a restricted number of construction projects, whose grandeur dazzles the imagination and which have only become possible during the reconstruction period, the camps are achieving particularly striking, efficient and moving results in their construction work.[4]

In a later passage, he states—

> The concentration of production has made it possible for the camps to carry out in an extremely trenchant and consistent manner, reforms whose urgency and economic significance have been felt throughout the corrective labour institutions of the Union. As an instance, the department responsible for the corrective labour institutions of the Ukrainian S.S.R., in planning a 242 per cent. increase in the productivity of labour in 1931 as compared with the yearly average for 1928 and 1929, has emphasised the point that jointly with mechanisation and rationalisation, the concentration of undertakings and the discarding of small, unpromising and unprofitable enterprises are among the major factors in this vast expansion.
>
> Such a concentration on gigantic projects is therefore of immense importance, both theoretically and practically, in the prisoners' re-education.[5]

After referring to the construction of the canal linking the White Sea and the Baltic, Utevski [6] states that " the work done by other camps is also of great importance economically". He then goes on to quote the following passage from Firin's book *The Results of the White Sea Construction Project* [*Itogi Belomorstroya*]:

> The O.G.P.U. corrective labour camps are pioneers in the cultural integration of our distant borderlands. The work done by the Ukhta camps is gradually transforming this eternally frozen waste into an industrial area. Coal and oil are being extracted there, and not long ago our prospectors discovered coal deposits on the Vorkuta.
>
> On the desolate island of Vaigach, O.G.P.U. camps are mining lead and zinc. On the Yugor Strait, we quite recently discovered fluorite, which is badly needed by our industry, and we are now beginning intensive work on it.
>
> Simultaneously with the integration of these distant areas, long stretches of railways or metalled and unmetalled roads are being built, settlements constructed and regions brought to life.

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[1] *Op. cit.*, pp. 71-72.
[2] *From Prisons to Educational Establishments, op. cit.*, pp. 118-119.
[3] *Ibid.*, pp. 126-127.
[4] *Op. cit.*, p. 21.
[5] *Ibid.*, p. 23.
[6] *Op. cit.*, p. 64.

Pioneer work on intensive agriculture in the Far North is being done in the Solovetski Islands. Despite the lack of experience and the difficult conditions, the islands have produced specimens of their production which would well deserve to be exhibited at a show. The local population, which did not believe farming to be possible, are beginning to imitate the experiment and develop an agriculture of their own.

The Karaganda camps are making a valuable cultural contribution in the field of agriculture in this remote, sparsely populated and parched area of Kazakstan.

Utevski returns to the theme in a later passage, stating that " the stupendous work done by the corrective labour camps is of enormous importance to the national economy ".[1]

Discussing the sentence of exile with corrective labour, Utevski states that as a rule, it is served " on large-scale projects undertaken by economic bodies or organised by the corrective labour authorities themselves "[2], these projects being located " in distant areas of the Soviet Union which are in need of manpower ".[3]

An article in the *Large Soviet Encyclopaedia* explains that—

... at the end of the first Five-Year Plan, the possibilities of exercising corrective labour influences increased considerably as a result of the complete elimination of unemployment in the Soviet Union and the extensive development of socialist construction which required an ever-increasing labour force.

The stupendous victories of socialism on all fronts enabled the work of convicts to be widely used in the general task of socialist construction, in the course of which they are transformed into hard-working members of socialist society.[4]

108. Utevski states that the system of education through labour adopted in the colonies also made it possible for the country to obtain the skilled labour which it required.[5]

Developments since 1933.

109. The principles of the corrective labour policy outlined above have been taken from the Code of 1933 and the doctrine as expounded between 1933 and 1936.

110. It has been seen in paragraph 80 above that various amendments were made to the Corrective Labour Code of 1933 between that year and 1940. These, however, did not affect its basic principles. The most important change was the deletion of all provisions which, in the 1933 text, mentioned conditional release and the reduction or remission of penalties.[6]

111. The Committee has not traced any further amendments to the Code since 1940, nor has it found any more recent commentaries.

Soviet Penal Law as a Basis for Penalties which involve Corrective Labour.

112. Most penalties which involve corrective labour are imposed in application of the Penal Code. This is why many of the allegations made in connection with the Soviet Union maintain that one of the bases of the country's present system of forced labour is its criminal law, which differs widely from its western counterparts, notably in that its definition of crime, and particularly of crimes against the State

[1] B. S. UTEVSKI : *op. cit.*, p. 66.
[2] *Ibid.*, p. 50.
[3] *Ibid.*, p. 48 ; see also p. 59.
[4] Vol. 29, col. 600.
[5] B. S. UTEVSKI : *op. cit.*, p. 74.
[6] Articles 93, 115 and 116 were amended and Articles 124-128 repealed.

is very broad, and further in that it adopts the principle of analogy, takes no account of the subjective elements in an offence, even makes it possible for persons who have not committed an offence to be convicted, establishes the principle of collective responsibility for certain crimes, and rejects the concept of *res judicata* and the principle that the law may not be retroactive.[1]

These different points will now be examined in the light of the material available to the Committee.

Definition of Crime.

*113. According to Article 1 of the Penal Code—

The aim of the penal legislation of the R.S.F.S.R. shall be to protect the socialist State of the workers and peasants and the established legal order therein against acts which constitute a danger to society (crimes) by applying to persons committing such acts the measures of social defence indicated in the present Code.

Article 6 explains that—

Any action or inaction shall be deemed a danger to society if it is directed against the Soviet régime or violates the legal order established by the workers' and peasants' authority for the period of transition to a communist régime.

There is a note on this Article which reads—

An action shall not be deemed a crime, even though it is formally covered by the provisions of any Article in the Special Section of the present Code, if it is devoid of any danger to society by reason of its obvious insignificance and the absence of harmful consequences.

Crimes Against the State.

*114. Article 46 of the Penal Code draws a distinction between crimes "which are directed against the foundations of the Soviet régime established in the U.S.S.R. by the authority of the workers and peasants and which are therefore recognised as constituting the greatest danger" and all other crimes. For the former, the law lays down the minimum penalties to be ordered by the courts, whereas only maximum penalties are established for the latter.

In this connection it may be pointed out that, under Article 47, the following are considered aggravating circumstances in all crimes :

(*a*) that the crime was committed with the object of restoring the authority of the bourgeoisie ;

(*b*) that the commission of the crime might have been prejudicial to the interests of the State or of the working people, even though the crime was not in fact specifically directed against the interests of the State or of the working people.

*115. The Special Section of the Code[2] opens with a chapter entitled "Crimes against the State", divided into two sections : "Counter-revolutionary Crimes" and "Crimes against the System of Administration of Particular Danger to the

[1] See above, paragraphs 13 *et seq.*

[2] The various chapters of the Special Section are headed : I. Crimes against the State : (1) Counter-revolutionary Crimes ; (2) Crimes against the System of Administration of Particular Danger to the U.S.S.R. ; II. Other Crimes against the System of Administration ; III. Crimes Committed in an Official Capacity ; IV. Infraction of the Regulations governing the Separation of the Church and State ; V. Economic Crimes ; VI. Crimes against Life, Health, Liberty and Personal Dignity ; VII. Crimes against Property ; VIII. Infraction of the Regulations protecting the Health of the People, Public Safety and Order ; IX. Military Crimes ; X. Crimes constituting Survivals of a Tribal Existence.

U.S.S.R.". This is followed by a second chapter headed " Other Crimes against the System of Administration ".

*116. Counter-revolutionary crimes[1] are defined in Articles 58 (1)-58 (14). According to Article 58 (1)—

Any action shall be deemed to be counter-revolutionary if it is directed towards the overthrow, undermining or weakening of the authority of the Workers' and Peasants' Soviets and the Workers' and Peasants' Governments of the U.S.S.R., the Union and Autonomous Republics elected by them in accordance with the Constitution of the U.S.S.R. and the Constitutions of the Union Republics, or towards the undermining or weakening of the external security of the U.S.S.R. and the fundamental economic, political and national conquests of the proletarian revolution.

By virtue of the international solidarity of the interests of all working people these same acts shall also be deemed to be counter-revolutionary if they are directed against any other working people's State, even though that State does not form part of the U.S.S.R.

The other Articles in this Section specifically define the various counter-revolutionary crimes. The clause which witnesses have most often quoted as being the basis of the system of detention in corrective labour camps is Article 58 (10) which reads—

Propaganda or agitation containing an appeal to overthrow, undermine, or weaken the Soviet régime or to commit particular counter-revolutionary crimes (Articles 58 (2)-58 (9) of the present Code) as well as the dissemination, preparation or possession of literature with such a content shall entail—

deprivation of liberty for a period of not less than six months.

Such acts, if committed during mass disturbances or coupled with the exploitation of the religious or national prejudices of the masses or committed during wartime or in places in which martial law has been declared, shall entail—

the measures of social defence indicated in Article 58 (2) of the present Code.[2]

In a chapter on the Special Section of the Penal Code, the book *The Principles of the Soviet State and Law* gives particular prominence to the crime of " wrecking " (Article 58 (7)) in the following passage :

The law defines wrecking as the undermining, with counter-revolutionary intent, of State industry, transport, trade, currency, the system of credit or the co-operative system, by using the State institutions or undertakings concerned or by resistance to their normal work. Wrecking also includes the undermining of any branch of social construction, even though not specifically referred to in Article 58 (7) of the Penal Code, if carried out with counter-revolutionary intent.

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[1] In a note on Article 14, the Penal Code points out that, under an Ordinance dated 6 June 1934, in cases where criminal proceedings are instituted for counter-revolutionary crimes, it is to be left to the discretion of the court to decide in each individual case whether or not the liability of the accused is barred by lapse of time.

[2] Article 58 (2) reads—

"Any armed rising or invasion of Soviet territory by armed bands with counter-revolutionary intent, any seizure of power with such intent either centrally or locally and, in particular, with the object of forcibly detaching from the U.S.S.R. or any individual Union Republic any part of its territory, or of breaking treaties concluded by the U.S.S.R. with foreign States, shall entail—

the supreme measure of social defence—death by shooting or denunciation as an enemy of the working people coupled with confiscation of property and deprivation of citizenship of the Union Republic and thereby of citizenship of the U.S.S.R. and banishment for life from the confines of the U.S.S.R., though if there are extenuating circumstances the penalty may be reduced to deprivation of liberty for not less than three years coupled with confiscation of property in whole or in part."

Wrecking is the work of enemies of the people, deliberately directed towards disrupting the socialist economy, undermining the military strength of our country and impairing the well-being of the working people. Activity of this kind on the part of the outcast bourgeoisie began immediately after the working class won power in the country. Wrecking occurred both during the period of transition to a peaceful reconstruction of the national economy and, more particularly, in later times. " ... the class struggle is at the origin of wrecking " (Stalin, *Problems of Leninism*, 11th edition, page 327 [Russian text]). During the great trials of the wreckers and diversionists, their connection with the international aggressive bourgeoisie, of which they were the agents, was invariably revealed.[1]

** 117. Crimes against the system of administration are defined in Article 59 (l) as follows :

Any action shall be deemed a crime against the system of administration if, while not specifically directed towards the overthrow of the Soviet régime and the Workers' and Peasants' Government, it nevertheless results in a disturbance of the proper operation of the organs of administration or of the national economy and is accompanied by opposition to the organs of authority and obstruction of their work, disobedience to the laws or other acts which tend to weaken the power and authority of the régime. Crimes against the system of administration shall be deemed to be particularly dangerous to the U.S.S.R. if, while committed without counter-revolutionary intent, they shake the foundations of the State administration and the economic strength of the U.S.S.R. and the Union Republics.

Articles 59(2)-59(13) specifically define the various crimes against the system of administration of particular danger to the U.S.S.R. In addition, such crimes are sometimes covered by separate laws. An example may be found in the Decree issued on 4 June 1947 by the Presidium of the Supreme Soviet of the U.S.S.R. to institute penalties for the pillage of State and public property[2], where the maximum penalty is 25 years' imprisonment in corrective labour camps with confiscation of property.

The Principle of Analogy.

118. According to Article 16 of the Penal Code, " where the present Code makes no express provision for some act which constitutes a danger to society, the basis and limits of responsibility for such an act shall be determined in accordance with those Articles of the Code which cover crimes whose nature is most similar to such an act ".

* 119. The publication *Criminal Law* comments on this principle at length, and states that—

In the ensuing years, the application of analogy in Soviet penal law has fully justified itself and has ensured timely action to combat serious types of crime by enabling the organs of socialist justice to react flexibly and swiftly to new kinds of offences produced by developments in the class struggle. The " Basic Principles governing the Penal Legislation of the U.S.S.R. and Union Republics " and the Penal Codes in force in the Union Republics contain provisions covering analogy, and the conditions governing its application will be considered later. The existence of analogy in Soviet penal law is conditioned by the practical requirements of the socialist State at a given stage of its development.[3]

[1] *Op. cit.*, pp. 551-552.
[2] Published in *Pravda*, 5 June 1947.
[3] *Op. cit.*, p. 246.

The commentary goes on to state however (pages 246-247) that, far from increasing, the application of analogy became more and more restricted as the principle of stability of law became established. In 1939-1940, the arguments both for and against the principle of analogy were stated at some length during the discussions held in connection with the preparation of a draft Penal Code for the Soviet Union. Those in favour of the principle considered that a Penal Code, however carefully prepared, " will never be able to provide for newly arising types of criminality ". Those who held the opposite view recalled the principle of *nullum crimen sine lege*, pointing out that the principle of analogy converted the judge into a legislator and observing that, should new forms of crime arise, the legislator could always react quickly by issuing new rules. It was furthermore maintained that " Soviet penal legislation is flexible and mobile enough to react swiftly to the appearance of new forms of criminality and this may be regarded as a guarantee that no really serious crime will remain unpunished ".[1]

Turning next to current legislation, which in this respect differs little from one Republic to another[2], the book observes that the principle of analogy in fact plays a useful part in judicial practice, but that it is occasionally applied illegally and incorrectly, whereas it should at all times be applied in strict accordance with the law. In order to achieve this, a number of conditions have to be observed. The first is that the act must constitute a danger to society within the meaning of Article 6 of the Penal Code.[3] In this respect, a judge's subjective conviction that an act is criminal is not enough ; his decision must be based upon a comprehensive knowledge of both the general and particular parts of Soviet penal legislation. In addition, the act must not be one of the offences listed in the penal law in force. It must be classed according to the Article in penal law which most resembles it and must, moreover, conform to any special conditions which the Article imposes.[4]

Conviction when no Offence has been Committed.

120. According to Article 7 of the Penal Code, " measures of social defence of a judicial-corrective, medical or medico-educational character shall be applied to persons who have committed acts that are a danger to society or who constitute a danger through their ties with criminal elements or their previous activities ".

During the debates in the Economic and Social Council, the United Kingdom representative made three references[5] to Article 22 of the "Basic Principles governing the Penal Legislation of the U.S.S.R. and Union Republics ". This Article, he alleged, was embodied in the Penal Codes of several Union Republics and empowered the public prosecutor to exile persons recognised as being socially dangerous without any criminal proceedings being taken against them, and even in cases where they had been acquitted of committing a specific crime. The Article in question reads as follows :

The penalty of expulsion from the confines of a Union Republic or from the confines of a given place, with or without an obligation to reside in certain places or with or without a ban on residence in certain places, shall be imposed by a court on persons who are recognised, by reason of their criminal activities or their relationships with criminal elements in a given place, as constituting a danger to society. This measure may be applied by a court on a motion by the public prosecutor's office to the above-

[1] *Criminal Law, op. cit.*, p. 247.
[2] The text quotes the provisions in the Penal Codes of the Ukrainian and Byelorussian S.S.R. corresponding to Article 16 of the Penal Code of the R.S.F.S.R.
[3] For the text of this Article, see above, paragraph 113.
[4] *Criminal Law, op. cit.*, pp. 247-250.
[5] See above, paragraph 15 (3).

mentioned category of persons irrespective of whether they are prosecuted for the commission of a given crime, and also where, on being charged with the commission of a given crime, they are acquitted by the court but recognised as constituting a danger to society.

Expulsion from the confines of a Union Republic shall be permitted only as expressly provided for under All-Union legislation ; expulsion from a given place but within the confines of a given Union Republic shall be permitted as provided for under the legislation of the Union Republic.

The measures of social defence referred to in this Article shall be imposed for a period not exceeding five years.

121. It would, however, seem that Article 7 of the Penal Code and Article 22 of the Basic Principles are no longer valid, even though they have not been officially repealed, for recent official editions[1] of the Penal Code of the R.S.F.S.R. contain the following commentary on Article 7 :

It is in the general spirit of Soviet penal legislation that punishment may be inflicted by a court only if the defendant is found guilty of committing a specific crime. Under Article 6 of the " Basic Principles governing the Penal Legislation of the U.S.S.R. and Union Republics ", penalties may be imposed by the judiciary only on such persons as foresaw or must have foreseen the danger to society inherent in the consequences of their acts. Thus, it is implicit in this Article that punishment may be inflicted by a court, if guilt is the result of negligence or premeditation, only on a person who is responsible for some specific action or inaction which constitutes a danger to society. Under this Article, therefore, a court is not permitted to inflict punishment upon persons not found guilty of committing a specific crime.

Similarly, it is also stipulated in subparagraph *(e)* of Article 6 of the " Principles governing the Penal Procedure of the U.S.S.R. and Union Republics " that, if the elements which constitute a crime are absent from the actions of the accused, criminal proceedings may not be instituted or, if instituted, may not be permitted to continue, but shall be suspended at whatever stage they may have reached. Thus, it is also implicit in this legislation that, for any punishment to be imposed by the judiciary, there must have been a specific crime committed by the accused.

The only exception to this general rule in the " Basic Principles " is in respect of exile and expulsion. Under Article 22 of the " Basic Principles ", punishment by exile or expulsion may be inflicted by the sentence of a court, on a motion by the public prosecutor's office, on persons recognised as constituting a danger to society, irrespective of whether they are prosecuted for the commission of a specific crime, and also where they have been charged with the commission of a specific crime and are acquitted by the court. This rule is reproduced in the Penal Codes of several Union Republics (Article 34 of the Penal Code of the Ukrainian S.S.R., Article 29 of the Penal Code of the Byelorussian S.S.R., Article 32 of the Penal Code of the Turkmen S.S.R., Article 38 of the Penal Code of the Uzbek S.S.R., Article 36 of the Penal Code of the Georgian S.S.R. and Article 35 of the Penal Code of the Armenian S.S.R.).

This exception to the general rules of Soviet penal legislation must, however, be regarded as no longer valid, owing to the subsequent publication of an Act concerning the Judicial System of the U.S.S.R. and the Union and Autonomous Republics, which, in stating the conditions under which punishment may be inflicted by a court, does not refer to this exception. According to subparagraph *(a)* of Article 4 of this Act, the courts in the Soviet Union carry out the task of justice by investigating criminal cases in judicial session and by imposing the penalties prescribed by law on traitors, wreckers, plunderers of socialist property and other enemies of the people, as well as pillagers, thieves, hooligans and other criminals. Thus, within the meaning of this Act, punishment may be inflicted by a court only upon persons having committed specific crimes, an illustrative but not exhaustive list of which is given in the Act itself.

[1] 1947 edition, pp. 178 *et seq.* and 1950 edition, pp. 189 *et seq.*

Consequently, and considering that, with the publication of the Act concerning the Judicial System, which is a later piece of legislation, all other earlier provisions in contradiction with it are no longer valid, the Plenum of the Supreme Court of the U.S.S.R. issues the following directive to the courts :

The penalties, including exile and expulsion, which the law prescribes for crimes may be imposed judicially by the sentence of a court only if the defendant is pronounced guilty in its verdict of committing a specific crime [Directive of the Plenum of the Supreme Court of the U.S.S.R., 12 July 1946, No. 8/5/U].

122. This Directive refers only to the penalties the courts impose within the framework of the judicial system. Whether the administrative authorities, with their power to order penalties which involve corrective labour, are permitted to take action when no specific offence has been committed is a question dealt with in a later section.[1]

Collective Responsibility.

123. The allegations which mention collective responsibility in Soviet criminal law refer either explicitly or implicitly to Article 58 (1) *(c)* of the Penal Code, which relates to desertion by members of the Armed Forces. Its first paragraph covers the adult members of a deserter's family who have assisted him in his desertion or, although aware of it, have failed to bring the matter to the notice of the authorities. The second paragraph adds—

> The other members of the traitor's family who have reached maturity and who were living with him or were dependent on him at the time the crime occurred shall be liable to deprivation of electoral rights and exile for five years to distant regions of Siberia.

The Principle of Retroactivity.

*124. Article 8 of the Penal Code lays down that an act which was a crime at the time it was committed is no longer punishable if, when the case is investigated or brought before a court, it has ceased to constitute a danger to society as a result of some amendment to the law. No provision of the General Section of the Code envisages the opposite situation, where an act which, when committed, does not constitute a crime, is subsequently made into a criminal offence by the introduction of new penal legislation. However, Article 2 of the Code of Criminal Procedure states—

> The criminality and punishability of an act shall be determined by the penal law in force at the time the crime occurred. Laws annulling the criminality of an act which has occurred or reducing the punishment imposable for it shall be retroactive.

*125. The allegations refer, not to the General Section, but to a provision in the Special Section, Article 58 (13), which reads—

> Any active work or active struggle against the working class and the revolutionary movement in a responsible or confidential post (agent) under the Tsarist régime or counter-revolutionary governments during the Civil War shall entail—
>
> the measures of social defence indicated in Article 58 (2) of the present Code.

Guilt.

*126. As may be seen from Article 10 of the Penal Code, Soviet legislation in principle makes punishment conditional upon the commission of a fault, though it

[1] See below, paragraph 145.

is enough for such a fault to have occurred through negligence. The text of the Article reads as follows :

Measures of social defence of a judicial-corrective character shall be applied to persons committing acts which constitute a danger to society only if they—

(a) acted deliberately, *i.e.*, if they foresaw the danger to society inherent in the consequences of their acts, desired those consequences, or wittingly permitted them to happen, or

(b) acted negligently, *i.e.*, if they did not foresee the consequences of their acts although they ought to have foreseen them, or frivolously hoped they would avert them.

On the other hand, according to the definitions in the Special Section of the Penal Code, certain crimes are punishable only if deliberately committed.

127. The allegation made in this connection[1] referred explicitly to Article 59 (3) *(c)* of the Penal Code, which reads—

Any breach of labour discipline by transport workers (such as a breach of traffic regulations, poor quality repairs to the track or rolling stock, etc.), if the breach has led, or might have led, to the damage or destruction of any rolling stock, track or installations on the track, to accidents involving human beings, to the despatch of trains or ships off schedule, to the accumulation at unloading points of empty trucks, or to the delay of trucks or ships, or any other act resulting either in the disruption (non-execution) of the transport plans drawn up by the Government or in a threat to the regularity and security of traffic, shall entail—

deprivation of liberty for a period not exceeding ten years.

In cases where such criminal acts are of an obviously malicious character, the supreme measure of social defence combined with confiscation of property shall be applied.

Authorities Empowered to impose Penalties and the Procedure which they Adopt.

Role of the Judicial and Administrative Authorities in General.

128. According to Article 8 of the Corrective Labour Code, corrective labour without deprivation of liberty may be prescribed either by the sentence of a court of law or by order of an administrative authority.[2] Article 45 of the Code lays down furthermore that " for a person to be admitted to a place of deprivation of liberty, there must be a sentence, an order from the legally competent authorities or an open warrant ".

*129. Vyshinski and Undrevich throw some light on the problem—

We do not share the bourgeois democratic viewpoint that all cases involving acts which are punishable as crimes have invariably to be considered by the judiciary alone. In the circumstances created by the class struggle, we have allowed cases to be dealt with, for example, by the authorities of the O.G.P.U., now reorganised as the Central State Security Department (G.U.G.B.) of the People's Commissariat for Internal Affairs (N.K.V.D.).[3]

The authors point out however that, allowing for certain exceptional cases in which powers of criminal jurisdiction are assigned to the administrative authorities " for a swift and energetic defence of the conquests of the proletarian revo-

[1] See above, paragraph 15 (5).

[2] See also Articles 12, 17 and 20, which confirm that these two possibilities exist in connection with corrective labour without deprivation of liberty.

[3] *Op. cit.*, p. 26.

lution and the revolutionary order " (page 26), only the judiciary is competent to deal with cases punishable as crimes, and the courts are furthermore entirely independent of the administrative authorities. Moreover, as the forces of counter-revolution weakened and the authority of the Government became established, it was possible to reduce the penal powers of the administrative authorities, whose main task since 1934 has been to investigate cases involving counter-revolutionary crimes, which are then transferred to the judiciary for hearing (page 30). Various restrictions have been placed upon the repressive powers which they have retained, *e.g.*, they are supervised by the public prosecutor's office, and the Public Prosecutor of the Union can appeal against the judgments of the Special Council[1], which means that the centre of gravity in matters of repression has shifted into the field of the judiciary (page 30). However, though their powers and methods differ, the judicial and administrative authorities are two elements in a single mechanism whose work is to safeguard the conquests of the proletarian revolution and to fight persons who disturb the revolutionary order.[2]

Role of the Judiciary.

*130. An Act concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics dated 16 August 1938[3] defines the fundamental duties, organisation and powers of the judiciary. Articles 2 and 3 define the tasks which face the courts as follows :

Article 2 : It shall be the task of justice in the U.S.S.R. to protect from violations of all kinds—

(a) the social and State structure of the U.S.S.R., the socialist system of economy and socialist property established by the Constitution of the U.S.S.R. and the Constitutions of the Union and Autonomous Republics ;

(b) the political, occupational, housing and other personal and property rights and interests of citizens of the U.S.S.R. guaranteed by the Constitution of the U.S.S.R. and the Constitutions of the Union and Autonomous Republics ;

(c) the rights and legally protected interests of State institutions, undertakings, collective farms, co-operative and other public organisations.

It shall be the task of justice in the U.S.S.R. to ensure that Soviet laws are strictly and unwaveringly obeyed by all institutions, organisations, officials and citizens of the U.S.S.R.

Article 3 : Soviet courts, in inflicting penalties for crimes, shall not only punish the offenders but shall also aim at their re-education and reform.

In everything they do, the courts shall educate the citizens of the U.S.S.R. in a spirit of devotion to the country and the cause of socialism, of strict and unwavering obedience to Soviet laws, of solicitude for socialist property, of labour discipline, of integrity in their duties to society and the State and of respect for the rules of socialist communal life.

Articles 5 and 6 then state a number of fundamental principles—

Article 5 : Justice in the U.S.S.R. shall be administered on the principle of there being—

(a) uniform courts, equal for all citizens, irrespective of their social, material or official position, nationality or race ;

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[1] See below, paragraph 144.
[2] See the passage quoted earlier in paragraph 96.
[3] The text of this Act appears in the *Code of Criminal Procedure of the R.S.F.S.R.*, pp. 220-236.

(b) a uniform criminal, civil and procedural law of the U.S.S.R. which is binding on all courts.

Article 6 : Judges shall be independent and subject only to the law (Article 112 of the Constitution of the U.S.S.R.).

*131. Some indication as to the exact bearing of these principles is to be found in the *Course in Criminal Procedure* by Vyshinski and Undrevich, under the heading " The Tasks confronting Courts under the Dictatorship of the Proletariat ".[1] The authors analyse and refute the ideas of a number of penologists, who, arguing from " bourgeois liberal " concepts, hold the view that the purpose of a court is to apply the law and to apply it uniformly to all classes of society. To hold such views, maintain Vyshinski and Undrevich, is to " ignore the task of stamping out class enemies ", " emasculate the class content of judicial practice " and " refuse to understand that there is no contradiction between revolutionary legality and the suppression of class enemies, and that the task of revolutionary legality is so to organise summary justice and the suppression of class enemies that the courts under the dictatorship of the proletariat are turned into an unerring weapon against class enemies, pitilessly suppressing them and mercilessly dispensing justice ".

Elsewhere the authors state that—

...until recently, Soviet law did not require any compulsory educational qualifications or, more particularly, any special legal training in the case of workers elected to be judges. Instead, it expected them to have the requisite political qualifications. ... The law of the Soviet régime is a political directive and a judge's work is not to apply the law according to the requirements of bourgeois legal logic but to execute the law unwaveringly as an expression of the policy of the Party and the Government.[2]

In a later passage it is explained that—

...the Soviet State openly repudiates the political independence of judges in the bourgeois comprehension of the term as implying that they are apolitical and non-party, as though they stood apart from politics and above life. We openly require our judges to carry out the policy of the proletarian dictatorship, which meets the interests of a socialist people and is expressed in the laws of a socialist State. But only in the Soviet State is the real independence of the judges guaranteed against any administrative influences. ... Consequently, in the Soviet State, the removability of judges, which ensures that the courts of the proletarian dictatorship will carry out its policy efficiently, is by no means inconsistent with the practical and personal independence of a Soviet judge, who is bound only by the law of the Soviet State.[3]

132. Criminal cases are heard by different courts depending on the gravity and nature of the crime. The people's courts, which are elected by universal, direct and equal suffrage [4], hear cases concerning offences against the life, health, liberty or dignity of citizens, offences against property, offences committed by officials in the discharge of their duties and offences against the system of administration.[5] Their sentences, judgments or orders are subject to appeal before the territorial and regional courts.[6] On the other hand, certain cases specified by law involving counter-revolutionary crimes, crimes of particular danger to the administrative

[1] *Op. cit.*, pp. 54-55. This book was actually published two years earlier than the Act quoted in the previous paragraph, but it would seem to be an accurate expression of the standing principles of Soviet doctrine on this point.
[2] *Ibid.*, p. 324.
[3] *Ibid.*, pp. 331-332.
[4] Act of 16 Aug. 1938, Article 22.
[5] *Ibid.*, Article 21 *(a)*.
[6] *Ibid.*, Article 32, paragraph 2.

system of the State and crimes of certain other types are heard directly by the territorial and regional courts.[1] These are elected by "Soviets of Working People's Deputies"[2] and appeals against their sentences may be lodged with the Supreme Courts of the Union Republics.[3]

133. Commenting on this system, Vyshinski and Undrevich express the view that the territorial and regional courts should not be regarded as "exceptional"—

We in no way share the liberal theory that a territorial court is a court of an "exceptional" type ; it is the *normal, general* court for acts which constitute the greatest class danger. The only power which differentiates it from a people's court is that of ordering the penalty of death by shooting, which it is granted as the most reliable type of court, comprising as it does the most experienced judges with a sound political background. Whether a territorial court occasionally limits the procedural rights of the parties to a case, as compared with people's courts, depends upon the nature of the cases it is called upon to hear. When examining the same type of cases, a people's court will also adopt the summary system of procedure ; on the other hand, when a show trial is held to hear a case, a territorial court will adopt the amplified system of procedure. In this respect, there is no difference in principle between a territorial and a people's court.[4]

134. The same authors note, however (page 298), that for certain crimes against the State which the N.K.V.D. submits to the judiciary, special tribunals are organised within the system of territorial courts. Instead of comprising a professional judge assisted by two people's jurymen, these tribunals are made up of three judges. The president is further assisted by a special administrative group which supplies him with the technical material he needs to manage the tribunal's affairs efficiently ; the members of this group, however, must not in any way replace him.

*135. In addition, the following text, which relates to Article 27, paragraph 2, is reproduced by the Code of Criminal Procedure of the R.S.F.S.R. in an annex entitled "Material upon the Articles" :

Cases involving treason, espionage, terrorism, mining, arson and other forms of diversionary activity (Articles 6, 8 and 9 of the Statute governing crimes against the State) investigated by the People's Commissariat for Internal Affairs of the U.S.S.R. or its local authorities shall be considered by the Military Chamber of the Supreme Court of the U.S.S.R. and the military tribunals of the area, according to their competence.

Criminal Procedure.[5]

*136. Discussing the aims and general tendencies of criminal procedure in Soviet law, Vyshinski and Undrevich state—

Soviet procedure is primarily intended to safeguard the interests of the proletarian revolution and the socialist régime. Bourgeois procedure, on the other hand, is formally

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[1] Act of 16 Aug. 1938, Article 32, paragraph 1. The appendix to the *Code of Criminal Procedure of the R.S.F.S.R.* contains material on paragraph 2 of Article 24 explaining that the crimes in question are those covered by Articles 58 (2)-58 (14), 59 (2), Part 1, 59 (3), 59 (3) *(a)*, 59 (3) *(b)*, 59 (5), 59 (6), 59 (7), Part 2, 59 (8), Part 1, 59 (9), and 167, Part 3, of the Penal Code.

[2] *Ibid.*, Article 30.

[3] *Ibid.*, Article 48 *(a)*.

[4] *Op. cit.*, p. 297.

[5] Criminal procedure is mainly governed by legislation passed by the various Union Republics, but certain points are covered by Decrees or Ordinances issued by the Union itself. The following passage appears on page 574 of the book *The Principles of the Soviet State and Law* :

Codes of Criminal Procedure are now in force in nine Union Republics and, in addition, the *Code of Criminal Procedure of the R.S.F.S.R.* is also applicable in the Kazakh, Kirghiz, Karelo-

(footnote continued overleaf)

designed to " guarantee " the rights of the individual in court. In our procedural system, the protection of the rights of the individual is subordinated to the protection of the interests of the proletarian revolution, and of this we make no secret. This, however, does not by any means imply that in a bourgeois court the individual is mounted on a pedestal whereas in our courts he is ignored.[1]

137. The Code of Criminal Procedure distinguishes between an enquiry [*doznanie*][2] and a preliminary investigation [*predvaritelnoe sledstvie*].[3] Enquiries are held either by the authorities of the Workers' and Peasants' Militia or by other administrative authorities, including the Central State Security Department of the N.K.V.D. of the U.S.S.R.[4] Those held by the Unified State Political Department (Ministry of State Security of the U.S.S.R.) are subject to special regulations.[5] In some cases, an enquiry is not followed by a preliminary investigation, the files being submitted directly to the court.[6] A preliminary investigation may be held in particularly complex or important cases and must be held in cases involving the crimes covered by Articles 58 (2)-58 (14), 59 (2), 59 (3), 59 (3) *(a)*, 59 (3) *(b)*, 59 (4), Part 2, 59 (5), 59 (13), 73, Part 1, 95, Part 2, 110, Part 2, 112, Part 1, 114, 115, Part 2, 116, Part 2, 117, Part 2, 118, 119, 128-132, 133-135, 136-142, 151-155, 162, paragraph *(e)*, 165, Part 3, 167, 175, Part 3, 193 (12), 193 (17), 193 (18), 193 (20), 193 (21), and 193 (25)-193 (26) of the Penal Code.[7] The cases in which the Ministry of State Security of the U.S.S.R. conducts an investigation into the crimes covered in these Articles are specified in special regulations.[8] According to Vyshinski and Undrevich [9], the cases in question are those involving counter-revolutionary crimes.

138. In the event of the detention of a suspected person, the case must be submitted within 24 hours to the investigating magistrate or the nearest people's judge who, within 48 hours, must either sanction the arrest or countermand it.[10] Arrests made by the authorities of the Ministry of State Security are subject to special regulations.[11]

139. The holding of persons in custody is only permitted subject to certain limiting conditions which vary with the crime. In the case of most counter-revolutionary crimes, a number of other crimes against the State, and particularly serious offences, " imprisonment under guard may be imposed as a measure to ensure the availability of the accused simply by reason of the danger to society which the crime in question constitutes ".[12]

Finnish, Latvian, Lithuanian and Estonian S.S.R.'s and the Code of Criminal Procedure of the Ukrainian S.S.R. in the Moldavian S.S.R.

The most important and fundamental provisions of the law governing criminal procedure are contained in an Act of 1938 concerning the judicial system of the U.S.S.R. and the Union and Autonomous Republics.

See also the *Code of Criminal Procedure of the R.S.F.S.R.*, which incorporates a number of All-Union Decrees and Ordinances. It has not been possible to obtain the corresponding Codes of the other Republics.

[1] *Op. cit.*, p. 72.

[2] *Code of Criminal Procedure*, Articles 97 *et seq.*

[3] *Ibid.*, Articles 108 *et seq.*

[4] *Ibid.*, Article 97. For the organisational changes made in connection with the Unified State Political Department (O.G.P.U.), the People's Commissariat for Internal Affairs (N.K.V.D.), the Ministry for Internal Affairs (M.V.D.) and the Ministry of State Security (M.G.B.), see below, the second footnote to paragraph 144.

[5] *Ibid.*, note on Article 107. It has not been possible to trace these special regulations, which do not appear in the *Code of Criminal Procedure*.

[6] *Ibid.*, Article 98.

[7] *Ibid.*, Article 108.

[8] *Ibid.*, note on Article 108. These special regulations have also proved impossible to trace.

[9] *Op. cit.*, p. 30.

[10] *Code of Criminal Procedure*, Article 104.

[11] *Ibid.*, note on Article 104. These regulations are not known.

[12] *Ibid.*, Article 158.

140. For the trial, a full or summary system of procedure is adopted, depending on the case. As is explained by Vyshinski and Undrevich—

...the summary system is adopted either in straightforward cases or when, for political reasons, the accent is placed upon the rigorous and swift repression of class enemies in cases involving crimes which bear the stamp of a class struggle by class-hostile elements and their agents against the socialist régime and the dictatorship of the proletariat. In such cases, it is permissible to restrict the rights of the accused in court and to limit a number of procedural phases customarily found in the amplified form of Soviet procedure.[1]

*141. Dealing with the rights of the accused, the Act of 16 August 1938 concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics[2] lays down in Article 8 that—

...in accordance with Article 111 of the Constitution of the U.S.S.R., in all courts of the U.S.S.R. cases are heard in public, unless otherwise provided for by law, and the accused is guaranteed the right to defence.

Article 381 of the Code of Criminal Procedure, however, stipulates—

In court sessions held for cases examined in provincial courts, the admission of a prosecution and defence shall not be automatic; in each case a session held to settle procedural arrangements shall decide the matter in the light of the complexity of the case, the extent to which the crime has been established and the particular political or social interest of the case.

A provincial court shall be obliged to authorise or nominate a defending counsel if a prosecutor is admitted in the case.[3]

In addition, according to Article 397 of the Code—

...a provincial court shall be entitled, irrespective of any previous decision to allow the parties to participate in the session of the court, to rule that they are not to be allowed to plead if it finds the case has been sufficiently elucidated by the court investigation.

The allegations concerning the rights of the defence included a reference[4] to two further Articles of the Code of Criminal Procedure—

394. When examining a case, a provincial court shall be entitled to terminate the interrogation of a witness or of witnesses at any stage of the interrogation if it recognises that the testimonies of the witnesses interrogated have fully established the circumstances which the witness has been summoned to establish.

396. During the pleadings, the parties shall be entitled to refer to all available documents and testimonies in the case, irrespective of whether or not such documents and testimonies have been presented in court. Similarly, a provincial court may take such documents and testimonies into account in passing sentence, irrespective of whether they have been presented in court.

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[1] *Op. cit.*, pp. 64-65.

[2] See above, paragraph 130.

[3] As it stands, this Article refers only to provincial courts, but at the beginning of the section of which it forms a part there is a note pointing out that the provisions of the section also apply to territorial and regional courts, which, as has been seen above (paragraphs 132 and 133), are competent to hear the majority of cases involving crimes against the State.

A footnote mentions Article 115 of the Constitution of the R.S.F.S.R., whereby the accused is guaranteed the right to defence.

[4] See above, paragraph 18 (2).

In summary procedure, other limitations are placed upon the rights of the accused. Articles 467 and 471 lay down that, in certain cases involving terrorism (Articles 58 (8) and 58 (11) of the Penal Code) and also in "cases involving counter-revolutionary wrecking [1] and diversion", the accused is handed the indictment only 24 hours before the examination of his case in court, whereas the normal period is 72 hours at least.[2] Certain cases involving terrorism, moreover, are heard without the participation of the parties.[3]

142. In principle, all court sentences other than those passed by the Supreme Courts are subject to appeal. Article 15 of the Act of 16 August 1938 concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics [4] lays down that—

> Subject to the procedure provided for by law, the sentences, judgments and orders of all courts except the Supreme Court of the U.S.S.R. and the Supreme Courts of the Union Republics may be the subject of appeal by those convicted or their defending counsels, by plaintiffs, defendants or persons who represent their interests, or may be challenged by the Public Prosecutor before a higher court.

The position is different, however, when the sentence is passed by a court which has adopted the summary system of procedure [5]; under Articles 469 and 472 of the Code of Criminal Procedure, there is no appeal against the sentences passed in certain cases involving terrorism (Articles 58 (8) and 58 (11) of the Penal Code), wrecking (Article 58 (7)) or diversion (Article 58 (9)). In cases involving terrorism, even petitions for clemency are barred.

Role of the Administrative Authorities and their Powers to Impose Penalties.

* 143. As has already been noted [6], Article 8 of the Corrective Labour Code provides for corrective labour without deprivation of liberty to be prescribed not only by a court of law but also by the administrative authorities. This is one of the means of coercion available to these authorities, in addition to such other penalties as fines, to ensure respect not only for the law, but also for the regulations which they themselves draw up.[7] As a punishment, it may be ordered as an independent penalty or as a measure to replace a fine which is not paid by an offender. It may not, however, be imposed by an administrative order for a period exceeding one month.[8]

144. Quite independently, and on an entirely different plane, the Ordinance dated 10 July 1934 [9] which set up the People's Commissariat for Internal Affairs (N.K.V.D.) of the U.S.S.R. created a "Special Council" within the Commissariat [10] and gave it special powers of punishment. According to Article 8 of this Ordinance—

> Within the People's Commissariat for Internal Affairs of the U.S.S.R., there shall be organised a Special Council which, on the basis of regulations laid down for it, shall

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[1] For a definition of this crime, see above, paragraph 116.
[2] *Code of Criminal Procedure*, Article 392.
[3] *Ibid.*, Article 468.
[4] See above, paragraph 130.
[5] A. Ya. VYSHINSKI and V. S. UNDREVICH : *op. cit.*, pp. 64-65.
[6] See above, paragraph 128.
[7] See S. S. STUDENIKIN : *op. cit.*, pp. 136-137 and *The Principles of the Soviet State and Law, op. cit.*, pp. 259-261.
[8] *Criminal Law, op. cit.*, p. 511.
[9] Published in the *Collection of Laws of the U.S.S.R.*, 1934, No. 36, Article 283.
[10] Article 1 of this Ordinance reads—
"An All-Union People's Commissariat for Internal Affairs shall be created, the Unified State Political Department (O.G.P.U.) being included in its establishment".

(footnote continued overleaf)

have the right to order, as an administrative measure, expulsion, exile and imprisonment in corrective labour camps for a period not exceeding five years and expulsion beyond the confines of the Soviet Union.

The organisation and powers of this Special Council are defined in an Ordinance dated 5 November 1934 [1], which reads—

Pursuant to Article 8 of the Ordinance to create an All-Union People's Commissariat for Internal Affairs issued by the Central Executive Committee of the U.S.S.R. on 10 July 1934 (*Collection of Laws of the U.S.S.R.*, 1934, No. 36, Article 283), the Central Executive Committee and the Council of People's Commissars of the U.S.S.R. decree that—

1. The People's Commissariat for Internal Affairs of the U.S.S.R. shall be empowered to subject persons who are recognised as constituting a danger to society to—

(a) exile under public supervision for a period not exceeding five years to localities, a list of which shall be established by the People's Commissariat for Internal Affairs of the U.S.S.R. ;

(b) expulsion under public supervision for a period not exceeding five years with a ban on residence in the capital cities, large towns and industrial centres of the U.S.S.R. ;

(c) detention in corrective labour camps for a period not exceeding five years ;

(d) expulsion from the confines of the U.S.S.R. in the case of foreign subjects who constitute a danger to society.

2. For the application of the measures indicated in Article 1 above, a Special Council shall be set up under the People's Commissar for Internal Affairs of the U.S.S.R. and under his chairmanship, its members being—

(a) the Deputies of the People's Commissar for Internal Affairs of the U.S.S.R. ;

(b) the plenipotentiary representative in the R.S.F.S.R. of the People's Commissariat for Internal Affairs of the U.S.S.R. ;

(c) the head of the Central Department of the Workers' and Peasants' Militia ;

(d) the People's Commissar for Internal Affairs of the Union Republic, on the territory of which the case has arisen.

3. The Public Prosecutor of the U.S.S.R. or his deputy must be present at the meetings of the Special Council. If he disagrees with the actual decision of the Special Council or with the reference of the case to the Special Council, he shall have the right to appeal to the Presidium of the Central Executive Committee of the U.S.S.R.

In such cases, the execution of the decision of the Special Council shall be suspended until the Presidium of the Central Executive Committee of the U.S.S.R. gives a ruling on the matter.

4. Decisions of the Special Council involving exile or detention in corrective labour camps must state in each individual case the reason for the application of these measures and must also specify the locality and period of exile or detention in the camp.

Under Article 2, the Commissariat was entrusted with : " *(a)* the safeguarding of the revolutionary order and the security of the State ; *(b)* the protection of public (socialist) property ; *(c)* the registration of deeds of civil status . . . ; *(d)* the guarding of frontiers ".

It comprised the following Departments : " *(a)* the Central Department of State Security ; *(b)* the Central Department of the Workers' and Peasants' Militia ; *(c)* the Central Department of Frontier and Internal Security ; *(d)* the Central Department of Fire Prevention ; *(e)* the Central Department of Corrective Labour Camps and Labour Settlements ; *(f)* the Deeds of Civil Status Section ; *(g)* the Administrative and Economic Department". During the war, the Commissariat was divided into two independent Ministries, the Ministry for Internal Affairs (M.V.D.) of the U.S.S.R. and the Ministry of State Security (M.G.B.) of the U.S.S.R. See V.A. VLASOV, I.I. EVTIKHIEV and S.S. STUDENIKIN : *Sovetskoe Administrativnoe Pravo* [Soviet Administrative Law] (Moscow, 1950), pp. 275-276, and S.S. STUDENIKIN, *op. cit.*, pp. 189-190.

[1] Published in the *Collection of Laws of the U.S.S.R.*, 1935, No. 11, Article 84.

5. The Special Council shall be empowered—

(a) to reduce the period of exile or detention in a corrective labour camp in accordance with the conduct of the exiles or the detainees in the corrective labour camps as reported by the appropriate authorities of the People's Commissariat for Internal Affairs of the U.S.S.R. ;

(b) to release persons from further residence in special labour settlements.

Several books published in the Soviet Union in the last few years [1] refer to this Ordinance in terms that would imply that it is still in force, although they substitute the title " M.V.D." for that of " N.K.V.D." in accordance with the new nomenclature.

145. It is not clear whether, like the courts [2], the Special Council of the M.V.D. may only impose penalties when a specific offence has been committed or whether, on the contrary, it can take action even in the absence of any such offence. On the one hand, the text of the Ordinance itself would seem to make the latter possibility more likely ; Article 1 makes a bare reference to persons " who are recognised as constituting a danger to society " and Article 2 speaks of the Union Republic " on the territory of which the case has arisen " (and not where the crime was actually committed). On the other hand, Vyshinski and Undrevich, discussing the Ordinance, speak of the " competence of the N.K.V.D. in its fight against different types of crimes" [3], though in another passage they distinguish between judicial and administrative repression in terms which leave the question open, as follows :

> Judicial repression . . . is exercised for the commission of a concrete crime, *i.e.*, a class-dangerous action, as proven by the facts. The administrative repression of capitalist or declassed elements is exercised through other, non-judicial channels without procedural formalities (administrative exile or the expulsion of disestablished *kulaks* in 1930-1931, the withdrawal of a person's right to live in certain towns, the person affected being refused the issue of a passport, and so on).[4]

Recent Soviet works available to the Committee make no reference to this point when mentioning or commenting on the Ordinance of 5 November 1934.

146. With the exception of the Ordinance of 5 November 1934, no laws or regulations dealing with the procedure followed by the Special Council of the M.V.D. are included in the material available to the Committee. In the passage quoted in the preceding paragraph, however, Vyshinski and Undrevich themselves point out that administrative repression is exercised without procedural formalities. Discussing the repressive measures taken by the O.G.P.U.—which disappeared when the N.K.V.D. Special Council was set up in 1934—the same authors also note that " in O.G.P.U. practice, the investigation of a case bore a predominantly functional character and the elements of the cross-examination system were absent from the proceedings it conducted, no defence was granted, no defendants or witnesses were summoned to meetings of the O.G.P.U. chamber and so on". [5]

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[1] S. S. STUDENIKIN : *op. cit.*, pp. 189-190 ; I. I. EVTIKHIEV and V. A. VLASOV : *op. cit.*, p. 244, and V. A. VLASOV, I. I. EVTIKHIEV and S. S. STUDENIKIN : *op. cit.*, p. 274.

[2] See above, paragraph 121.

[3] *Op. cit.*, p. 30.

[4] *Ibid.*, p. 70.

[5] *Ibid.*, pp. 28-30.

Administration of Corrective Labour Institutions.

General Administration.

147. Until 1934, the corrective labour institutions[1] were administered by the Governments of the Republics—by the People's Commissariats for Internal Affairs until 1931, and subsequently by the People's Commissariats for Justice, at least in most Republics.[2] Certain prisons also were administered by these bodies. On the other hand, the administration of corrective labour camps[3] and special prisons (particularly the places where persons were detained in custody) was in the hands of the Government of the Union.[4]

148. An Ordinance of the Union dated 27 October 1934[5] centralised the administration of all these institutions in the N.K.V.D. and its local organs. In so doing, it abolished the " central departments for corrective labour institutions of the People's Commissariats for Justice of the Union Republics " (Article 2) and created a new section within the N.K.V.D. " central department for corrective labour camps, labour settlements and places of imprisonment".

Utevski attributes this reorganisation to the need to rationalise, co-ordinate and so improve the working of the various authorities involved.[4]

149. This organisation would not appear to have been modified since then. In his book on Soviet administrative law, published in Moscow in 1949, Studenikin still refers to " the administration of the corrective labour camps and other places where persons are deprived of liberty "[6] when speaking of the activities centralised in the M.V.D. (the successor to the N.K.V.D.).

Administration of Individual Institutions and Conditions in which Corrective Labour is Performed.

150. The material submitted to the Committee includes the following legal texts which govern the administration of individual corrective labour camps and colonies: (1) the Corrective Labour Code; (2) the Statute governing Corrective Labour Camps, dated 7 April 1930.[7]

If the distinction made earlier[8] between " corrective labour camps " and " corrective labour colonies " is valid, the first of these two texts lays down the regulations to be followed in corrective labour colonies, which are the ordinary places of deprivation of liberty for persons sentenced to be deprived of liberty for less than three years. The other text would then concern the corrective labour camps, which are reserved for persons deprived of liberty for three years or more, as well as persons sentenced by the Special Council of the M.V.D.[9]

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[1] In an Article on " Corrective Labour Establishments ", the *Large Soviet Encyclopaedia*, Vol. 23, 1935 (cols. 603-604), explains that these are " institutions which, in the U.S.S.R., implement court sentences and the decisions of other competent authorities and execute penalties of a judicial-corrective character combined with corrective labour, namely: deprivation of liberty, corrective labour without deprivation of liberty, and exile in combination with corrective labour ".

[2] *Ibid.* See also B. S. UTEVSKI: *op. cit.*, p. 8. This was the case in the R.S.F.S.R., according to Article 129 of the *Corrective Labour Code.*

[3] These would not appear to be the same as the " corrective labour colonies " mentioned in the *Corrective Labour Code.* See above, paragraph 89.

[4] B. S. UTEVSKI: *op. cit.*, p. 8.

[5] Published in the *Collection of Laws of the U.S.S.R.*, 1934, No. 56, Article 421.

[6] *Op. cit.*, pp. 189-190.

[7] Published in the *Collection of Laws of the U.S.S.R.*, 1930, No. 22, Article 248.

[8] See above, paragraphs 87-89.

[9] See above, paragraph 144.

While, as already explained[1], the Corrective Labour Code would still appear to be in force, it has not been possible to check whether the other text is likewise valid.

The provisions of these texts are briefly summarised below.

(1) The organisation and administration of the places where persons are deprived of liberty covered by the Corrective Labour Code are governed by Chapters 2-13 of Section II (Articles 44-99).[2]

Chapter 2 (Articles 44-48) deals with the admission and accommodation of persons deprived of liberty. Under Article 45, " for a person to be admitted to a place of deprivation of liberty there must be a sentence, an order from the legally competent authorities, or an open warrant". Article 48 lays down that the accommodation of persons deprived of liberty must be dry, light and sufficiently spacious and must not hold more than a specified number of persons.

Under the heading " Internal Regulations in Places of Deprivation of Liberty ", Chapter 3 (Articles 49-65) covers such matters as spare time, walks, visits, gifts of food and consumer goods, correspondence, shops for the inmates—who are allowed 75 per cent. of their earnings, the remainder being handed to them on discharge—and rations. According to Article 63, the rations fixed must have an adequate calorie content and be sufficiently nutritious. Persons exceeding their production norm are granted increased rations. Article 65 states that persons deprived of liberty who belong to the working people and have committed crimes of lesser danger to society may be entrusted with various administrative and other duties.

Chapter 4 (Articles 66-69) is concerned with political education and Chapter 5 (Articles 70-76) with the inmates' work. Article 70 lays down that " the work of persons deprived of liberty must be organised in such a way that it contributes to the maintenance and improvement of their skill, or to its acquisition should they have none". Article 71 provides for persons deprived of liberty to receive monetary remuneration for all production work ; their maintenance, political education, medical care and other services instituted by the Code are free. Except as otherwise ordered by the People's Commissariat for Internal Affairs of the U.S.S.R., the working conditions of persons deprived of liberty are governed by the general rules of the Labour Code of the R.S.F.S.R. as regards working hours, rest, the work of women and minors and the protection of labour (Article 74). Article 75 lays down that, as a rule, the production work of persons deprived of liberty is to be organised on a piece-work system. Where possible, production norms are to be fixed in accordance with those applied in the undertakings of other State authorities.

Chapter 6 (Articles 77-78) provides for bonuses and incentives to be granted for particularly high output. They include better food and, in certain cases, outside leave up to 15 days a year.

Chapter 7 (Articles 79-83) deals with disciplinary measures, the severity of which ranges from a reprimand to a transfer to a place of deprivation of liberty with a more severe régime or further removed from the permanent place of residence of the person deprived of liberty. Anyone systematically breaking the rules of a place of deprivation of liberty can also be imprisoned by the N.K.V.D. authorities for a period not exceeding two years.

Chapter 8 (Articles 84-85) covers medical and health measures.

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[1] See above, paragraph 80.

[2] Section I refers to corrective labour without deprivation of liberty (see above, paragraphs 84-86) and Section III to exile with corrective labour (see above, paragraphs 90-94). Chapter 1 of Section II lists and defines the various places where persons are deprived of liberty (see above, paragraph 88).

Chapters 9 and 10 (Articles 86-90) are respectively concerned with the internal security of places where persons are deprived of liberty and the use of arms. The duty of escorting persons deprived of liberty to their workplaces and of guarding them while they are working may be entrusted to a supervisory detachment composed of the most reliable persons deprived of liberty, *i.e.*, members of the working people convicted of offences committed in their work or everyday lives (Articles 86-87).

Chapter 11 (Articles 91-92) deals with cases of absence and escape, Chapter 12 (Articles 93-95) with the release of persons deprived of liberty and Chapter 13 (Articles 96-99) with official visits to places where persons are deprived of liberty.

Sections IV (Supervisory Commissions) and VI (Administration of Corrective Labour Institutions)[1] contain provisions applying specifically, but not exclusively, to places where persons are deprived of liberty. The same is true of Section VII (Articles 135-147), which covers "the funds of the system of corrective labour institutions and the procedure to be followed in administering and accounting for them". According to Article 137—

> ... the sources of funds for the system of corrective labour institutions shall be: *(a)* revenue from the production activity of corrective labour institutions; *(b)* percentage deductions from the wages of persons performing corrective labour without deprivation of liberty at their places of regular employment; *(c)* in cases of necessity, allotments from the State budget; *(d)* other receipts.

Article 138 also provides that—

> 138. The following allocations shall be made from the net income derived from production activities as determined from the annual balance-sheets of the departments of corrective labour institutions of territories (regions), autonomous republics and autonomous regions:
>
> *(a)* to increase the turnover capital and capital investments of the corrective labour institutions—whatever sum is laid down in the approved industrial and financial plan;
>
> *(b)* 5 per cent. to the bonus fund for those working for corrective labour institutions;
>
> *(c)* 5 per cent. to the bonus fund for shock workers from among persons deprived of liberty, and also to improve places of deprivation of liberty and provide assistance to such persons as are served by the system of corrective labour institutions.

(2) The Statute governing Corrective Labour Camps, dated 7 April 1930, has four separate sections.

Section I (Articles 1-3) contains a number of general provisions. According to Article 1—

> ... the task of corrective labour camps shall be to safeguard the community against offenders constituting a particular danger to society, by their isolation, combined with work of use to the community, and by their adaptation to the conditions of a communal life of labour.[2]

Section II (Articles 4-9) provides for the administration, structure and organisation of the camps. Under Article 4, each camp is headed by a commandant who, among his other duties, is responsible for "the most rational use of convict manpower in the economic undertakings served by the facilities of the camps on a self-supporting basis" (paragraph *(c)*), "the guidance and direction of the work

[1] Section V was repealed between 1933 and 1940.

[2] Articles 2 and 3 have been mentioned earlier—see above, paragraph 87.

done by production and other economic undertakings of the corrective labour camp" (paragraph *(f)*) and "the implementation of various measures to increase the cultural level and the skill of prisoners and to adapt them to the conditions of a communal life of labour by familiarising them with work of use to the community" (paragraph *(i)*). In addition to administrative and production and operative sections, each camp has a personal records board, a cultural and educational section and a health section (Article 5).

Section III (Articles 10-51) contains "the basic provisions governing the maintenance of prisoners". The following points are covered in this Section :

(i) The admission of prisoners to the camps (Articles 10-13). According to Article 10—

> ... persons sent to camps to serve a period of imprisonment shall be admitted only on an order from the Unified State Political Department, and subject to there being a certified copy of a sentence of a court, or an order from a Chamber or from the Special Council of the Unified State Political Department.

(ii) The classification of prisoners (Articles 14-17). Prisoners are divided into three categories according to their social status and the nature of the crime they have committed (Article 14). The first two categories comprise first offenders from among the working people convicted of offences other than counter-revolutionary crimes. Those sentenced to terms not exceeding five years are placed in the first category and those with longer sentences are classified in the second. The third comprises those who are not members of the working people or who have been convicted of counter-revolutionary crimes (Article 15). According to Article 16, there are three types of régime in the camps—initial, mitigated and privileged. Persons subject to the third régime are authorised to leave the confines of the camp and can also occupy administrative posts, provided they belong to the working people and have not been convicted of counter-revolutionary crimes.

(iii) The general working conditions afforded prisoners (Articles 18-28). Article 18 lays down that prisoners are to be assigned to : (1) general work ; (2) work in institutions, undertakings, trades, lumbering sites, etc. ; or (3) work in the administrative and economic direction of the camp. Work of the second type takes account of the prisoners' abilities (Article 20). The rations issued correspond to the nature of the work performed and fall into four categories—basic, working, augmented and punitive (Article 21). Special rations are issued to the sick (Article 21) ; augmented rations are granted as a bonus to prisoners who show signs of correction in their zealous attitude to work and good behaviour (Articles 23 and 25). Prisoners receive clothing, footwear, underwear and bedding as required (Article 22). As a general rule, the working day may not exceed eight hours (Article 27).

(iv) The treatment and accommodation of sick prisoners (Article 29).

(v) The general conditions governing the accommodation of prisoners (Articles 30-32).

(vi) Visits and the correspondence of prisoners, gifts and parcels (Articles 33-35).

(vii) The transfer of prisoners and the procedure to be followed in their discharge from the camp. Article 39 lays down that—

> On the expiry of his appointed term of imprisonment, a prisoner shall be freed immediately by order of the camp administration, without any special application being made and without awaiting any order to release him from the court or the Unified State Political Department.

(viii) Parole and settlement (Articles 42 and 43).

(ix) Disciplinary action (Article 44).

(x) Cultural and educational work (Articles 45-46).

According to Article 45, " cultural and educational work in camps must correspond to the class character of the whole corrective labour system of the camps, with preferential service for prisoners of working class and peasant origin". Article 46 requires all illiterate prisoners up to 50 years of age to attend the cultural and educational institutions of the camp in their spare time.

(xi) The use of arms (Articles 47-49).

(xii) The escape of prisoners (Articles 50-51).

Section IV is devoted to the supervision of the camps by the Public Prosecutor's Office.

Compulsory Labour and Restrictions on Freedom of Employment

* 151. Several of the allegations relating to the Soviet Union mention legal texts or regulations which require compulsory services of citizens, direct them into employment in selected undertakings or otherwise restrict the freedom of employment in such a way that some direct or indirect compulsion to work is the result.

These texts are analysed below.

Compulsory Labour Service.

152. Articles 11-14 of the Labour Code of the R.S.F.S.R.[1] provide as follows:

Article 11: In exceptional cases (fighting the elements, or in case of a shortage of labour for carrying out important State work), all citizens of the R.S.F.S.R., with the exceptions mentioned in Articles 12-14, may be called up for work in the form of compulsory labour service *(trudovaya povinnost)* in accordance with a special Order of the C.P.C. [Council of People's Commissars] or of the officials authorised for this purpose by by the C.P.C.

Article 12: The following persons shall not be liable to be called up for compulsory labour service: *(a)* persons under 18 years of age; *(b)* men above 45 years of age and women above 40 years of age.

Article 13: The following persons shall be exempt from calling up for compulsory labour service: *(a)* persons temporarily incapacitated for work owing to illness or injury, during the period requisite for their recovery; *(b)* pregnant women, during the last eight weeks before confinement, and lying-in women, during the first eight weeks after confinement; *(c)* nursing mothers; *(d)* men disabled in employment or in war; *(e)* women with children under eight years of age, if no one is available to take care of such children.

Article 14: Additional exceptions and relaxations in respect of various kinds of compulsory labour service shall be specified by the C.P.C., the E.C. [Economic Conference][2] and the P.L.C. [People's Labour Commissariat], with due regard to health, family circumstances, the nature of the work and conditions of life.

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[1] I.L.O.: *Legislative Series*, 1936—Russ. 1. These provisions also appear in the official edition of the Labour Code of the R.S.F.S.R. published in Moscow in 1938 under the title *Kodeks Zakonov o Trude R.S.F.S.R.* by the Legal Publishing House of the People's Commissariat of Justice of the U.S.S.R.

[2] In the 1938 text, the words " Economic Conference " have been replaced by the words " Council for Labour and Defence ".

State Labour Reserves for Industry.

*153. Provision was first made for State reserves of labour to be constituted in a Decree dated 2 October 1940.[1] The following commentary on this measure is reproduced from the preamble :

The further expansion of our industry demands a constant stream of fresh manpower to the pits, mines, transport services and factories. Without a steady flow of reinforcements for the working class, it is impossible for our industry to develop with success.

In our country, unemployment has been totally abolished, poverty and ruin, both in town and country, have been ended for all time, and therefore we have no one left who might be forced to knock at factory doors and ask for work, thus forming for the purposes of industry a natural and permanent reserve of labour.

In consequence, it is the duty of the State to organise the training of new workers recruited from among young persons in the towns and on collective farms, and to create the reserves of labour which our industry requires.

Article 1 of this Decree proclaims the need to train between 800,000 and 1,000,000 young persons every year for transfer into industry. Articles 2-5 provide for vocational training schools and centres to be opened, their pupils being supported by the State while under training.

Articles 7-9 lay down the way in which such pupils are to be recruited—

Article 7 : The Council of People's Commissars of the U.S.S.R. shall have the right to call up (mobilise) between 800,000 and 1,000,000 young persons in towns and on collective farms each year, those from 14-15 years of age for training in the trade and railway training centres and those between 16 and 17 years of age for training in the factory schools.

Article 8 : Each year, the chairmen of collective farms shall be required to allocate for call-up (mobilisation) two young men of 14-15 years of age for the trade and railway training centres and of 16-17 years of age for the factory schools for every 100 members of their farms, both men and women, between 14 and 55 years of age.

Article 9 : Each year, the City Soviets of Working People's Deputies shall be required to allocate for call-up (mobilisation) young men of 14-15 years of age for the trade and railway training centres and of 16-17 years of age for the factory schools, the Council of People's Commissars of the U.S.S.R. determining the number every year.[2]

On finishing their training, the apprentices are mobilised for four years' work in State undertakings under Article 10 of the Decree, which reads—

Article 10 : All persons finishing their training in trade and railway training centres and in factory schools shall be considered mobilised and in duty bound to work for four consecutive years in State undertakings, as directed by the Central Department of Labour Reserves attached to the Council of People's Commissars of the U.S.S.R., with the assurance that they will be paid the general wage rates corresponding to the jobs.

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[1] *Vedomosti Verkhovnovo Soveta S.S.S.R.* (Gazette of the Supreme Soviet of the U.S.S.R.), No. 37, 9 Oct. 1940.

[2] The ages mentioned in these Articles were altered by a Decree of 19 June 1947, published in the *Gazette of the Supreme Soviet of the U.S.S.R.*, No. 21 of 25 June 1947. This Decree authorised the Council of Ministers of the U.S.S.R. to call up young men between 14 and 17 years of age and girls between 15 and 16 years of age for training in the trade and railway training centres, young men and girls between 16 and 18 years of age for training in the factory schools and young men up to and including 19 years of age for certain occupations. Another Decree, dated 20 July 1946, published in the *Gazette of the Supreme Soviet of the U.S.S.R.*, 1946, No. 26, made the provisions of the Decree of 2 Oct. 1940 applicable to pupils finishing their training in the maritime and fishery schools.

*154. Under a Decree of 28 December 1940, trainees in these schools and centres who leave them without permission or who commit flagrant and repeated breaches of their discipline may be sentenced by a court to detention in a labour colony for a period not exceeding one year.[1]

*155. Some indication as to how this text has been applied in practice was provided in an article entitled "Socialist Industry in the Postwar Period", published by the Soviet journal *Bolshevik*.[2] The following passage is taken from this article:

During the war, the State reserves of labour supplied about 2,500,000 young skilled workers, a considerable number of whom were directed to war industries. In the new Five-Year Plan, the system of State labour reserves must train 4,500,000 persons, which will cover the basic manpower requirements of industry. In the first year of the new Five-Year Plan, the factory schools and trade and railway training centres produced 382,000 skilled workers. For 1947, the Plan for the call-up of young persons provides for 1,060,000 to enter the labour reserve schools and training centres, and for 790,000 to pass out.

The following commentary is quoted from the one-volume edition of the *Large Soviet Encyclopaedia*, devoted entirely to the U.S.S.R.:

The great advantage of the new system of training staff lies in the fact that the instruction in State labour reserve schools and training centres is given in conjunction with practical experience, as well as in the fact that the labour force trained within the system of State labour reserves is systematically distributed by the State in full accordance with the specific problems of the national economic plan.

In the years of the Great Patriotic War, over two million young workers were trained and directed into the national economy under the State labour reserve system, and in 1946 they numbered 400,000. According to the Plan, the number of persons completing their training under the system in 1947 is to be 800,000. The war years showed that the experiment of training skilled workers in trade and railway training centres and in factory schools was fully justified. The Five-Year Plan for the recovery and development of the national economy of the U.S.S.R. in 1946-1950 provides for the further extension of the State labour reserve system and for the training of 4,500,000 young skilled workers over the five years 1946-1950. The introduction of the system of State labour reserves was of considerable assistance in solving manpower problems in the difficult war years. Young workers leaving trade training centres and factory schools have honourably taken up their places in production.[3]

The book *The Administrative Law of the U.S.S.R.* also stresses the "enormous economic and political importance" of the Decree of 2 October 1940. It states—

Considerable numbers of young people from collective farms and towns (in 1940 as many as 600,000) were admitted to these centres either as conscripts (mobilised) or as volunteers.

The number of conscripts for each region, territory and Republic is decided by the Council of Ministers of the U.S.S.R. In the towns and district centres, committees consisting of the chairman of the local executive committee, a trade union representative and the secretary of the committee of the All-Union Lenin Young Communist League are formed to organise the call-up.[4]

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[1] This Decree is reproduced in the official edition of the *Penal Code of the R.S.F.S.R.* (Moscow, 1950), p. 164.

[2] No. 8, Apr. 1947, p. 19.

[3] *Bolshaya Sovetskaya Entsiklopediya* (Moscow, Unified State Publishing House, 1947), col. 1130.

[4] *The Administrative Law of the U.S.S.R.*, *op. cit.*, p. 380.

*156. The Decree is analysed and quoted in books published in the Soviet Union in 1949 [1] in a manner which implies that it is still in force. The book *Soviet Labour Legislation* in particular explains its operation in some detail. The employment relationships of young workers who have finished their apprenticeship are based on two administrative Orders. The first, issued as a movement order, directs the worker to a selected undertaking for a given job ; by the second, he is registered upon arrival at the undertaking. With the exception of the four-year period of compulsory labour mentioned earlier, however, these young workers have exactly the same rights and duties as persons who conclude a contract of employment.[2]

Compulsory Labour in Agriculture.

157. An Order of 17 April 1942 to organise the mobilisation of the able-bodied urban and rural population for agricultural work on collective farms, State farms and at machine and tractor stations [3] authorises the mobilisation of men between 14 and 55 and women between 14 and 50 years of age either living in the towns and rural areas and not employed in industrial or transport undertakings, or engaged as employees in State, co-operative and public institutions. The pupils of certain schools could also be conscripted under the provisions of this Order. Such persons could be mobilised for " periods of intensive agricultural work in the year 1942 ".

*158. It has not been possible to check whether this Order was maintained after the cessation of hostilities or whether it was followed by other similar Decrees. Nevertheless, recent editions of the *Penal Code of the R.S.F.S.R.* still mention a Decree of 15 April 1942 on the liability incurred by persons evading conscription for work in agriculture and by conscripts leaving work without permission. Under this Decree—

> Able-bodied citizens living in the towns and rural areas and not employed in industrial or transport undertakings and employees in State, co-operative and public institutions who evade conscription for work in agriculture shall be prosecuted ; they shall be liable, on being sentenced by a people's court, to a maximum of six months' forced labour at their place of residence, combined with stoppages of pay up to a maximum of 25 per cent.[4]

Compulsory Transfer of Skilled Workers.

159. A Decree of 19 October 1940 [5] empowers various authorities to order the transfer of certain categories of skilled workers from one undertaking to another so that, as is explained in the preamble, new factories, mines, transport and construction projects, as well as undertakings turned over to the manufacture of new products, can be provided with skilled staff.

160. The following passages are taken from the book *Soviet Labour Legislation*, which contains a long commentary on this Decree :

> Under this Decree, Ministers of the U.S.S.R. have the right to order engineers, designers, technicians, foremen, draughtsmen, book-keepers, economists, persons

[1] S. S. STUDENIKIN : *op. cit.*, pp. 274-275 and N. G. ALEKSANDROV : *Sovetskoe Trudovoe Pravo* [Soviet Labour Legislation] (Moscow, State Publishing House for Literature on Law), 1949, pp. 109 and 132.
[2] *Soviet Labour Legislation, op. cit.*, pp. 132-133.
[3] I.L.O. : *Legislative Series*, 1942—Russ. 1 ; published in *Izvestia*, 17 Apr. 1942.
[4] *Penal Code*, official edition (Moscow, 1947), p. 120.
[5] Published in *Izvestia*, 20 Oct. 1940.

employed in accounting, financial and planning offices and skilled workers from grade 6 upwards to be transferred from one undertaking or institution to another regardless of their geographical position. Subsequent Ordinances issued by the Government of the U.S.S.R. have specified the categories of workers covered by the Decree of 19 October 1940 in the light (and particularly the textile) industries, the meat and dairy, fish and timber industries, rail transport, the crews of seagoing and river craft, communications, electric power stations and thermo-electric networks.

Under special Ordinances issued by the Government, the right to transfer skilled workers in the manner specified in the Decree issued on 19 October 1940 by the Presidium of the Supreme Soviet of the U.S.S.R. is also vested in the Ministers of the local fuel industries of the R.S.F.S.R., the Ukrainian S.S.R. and the Byelorussian S.S.R., the Minister of Local Industry of the R.S.F.S.R., the Minister of Communal Economy of the R.S.F.S.R., the Minister of Motor Transport of the R.S.F.S.R., the Minister of Housing and Civil Engineering of the R.S.F.S.R., the Director of the Main Northern Sea Route and the Chairman of the Architectural Affairs Committee of the Council of Ministers of the U.S.S.R. . . .

Persons failing to carry out an order for their transfer from a Minister (or the director of some other central institution) are regarded as having left their undertaking or institution without permission and are prosecuted.[1]

*161. The book points out that, apart from the cases covered by this special legislation, transfers must be made exactly as laid down in Articles 36 and 37 of the Labour Code. Article 36 concerns the transfer of an employee from one job to another within a given undertaking. It guarantees that any employee transferred shall be assigned to work in keeping with his skill and shall not incur any loss of pay by reason of his transfer. Article 37 concerns the transfer of an employee from one undertaking or locality to another and makes a transfer of this kind dependent on the employee's consent. Paragraph 1 of Article 37 (1) lays down, however, that—

> If industrial conditions render it necessary (especially in cases of stoppage of work), the management of a State, co-operative or public institution, undertaking or business may transfer employees to other work, in the same or another institution, undertaking or business in the same locality for a period not exceeding one month (in cases of stoppage of work, for the whole duration of the stoppage).

The second paragraph provides a guarantee that the previous earnings of the employee will be maintained. Paragraph 3 lays down that " refusal of such transfer without a sufficient reason shall be deemed to be a breach of labour discipline ".

Obligation to Remain in a Position unless Authorised to Leave.

*162. Article 3 of a Decree of 26 June 1940[2] lays down that—

> Wage-earning and salaried employees shall not leave State, co-operative or public undertakings or institutions arbitrarily or transfer arbitrarily from one undertaking or institution to another.
>
> A wage-earning or salaried employee shall not leave an undertaking or institution or transfer from one undertaking to another except with the permission of the manager of the undertaking or the head of the institution.

Under Article 4, however, such permission may, and must, be given—

(a) if according to the findings of the board of experts in industrial medicine the wage-earning or salaried employee, on account of sickness or invalidity, is no longer

[1] *Op. cit.*, pp. 139-141.

[2] I.L.O.: *Legislative Series*, 1940—Russ. 1; published in the *Gazette of the Supreme Soviet of the U.S.S.R.*, 1940, No. 20.

able to perform his or her previous work, and the management cannot provide him with other suitable employment in the institution or undertaking, or if a pensioner who has been awarded an old-age pension wishes to leave his employment ;

(b) if a wage-earning or salaried employee has to leave his work in order to enter a special institution for intermediate or higher instruction.

Under Article 5, workers failing to comply with these provisions may be sentenced to between two and four months' imprisonment by a people's court, which has to hear the case within five days and have the sentence carried out at once.

The manager of an undertaking or head of an institution who fails to hand over to a court a person guilty of unauthorised departure, or who engages such a person, is also liable to prosecution (Article 6).

*163. Several books published in the Soviet Union in recent years refer to this Decree as if it were still valid. In addition, the commentaries they give define its scope. As an instance, the book *The Principles of the Soviet State and Law*, published in 1947, points out that " in the U.S.S.R. it is a crime ... for workers or employees ... to terminate their employment relationships upon their own initiative ".[1] The book *Soviet Labour Legislation*, published in 1949, explains that it also constitutes a case of " unauthorised departure " if a worker fails to execute an order for his transfer, disobeys the labour regulations of his undertaking in order, by so doing, to achieve his own dismissal, or is absent for a third time without a valid reason while serving a term of punishment incurred through previous cases of absenteeism. Specialists are also guilty of " unauthorised departure " if they evade the work assigned to them on finishing their training.[2] Elsewhere, the book points out that various regulations issued since the war have increased the number of cases in which the managers of undertakings and the heads of institutions are obliged to allow members of their staffs to leave.[3] This Decree would appear to apply only to contracts of employment concluded for an indefinite period, for if a fixed-term contract of employment is concluded with a worker and, on the expiry of the term, he does not agree to continue working in his job, the management of the undertaking or institution is obliged to grant him his release. In Soviet law, however, a fixed-term contract of employment can only be concluded in certain special cases specified in Ordinances issued by the Government.[4]

164. Under Article 1 of a Decree of 26 December 1941 [5], the unauthorised departure of " workers and employees in undertakings engaged on war production (aircraft, tanks, arms, munitions, naval shipbuilding and war chemicals), including undertakings which have been evacuated as well as undertakings which belong to other sectors serving the war industry in accordance with the principle of co-operation ", was regarded as desertion, and offenders were made liable to imprisonment for a period of from five to eight years. Such workers were, in fact, regarded as having been mobilised for the duration of the war.

The only reference to this Decree in the book *Soviet Labour Legislation* is in a chapter devoted to the history of Soviet labour law.[6] On the other hand, the text is reproduced in recent official editions of the Penal Code of the R.S.F.S.R. as if it were still valid.

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[1] *Op. cit.*, pp. 430, 569.
[2] *Op. cit.*, pp. 281-282.
[3] *Ibid.*, p. 114.
[4] *Ibid.*, p. 152.
[5] Published in the *Gazette of the Supreme Soviet of the U.S.S.R.*, **1942, No. 2.**
[6] *Op. cit.* pp. 110-111.

Work Books.

165. Work books were introduced for workers and employees in all State and co-operative undertakings and institutions by an Ordinance dated 20 December 1938.[1] Article 2 lays down that " in such work books shall be entered the following information relative to the holder: his surname, given name and patronymic, age, education, occupation, details of his work, his transfers from one undertaking (institution) to another, the reasons for such transfers and any incentives or rewards he has received ". The book is held by the management of the undertaking or institution and is returned to the employee or worker when he leaves (Article 9), after all the details of his work and conduct have been recorded (Article 10).

166. An article published in *Izvestia* on 22 December 1938 gave the following explanation for this innovation:

The work book brings some order into the registering of staff and offers a powerful lever for use in tightening labour discipline and putting an end to drifting labour. It is well known that there has recently been a considerable slackening of discipline in many factories and institutions, and the mobility of labour has increased. The work book deals a powerful blow to drifting labour in factories and institutions. Now, anyone entering employment must produce his work book, in which are entered all the details of the holder's work, his transfers from one undertaking or institution to another and the reason for such moves. It will now be obvious at once which persons are flitting from one undertaking to another, disorganising production, and which are working honestly. The absence of such a document as the work book in the past has definitely been profitable to the type of worker who moves from job to job, who lives by graft and is out for " easy money ". In many undertakings, a worker, on entering employment, had only to produce a passport or a paper from the place where he had previously been working. With such a system, naturally, there was no chance of finding out for certain what sort of person was entering the undertaking or institution—an honest, conscientious worker or a flitting idler. In addition, all kinds of politically suspect individuals and hostile elements took advantage of this situation to slip into the factories and the machinery of government. The introduction of the work book must put an end to this abnormal situation.[2]

167. The book *Soviet Labour Legislation*, published in 1949, still contains a reference to these regulations, listing them with other Ordinances published at approximately the same time, also with the intention of tightening labour discipline.[3]

Material on the *de facto* Situation

168. The following is a classified summary of the main material available to the Committee on the *de facto* situation.[4]

Official or Allegedly Official Documents and Publications

169. An Ordinance dated 4 August 1933[5] " concerning the award of privileges to persons having participated in the construction of the White Sea-Baltic Canal named after Comrade Stalin ", issued by the Central Executive Committee of the U.S.S.R.

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[1] Published in *Izvestia*, 21 Dec. 1938.
[2] *Izvestia*, 22 Dec. 1938.
[3] *Op. cit.*, p. 107.
[4] For the sake of clarity, the summary, as published here, is fuller than that transmitted to the Government of the U.S.S.R. in an annex to the letter of the Chairman of the Committee dated 22 Nov. 1952. However, the material covered is the same.
[5] Published in the *Collection of Laws of the U.S.S.R.*, 1933, No. 50, Article 294.

This Ordinance notes that—

... when the construction of the White Sea-Baltic Canal named after Comrade Stalin was completed, organs of the O.G.P.U. of the U.S.S.R. had already fully exempted 12,484 persons from continuing to serve the measures of social defence imposed upon them, as having been completely reformed and become of use to socialist construction, and had reduced the terms imposed as measures of social defence on 59,516 persons who had been condemned to various terms and had shown themselves to be energetic construction workers.[1]

170. An Ordinance dated 14 July 1937[2] " concerning awards and privileges for the builders of the Moscow-Volga Canal ", issued by the Central Executive Committee and Council of People's Commissars of the U.S.S.R.

This Ordinance, issued to mark the completion of the Moscow-Volga Canal, provided for various rewards and distinctions to be granted to persons who had been engaged on its construction. It also ordered 55,000 prisoners to be released before the expiry of their terms for shock work on the construction of the canal.[1]

171. A Decree[3] " concerning the abolition of the Chechen-Ingush A.S.S.R. and the conversion of the Crimean A.S.S.R. into a Crimean Region " submitted to the Supreme Soviet of the R.S.F.S.R.

The Decree notes that, during the Second World War, many Chechens and Crimean Tartars had taken arms with German troops against Red Army units, no opposition being shown by the majority of the population of the two Republics. It goes on to state that—

... the Chechens and Crimean Tartars have been moved to other areas of the U.S.S.R., where they have been allotted land and given the requisite assistance from the State for their economic settlement. At the instance of the Presidium of the Supreme Soviet of the R.S.F.S.R., the Chechen-Ingush A.S.S.R. has been abolished and the Crimean A.S.S.R. converted into a Crimean Region by Decrees issued by the Presidium of the Supreme Soviet of the U.S.S.R.[4]

172. The State Plan for the Development of the National Economy of the U.S.S.R. in 1941, printed in the form of supplements to Ordinance No. 127 of the Council of People's Commissars of the U.S.S.R. and the Central Committee of the All-Union Communist Party (Bolshevik) dated 17 January 1941.

This Plan gives quantitative figures for the various branches of economic activity in the U.S.S.R. over the year 1941. Production, construction and other estimates are broken down by Union and Republican Commissariats and other institutions, and also by products, industries and areas.

Photostat copies of extracts were submitted by the United States Government.[5]

173. Regulations governing supplies to the N.K.V.D. Ukhta-Pechora Corrective Labour Camp, approved by the Camp Commandant on 27 May 1937.[6]

According to the introduction, these regulations were issued as a provisional

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[1] See above, paragraph 34 (1).
[2] Published in the *Collection of Laws of the U.S.S.R.*, 1937, No. 46, Article 187.
[3] Published in *Izvestia*, 26 June 1946.
[4] See above, paragraph 42 (1).
[5] See above, paragraph 28 (5). The United States Government also submitted a commentary entitled *The Economic Significance of the Soviet Forced Labour System*, which is based mainly on this Plan. The commentary considers various economic sectors and assesses the percentage of the total production allotted to the N.K.V.D. as compared with the over-all production figures to be met by all the different ministries together.
[6] See above, paragraph 40 (5).

guide for the camp staff pending the publication of regulations by the Gulag of the N.K.V.D. or the approval of an N.K.V.D. camp statute.

The regulations are divided into four main sections, the first of which is concerned with supplies of food. Chapter 1 lays down a number of general principles[1]:

1. The *task* of the food supply in the camp shall be—

(a) to ensure that the prisoners are normally fed;

(b) to stimulate the prisoners to better work and contribute towards an increase in the productivity of labour.

In accordance with this task, the rations of prisoners in the camp shall be so organised that the following categories of prisoners *have priority in receiving more and better food*:

(a) Stakhanovite and shock workers;

(b) those engaged on heavy manual labour;

(c) skilled workers.

2. In assigning foodstuffs, a system shall be introduced whereby *the more the prisoners fulfil the norms, the greater the quantity of foodstuffs they receive.*

Chapter 2 lays down the rations to be issued to prisoners who work. For each item, it indicates the basic amounts to be supplied to different categories of workers and different sectors of the camp. It also indicates what additional amounts of food are to be issued to prisoners fulfilling their production norms to various extents.

Chapter 3 lays down the rations and articles of diet to be issued to prisoners who do not work (the sick, infirm and convalescent, as well as expectant and nursing mothers).

Chapter 4 refers to armed guards and other formations, Chapter 5 to persons who refuse to work, who are undergoing punishment or are under criminal investigation and Chapter 6 to young persons and prisoners' children. Chapter 7 deals with the issue of supplementary rations and other types of foodstuffs against scurvy and various occupational diseases as well as for underground and other types of work. The remaining Chapters (8-12) refer to the procedure followed in the computation and issue of prisoners' rations, the organisation of messing, the baking of bread, the system of camp shops and the procedure followed in keeping the accounts for prisoners' rations.

The second section of the regulations covers the issue of clothing and equipment. The various Chapters (13-21) deal with the general principles to be followed, the amounts to be issued and the time they must be made to last, the procedure to be followed in issuing, returning and writing off such clothing and equipment, measures to prevent wastage and theft, the procedure to be followed in issuing clothes to prisoners' children and in issuing equipment and special clothing to the prisoners themselves and, lastly, the use of everyday utensils.

The third section (Chapters 22-24) deals with supplies of food for horses, cattle, pigs and watch-dogs.

A final section (Chapter 25) contains instructions regarding the general application of the regulations.

The photostat copy was submitted by the International Confederation of Free Trade Unions (I.C.F.T.U.).

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[1] Words in italics are also in italics in the original Russian text.

174. A report by Mr. Molotov, as Chairman of the Council of People's Commissars of the U.S.S.R., to the Sixth All-Union Congress of Soviets in Moscow, on 8 March 1931.[1]

The relevant section of this report was made in reply to foreign accusations concerning the labour of prisoners in the U.S.S.R. timber industry.[2] Mr. Molotov stated that 1,134,000 persons, all of them free workers and not prisoners, were employed on timber work. On the other hand, he recognised that healthy, able-bodied prisoners were used for various public works, including road-making and the construction of the canal between the White Sea and the Baltic. According to his report, the total number of persons involved was 60,000. He also gave some indication of their living and working conditions.

175. Twenty photostats submitted by the United States Government.[3]

Several of these photostats are in the form of official orders. One, numbered 0037, was issued, according to the heading, on 23 May 1941 in Kaunas by the People's Commissar of State Security of the Lithuanian S.S.R., in accordance with Directive No. 77 dated 19 May 1941 from the People's Commissar of State Security of the U.S.S.R. It nominates officials to be responsible " for the direction, preparation and execution of an operation to purge the Lithuanian S.S.R. of hostile, anti-Soviet, criminal and socially dangerous elements ". A memorandum sent by the Deputy People's Commissar of State Security of the Lithuanian S.S.R. in Kaunas on 29 May 1941 to all heads of county sections and divisions of the People's Commissariat of State Security (N.K.G.B.) of the Lithuanian S.S.R. and the head of the Vilnius City Administration of the N.K.G.B. of the Lithuanian S.S.R., stresses " the enormous political importance of the projected operation to purge the Lithuanian S.S.R. of hostile elements " and states that " the task of purging the Lithuanian S.S.R. of elements hostile to the Soviet régime has been set us by our party and is a paramount and most important political task for the authorities of the N.K.G.B. of the Lithuanian S.S.R. ". A set of " Instructions for the execution of the operation to deport anti-Soviet elements from Lithuania, Latvia and Estonia ", issued by the Deputy People's Commissar of State Security of the U.S.S.R., begins by stating that " the deportation of anti-Soviet elements from the Baltic Republics is a task of great political importance ". It then goes on to indicate the details of the operation. These are repeated or expanded in several of the other photostats. As an instance, a memorandum dated 6 June 1941 from the People's Commissar of State Security of the Lithuanian S.S.R. to all executive *troikas* of county sections and divisions of the N.K.G.B. of the Lithuanian S.S.R. confirms that the operation was to be carried out by executive groups consisting of a member of the N.K.G.B., N.K.V.D. or the militia, a member of the Soviet party *aktiv*, a Red Army soldier of the N.K.V.D. forces and two to four members of the local village *aktiv*. A somewhat similar composition is outlined in a memorandum dated 4 June 1941 from the Deputy People's Commissar of State Security of the U.S.S.R. to the heads of county sections and in a set of instructions issued on 4 June 1941 by the People's Commissar of State Security of the Lithuanian S.S.R. in Kaunas to all heads of county sections and divisions of the N.K.G.B. of the Lithuanian S.S.R., the heads of executive sections of the N.K.G.B. of the Lithuanian S.S.R. and the heads of divisions on the railway. Other orders give details of the way such groups were

[1] Published in *Pravda*, 11 Mar. 1931.

[2] See above, paragraph 28 (5), (6), (7).

[3] Most of these photostats are copies of typescripts in Russian. One, however, is a printed form and another is in manuscript. The dates, where indicated, range from 26 April to 20 June 1941, and the issuing authorities, where indicated, are officials of the People's Commissariats of State Security of the U.S.S.R. or the Lithuanian S.S.R. All the documents are marked " top secret ". English and French translations of a number of them were submitted by the *Commission internationale contre le régime concentrationnaire* and the Latvian and Lithuanian Consultative Panels.

to be briefed, how they were to carry out their work and how sufficient transport was to be provided for the operation. The set of instructions mentioned earlier states that " a large number of deportees must be arrested and removed to special camps while their families should be sent to special settlements in distant regions ". A letter dated 31 May 1941 from the deputy head of the Third Department of the N.K.G.B. of the U.S.S.R. to the People's Commissar of State Security of the Lithuanian S.S.R. at Kaunas also contains an order from the People's Commissar of State Security of the U.S.S.R. that " persons with an anti-Soviet attitude who are engaged in active counter-revolutionary agitation are to be prepared for deportation to distant places in the U.S.S.R. ". Again according to the set of instructions mentioned earlier, the head of any family who is due to be arrested is to be separated from his family on arrival at the train and " placed in a separate truck specially reserved for the heads of families ". Elsewhere in the instructions, however, it is stated that " deportees are to be loaded into the trucks by families, and families are not to be split up (with the exception of the heads of families who are due to be arrested) ". An explanatory memorandum issued on 2 June 1941 by the Deputy People's Commissar of State Security of the Lithuanian S.S.R. in Kaunas defines the members of an arrested person's family as " those who, when the head of the family was arrested, were living with him or were supported by him ".

The photostats also include two sets of forms, one typewritten and one printed, respectively headed " Daily Summary No. .... concerning the registration of anti-Soviet, criminal and socially dangerous elements in ... county for the period ... 1941 " and " Five-day Summary No. ... concerning the registration of anti-Soviet and counter-revolutionary elements in accordance with Order No. 00? issued by the N.K.G.B. of the Lithuanian S.S.R. on 25 April 1941, and covering ... County Section of the N.K.G.B. of the Lithuanian S.S.R. for the period ... to ... 1941 ". These forms, which bear no entries, list the categories of persons liable to be affected by the operation. Columns running down the pages are intended to hold figures showing, against each category, the number of persons in respect of whom different types of action have been taken. The categories in both documents are broadly similar, though their order differs. The section headings of the daily summary read as follows :

I. Active members of counter-revolutionary parties and participants in anti-Soviet, nationalist and White Guard organisations. ...

II. Former guards, gendarmes, former responsible police officials and prison warders and also ordinary police officials and prison warders in respect of whom compromising material is available.

III. Former large landowners, big industrialists and high officials of the former Lithuanian State administration.

IV. Former officers of the Polish, Lithuanian and White Armies in respect of whom compromising material is available.

V. Criminal elements continuing to engage in criminal activities.

VI. Prostitutes previously registered with the former Lithuanian and Polish police authorities and now continuing to engage in prostitution.

VII. Persons who have come from Germany under a repatriation scheme and also Germans who have registered for repatriation to Germany and refused to leave, when material on their anti-Soviet activities and suspicious connections with foreign intelligence services is available.

VIII. Families of persons in the categories indicated in sections I, II, III and IV together with such persons as were living with them or were supported by them at the time of their arrest.

IX. Refugees from former Poland.

Another document is a cover note dated 17 May 1941 from the Deputy Commissar of State Security of the Lithuanian S.S.R. to all chiefs of county sections and divisions of the N.K.G.B. of the Lithuanian S.S.R., enclosing 130 forms to be used in recording details of persons belonging to certain of the categories mentioned in the summaries.

The photostats also include a report dated 19 June 1941 from the Kaunas executive staff to the People's Commissar of State Security of the Lithuanian S.S.R. on the results of an operation to remove socially dangerous elements from Kaunas. The report states that the operation lasted from 14 to 19 June, and that a total of 503 persons were arrested and 1,462 deported. Another photostat is of a handwritten sheet showing the numbers of families and persons arrested or deported by the N.K.G.B. in the various counties of Lithuania. The total indicated is 17,485. Two maps of Lithuania appear in other photostats. On them are marked the loading and assembly points for convoys. A further photostat of a typewritten document dated 13 June 1941 lists the destinations in the Soviet Union assigned to various convoys leaving Estonia, Latvia and Lithuania. The numbers of persons are shown for each convoy and destination. A final photostat reproduces a copy of a telephonogram dated 20 June 1941 from the Chairman of the Council of People's Commissars of the Lithuanian S.S.R. to the secretaries of city and county committees of the Communist Party (Bolshevik) of Lithuania, the chairmen of city and county executive committees and the heads of county sections of the N.K.G.B. of the Lithuanian S.S.R. It contains instructions for the registration, confiscation and realisation of the property of persons deported by the N.K.G.B. authorities.

176. Eleven diplomatic notes exchanged in 1942 between the People's Commissariat of Foreign Affairs of the U.S.S.R. and the Embassy of the Republic of Poland in Kuibyshev.

Some of these notes concern the whereabouts of Polish citizens alleged to have been detained by the Soviet authorities despite the Polish-Soviet agreement of 30 July 1941 and a Decree issued by the Presidium of the Supreme Soviet of the U.S.S.R. on 12 August 1941. The other notes refer to the appointment of certain persons as representatives of the Polish Embassy in the Soviet Union.

The photostat copies were submitted by the I.C.F.T.U.

177. A report prepared in Kuibyshev for the Embassy of the Republic of Poland on 25 December 1942 by the People's Commissariat of Foreign Affairs of the U.S.S.R.

The report relates to the whereabouts of Polish citizens in the Soviet Union and indicates whether they have been released.

The photostat copy was submitted by the I.C.F.T.U.

178. Thirty-five release certificates issued in 1941 and 1942 to Polish citizens amnestied under a Decree of the Presidium of the Supreme Soviet of the U.S.S.R.

These printed certificates authorise the bearers to reside freely in the Soviet Union, with the exception of certain specified localities. All but two of the certificates bear the heading " U.S.S.R., N.K.V.D. ", the two exceptions being headed " Kazakh S.S.R., N.K.V.D. ". The issuing authorities, as indicated in the headings, are as follows :

1. Central Railway Construction Administration, Administration of the Caspian Coast Corrective Labour Railway Camp, Second Section, Salyany, Azerbaijan S.S.R.

2. Central Corrective Labour Camp Administration, Bezymyansk Corrective Labour Camp, Second Section, Kuibyshev.

3. N.K.V.D. Administration, Irkutsk Region, Prison No. 5.

4. Norilsk Corrective Labour Camp, Norilsk, Taimyr National Area, Krasnoyarsk Territory.

5. Kazakh S.S.R., N.K.V.D. Administration, Karaganda Region, Prison No. 12 Akmolinsk.

6. N.K.V.D. Administration, Sverdlovsk Region, Prison Section, Sverdlovsk.

7. N.K.V.D. Administration, Irkutsk Region, Irkutsk Prison.

8. Krasnoyarsk Corrective Labour Camp Administration, Registration and Distribution Section, Kansk, Krasnoyarsk Territory.

9. Northern Railway Corrective Labour Camp Administration, Komi Autonomous S.S.R.

10. Unzha Corrective Labour Camp Administration.

11. Northern Dvina Corrective Labour Camp, First Division, Kotlas, Archangel Region.

12. N.K.V.D. Administration, Sverdlovsk Region, Bogoslovlag, Turinsk Mines.

13. N.K.V.D. Administration, Novosibirsk Region, Prison No. 3, Tomsk.

14. Usol Corrective Labour Camp Administration, Second Section, Solikamsk.

15. Railway Construction and Soroka Corrective Labour Camp Administration, Belomorsk, K.F.S.S.R.

16. N.K.V.D. Administration, Sverdlovsk Region, Sevurallag, Sosva.

17. N.K.V.D. Administration, Vytegorlag.

18. Bureya Railway Construction Camp, Second Section.

19. Vyatka Corrective Labour Camp Administration, Volosnitsa, Kirov Region.

20. Novo-Tambovsk Corrective Labour Camp Administration, Second Section, Komsomolsk-on-the-Amur.

21. Kargopol Corrective Labour Camp Administration, Second Section, Archangel Region, Yertsevo.

22. Volga Corrective Labour Camp, Perebory, Rybinsk District, Yaroslavl Region.

23. Onega Corrective Labour Camp, Plesetsk.

24. Karaganda Corrective Labour Camp Administration.

25. Lower Amur Corrective Labour Camp Administration, Komsomolsk, Khabarovsk Territory.

26. Ustvym Corrective Labour Administration.

27. Kazakh S.S.R., N.K.V.D. Administration, Northern Kazakhstan Region, Prison No. 3, Petropavlovsk.

28. N.K.V.D. Administration, Voroshilovgrad Region, Starobelsk Camp, Voroshilovgrad.

29. North Eastern Corrective Labour Camp Administration, Magadan, Khabarovsk Territory.

30. Yenisei Corrective Labour Camp and Settlements, Krasnoyarsk Territory, Krasnoyarsk.

31. Pechora Railway Corrective Labour Camp Administration, Abez, Komi Autonomous S.S.R.

32. N.K.V.D. Administration, Omsk Region, Tobolsk.

33. N.K.V.D. Administration, Sverdlovsk Region, Uvdellag, Uvdel.

34. Central Corrective Labour Camp Administration, Ukht-Izhma Corrective Labour Camp Administration, Second Section, Ukhta, Komi Autonomous S.S.R.

35. Northern Dvina Corrective Labour Camp, Second Section, Velsk, Archangel Region.

The photostat copies were submitted by the I.C.F.T.U.

179. A release certificate issued by the M.V.D. on 14 June 1946 to a citizen born in Latvia and sentenced as a " socially dangerous element " by the N.K.V.D. Special Council on 14 March 1942 to five years' exile in the Komi Autonomous S.S.R.

The photostat copy was submitted by the United States Government.

180. Two documents issued in place of a residence permit by the local authorities of the O.G.P.U. in Vyatka on 30 July 1931 and 13 September 1932.

The first of these documents records that the bearer has been exiled by the administrative authorities to the Nizhegorod Territory for five years on the basis of an order issued by the Special Council of the O.G.P.U. Chamber on 10 April 1931. It further indicates that he is spending his period of exile in Nolinsk, where he is required to report to the O.G.P.U. authorities four times a month, and that he is not entitled to go anywhere else for any period of time. The second document records that he is on the special register of the O.G.P.U. authorities in Vyatka and must report to them in Nolinsk on the 1st and 15th of each month.

The photostat copies were submitted by the United States Government.

181. A release certificate issued to the bearer of the documents mentioned in paragraph 180 by the N.K.V.D. Administration, Kirov Territory, Kirov, on 8 July 1935, recording his sentence by the Special Council of the O.G.P.U. Chamber to five years' exile under Article 58 (10) and (11) of the Penal Code.

The photostat copy was submitted by the United States Government.

182. A sentence passed in the name of the R.S.F.S.R. by the Special Chamber of the Kursk Regional Court meeting in closed session on 29 March 1936.

The accused was the bearer of the documents mentioned in paragraphs 180 and 181, and his previous conviction is recorded in the sentence. The court found him guilty of writing an anonymous letter to the *Izvestia* of the Central Executive Committee of the U.S.S.R., in which " he cast slanderous aspersions on the policy of the All-Union Communist Party (Bolshevik) and the Soviet régime, and in addition gave vent to his counter-revolutionary fabrications about the leaders of the All-Union Communist Party (Bolshevik) and the Soviet régime ". He was sentenced under Article 58 (10) of the Penal Code to five years' punishment, allowance being made for the time for which he had already been detained. An appeal against the sentence might be lodged with the Special Chamber of the Supreme Court of the R.S.F.S.R. within 72 hours.

The photostat copy was submitted by the United States Government.

183. A release certificate issued by the Amur Corrective Labour Camp Administration, Second Section, Svobodny, on 31 December 1940 to the defendant in the case recorded in paragraph 180 giving the details of his two convictions.

The photostat copy was submitted by the United States Government.

184. A sentence passed in the name of the R.S.F.S.R. by the Special Chamber of the Leningrad Regional Court meeting in closed session in Leningrad on 10 June 1936.

The accused were eight citizens of the Soviet Union. Three were convicted under Article 58 (10) and (11) of the Penal Code. In the case of one of them, it was found that he " had joined a counter-revolutionary organisation whose purpose was to organise the population of one of the national minorities to assist a foreign State through diversionary activities in the event of war between the latter and the Soviet Union ... suggested recruiting members for this organisation ... systematically had counter-revolutionary conversations ... and, in these conversations, criticised the actions of the Government, spread defeatist views and extolled the capitalist system ". The other two were found guilty of entering the counter-

revolutionary organisation and of furthering its activities. Three other defendants were found guilty under Article 58 (10), Part 1, of the Penal Code, of expressing defeatist views and of voicing their disagreement with the policy of the Government. The other two defendants were acquitted. The first three were sentenced to ten, ten and seven years' deprivation of liberty respectively and the other three to three years' exile and five and three years' deprivation of liberty respectively. An appeal against the sentence might be lodged with the Special Chamber of the Supreme Court of the R.S.F.S.R. within 72 hours.

The photostat copy was submitted by the United States Government.

185. A ruling passed on 16 August 1936 by the Special Chamber of the Supreme Court of the R.S.F.S.R. on the appeals lodged by the persons whose convictions are recorded in the document mentioned in paragraph 184. The sentences were upheld.

The photostat copy was submitted by the United States Government.

186. A report of a preliminary investigation held into the cases of the eight persons mentioned in paragraph 184.

The report gives a detailed account of the findings of the investigation and formulates the indictment against each person. All were to be charged under Article 58 (10) and (11) of the Penal Code and the case was to be submitted to the Special Chamber of the Leningrad Regional Court.

The photostat copy was submitted by the United States Government.

187. A release certificate issued by the Ukht-Izhma Corrective Labour Camp Administration, Second Section, Ukhta, Komi A.S.S.R., on 15 February 1941 to the person condemned to five years' deprivation of liberty in the case mentioned in paragraphs 184, 185 and 186.

188. Four release certificates issued to Soviet citizens on the completion of their sentences.

All the certificates bear the heading " U.S.S.R., N.K.V.D. ". The first was issued on 16 May 1939 by the Norilsk Corrective Labour Camp, Norilsk, Taimyr National District, Krasnoyarsk Territory, to a person sentenced on 8 February 1938 by the Special Chamber of the Kharkov Regional Court to five years' imprisonment in corrective labour camps of the N.K.V.D. of the U.S.S.R. under Article 54 (10) and (11) of the Penal Code of the Ukrainian S.S.R. The paper certifies that the bearer has been credited with 259 working days. The second certificate was issued by the South Eastern Railway Camp Administration to a person sentenced on 28 November 1932 by the N.K.V.D. of the Ukrainian S.S.R. to ten years' deprivation of liberty under Articles 54 (9) and 97 of the Penal Code of the Ukrainian S.S.R. The third certificate was issued on 27 March 1940 by the Vorkuta-Pechora Corrective Labour Camp Administration to a person sentenced on 28 July 1935 by the Special Council of the N.K.V.D. to five years' imprisonment in corrective labour camps for participation in a Trotskyist counter-revolutionary group. The fourth certificate was issued on 12 December 1936 by the Ukhta-Pechora Corrective Labour Camp Administration, Chibyu, to a person sentenced on 23 August 1933 by an O.G.P.U. *troika* to ten years' imprisonment in corrective labour camps under Article 59 of the Penal Code. The certificate further indicates that the bearer was sentenced " by the O.G.P.U. Chamber on 13 March 1934 to ten years under an Act dated 7 August 1932, the order of the O.G.P.U. *troika* dated 23 August 1933 being superseded and the beginning of the sentence reckoned from 11 December 1933". It is also stated that " under an order of the Special Council of the N.K.V.D. of the U.S.S.R. dated [figure illegible] July 1936, the crime was made an offence under Article 162 *(e)* and the measure of social defence was reduced to five years

deprivation of liberty. Two years' credit has been given for the White Sea-Baltic Camp."

The photostat copies were submitted by the United States Government.

189. An internal passport issued in June 1939 by the Taimyr Area Section of the Workers' and Peasants' Militia, Krasnoyarsk Territory, in exchange for the first of the certificates mentioned in paragraph 188.

The photostat copy was submitted by the United States Government.

190. Four release certificates issued to Soviet citizens on the completion of their sentences.

The first of these certificates was issued by the Central Corrective Labour Camp Administration, Usol Corrective Labour Camp, Solikamsk, to a person sentenced on 6 December 1937 by an N.K.V.D. tribunal in the Krasnodar Territory to three years' imprisonment in corrective labour camps for counter-revolutionary activity. The second was issued on 9 April 1936 by the Tara Area Section of the N.K.V.D., Omsk Region, to a person sentenced on 8 June 1933 by an O.G.P.U. tribunal to three years' [one word illegible] under Article 58 (10) and (11) of the Penal Code. The third was issued on 7 August 1940 by the Central Corrective Labour Camp and Labour Settlement Administration, North Eastern Corrective Labour Camps, Second Section, Nagaevo, to a person who is stated to have been in the N.K.V.D. North Eastern Camps from [figure illegible] September 1937 to 28 February 1940. The fourth was issued on 30 March 1939 by the Railway Construction Administration of the N.K.V.D. Central Corrective Labour Camp Administration in the Far East, Eastern Railway Camp, to a person sentenced on 6 March 1930 by an O.G.P.U. tribunal to ten years' punishment in the N.K.V.D. Eastern Railway Camp under Article 58 (10), (13) and (16) of the Penal Code.

The photostat copies were submitted by the Association of Political Prisoners of Soviet Labour Camps.

191. A document issued on 25 January 1933 by the Narym Area Section of the O.G.P.U. authorities for the Western Siberian Territory.

The document records that the holder, who has been exiled by the administrative authorities, is on the special register of the O.G.P.U. authorities and is required to report periodically.

The photostat copy was submitted by the Association of Political Prisoners of Soviet Labour Camps.

192. The summary record of a number of sentences passed in the name of the Byelorussian S.S.R. by the Criminal Chamber of the Pinsk Regional Court meeting in closed session on 14 and 15 June 1941.

The convictions were made on charges of counter-revolutionary activities or agitation under Articles 64, 72, 73, 74 and 76 of the Penal Code of the Byelorussian S.S.R. Eighteen citizens were accused, fifteen of them Polish. Ten were sentenced to be shot for having set up a counter-revolutionary organisation in 1939-1940, after the institution of the Soviet régime in Western Byelorussia, the aim of the organisation being "to overthrow the Soviet régime in Western Byelorussia and restore the Fascist Polish State by armed rebellion". Five of the accused were sentenced to be deprived of liberty for periods ranging from six to ten years for systematic counter-revolutionary agitation or for having been aware of a conspiracy without reporting it. In some cases the sentence speaks of deprivation of liberty "in corrective labour camps", whereas in others the place where the persons are to be deprived of liberty is left unspecified. Three of the accused were acquitted on all counts. The judgment mentions that some of the accused had been members of Denikin's White Army in 1919.

The photostat copy was submitted by the I.C.F.T.U.

193. A sentence passed on 7 January 1942 by the People's Court of the Dekhkanabad District.

The sentence condemned two citizens found to be responsible for a fire on a collective farm to five years' deprivation of liberty and two years' deprivation of rights under Article 246 of the Penal Code of the Uzbek S.S.R. An appeal against the sentence might be lodged with the regional court within five days.

The photostat copy was submitted by the I.C.F.T.U.

194. The report of a preliminary investigation held in May 1942 by the "Special Political Section, N.K.V.D. Administration, Saratov Region" into the case of a person accused under Article 58 (10) of the Penal Code.

According to this report, the accused was "the son of a former exploiter and millowner and was evacuated from the Western Ukraine. Being hostile to the Soviet régime, he engaged in anti-Soviet agitation among his neighbours in November 1941, and made slanderous remarks about the life of the workers and members of collective farms, extolling the life of the working population in capitalist countries. He spread fallacious fabrications about the poorer life led by the working people of the Western parts of the Ukraine and Byelorussia since the Soviet régime was instituted there, made slanderous attacks upon Soviet democracy, slandered the Red Army, called upon people to refuse to serve in it and spoke offensively of the leaders of the Party and the Government." The report goes on to indicate that the charge is based on testimonies, there being no material evidence in the case. The accused, who had been under arrest since 27 November 1941, had pleaded guilty, and the indictment was to be forwarded through the Special Prosecutor to the Saratov Regional Court.

The photostat copy was submitted by the I.C.F.T.U.

195. A sentence passed in the name of the Kazakh S.S.R. on 28 August 1942 by the People's Court of the Lenin District, Northern Kazakhstan Region.

In the preamble to this sentence it is stated that the accused "worked during the 1942 harvest on Farm 3 of the Tarangulsk State Meat Farm as the leader of a detachment of three harvesters and, owing to his criminal attitude towards the battle against grain losses, he allowed whole strips of land over an area of 54 hectares to be badly cut through his poor harvesting, thereby losing 44 centners 4 kilograms of wheat". He was charged and sentenced under Articles 16 and 79 (2) of the Penal Code[1] to two years' deprivation of liberty, allowance being made for the time he had already spent in prison. The sentence was final, but an appeal might be lodged with the authorities of the Northern Kazakhstan Regional Court within five days.

The photostat copy was submitted by the I.C.F.T.U.

196. A ruling passed on 3 October 1942 by the Criminal Chamber of the Northern Kazakhstan Regional Court, upholding the sentence mentioned in paragraph 195 after an appeal had been submitted.

The photostat copy was submitted by the I.C.F.T.U.

197. A sentence passed in the name of the R.S.F.S.R. on 28 June 1942 by the Buzuluk People's Court.

The two defendants were charged under Article 1 of a Decree of the Presidium of the Supreme Soviet of the U.S.S.R. dated 9 April 1941[2] and were sentenced to

[1] Article 16 recognises the principle of analogy and Article 79 (2) covers "the damage or breakage of tractors and agricultural machinery belonging to State farms, machine and tractor stations and collective farms, if such damage or breakage is caused by a criminally negligent attitude towards the property in question".

[2] This Decree appears in the official edition of the *Penal Code of the R.S.F.S.R.*

one year's imprisonment each, having been found guilty of travelling on a goods train without permission. An allowance was made in the sentence for the time already spent under arrest and an appeal against the sentence might be lodged with the regional court within five days.

The photostat copy was submitted by the I.C.F.T.U.

198. Seven sentences (accompanied by the records of the court proceedings, which note that the accused were present) passed in the name of the R.S.F.S.R. by the People's Court of the Karpogory District, Archangel Region, on 12, 14 and 16 May 1942.

The accused were workers born in Poland and were all charged with having left their work without permission. They claimed that they had been badly fed and not given any boots, although they were working on a timber-rafting site. They were all given sentences of from three to four months' imprisonment under Article 5, section 1, of a Decree of 26 June 1940.[1] The sentences were to be put into effect immediately, but an appeal against them might be lodged within five days with the Archangel Regional Court.

The photostat copies were submitted by the I.C.F.T.U.

199. Two appeals submitted to the Archangel Regional Court on 15 and 17 May 1942 by the Polish citizens mentioned in paragraph 198, and the two rulings on these appeals passed by the Criminal Chamber of the Archangel Regional Court on 26 and 28 May 1942 respectively, rejecting the appeals and upholding the sentences.

The photostat copies were submitted by the I.C.F.T.U.

200. A sentence passed by the People's Court of the Volsk District, Saratov Region, on 5 June 1942.

The accused, a citizen born in Poland, was sentenced to one year's deprivation of liberty under Article 162 *(e)* of the Penal Code for having stolen a loaf of bread from a State shop. An appeal against the sentence might be lodged within five days with the Saratov Regional Court.

The photostat copy was submitted by the I.C.F.T.U.

Private Publications

201. The Committee's files include a number of private publications. Some have been written by persons claiming to have been either in or to Soviet labour camps. Others reproduce photostat copies or translations of material relating to the *de facto* situation. These publications include—

1. M. ROZANOV : *Zavoevateli Belykh Pyaten* (Frankfurt-am-Main, 1951), 287 pp.

The author claims to have spent some eleven years in Soviet labour camps and, in his book, comments on the penal system and the economic significance of the camps. In an annex, he gives a table intended to show, for the different types of penitentiary institution, the type of inmates, the geographical distribution of the institution, the terms to which the inmates are condemned, their cash wages as compared with those of free workers, the conditions in the institution and the type of work.

2. *Le Monde Concentrationnaire Soviétique* (published by the *Commission internationale contre le régime concentrationnaire*), 242 pp.

[1] See above, paragraph 162.

This was submitted to the Committee by the *Commission* in proof. An introductory note states : " The texts published in this book were collected during the court case heard in Brussels between 21 and 26 May 1951. In essence, they represent the written statement made by Colonel Vladimir Andreiev, former inspector of Soviet concentration camps (1934-1941) and former chief of the armed guard of Karaganda camp. "

3. *Pour la Vérité sur les Camps* (Paris, Editions du Pavois, 1951), 254 pp.

This is a collection of extracts from the hearings and pleadings in the case of David Rousset v. *Lettres Françaises* in which evidence was given by several persons who stated that they had personal experience of Soviet labour camps.

4. *These Names Accuse—Nominal List of Latvians deported to Soviet Russia in 1940-1941* (Stockholm, Latvian National Fund in the Scandinavian Countries, 1951).

This book, submitted to the Committee by the Latvian Consultative Panel, reproduces the above-mentioned list in the form of photostats.

5. *An Appeal to Fellow Americans on Behalf of the Baltic States* (New York, Lithuanian American Information Center, 1944), 54 pp.

This booklet, submitted to the Committee by the Lithuanian Consultative Panel, contains English translations of orders issued by the authorities of the U.S.S.R. and Lithuanian S.S.R. in 1940 and 1941 in connection with deportations from Estonia, Latvia and Lithuania.

6. *Human Freedom is being Crushed* (Washington, D.C., Central and Eastern European Conference, 1951), 80 pp.

This booklet, submitted to the Committee by the Latvian Consultative Panel, gives English translations of orders issued in 1940 and 1941 by the authorities of the U.S.S.R. and Lithuanian S.S.R. in connection with deportations from Estonia, Latvia and Lithuania.

7. A number of books and articles written by American, German and other visitors to the camp at Bolshevo.

Affidavits and Statements

202. The Committee had at its disposal a large number of affidavits and statements [1] of persons who claim to have been in forced labour camps in the Soviet Union. [2] These affidavits and statements came from three principal original sources, viz.—

(1) German and Japanese prisoners of war ;

(2) former members of the Polish Armed Forces (the Anders Collection : 18,304 statements) ;

(3) civilian internees (194 statements).

203. Since another body of the United Nations (the *Ad Hoc* Commission on Prisoners of War) is dealing with questions concerning German and Japanese prisoners of war, including " the reasons for which they are still detained ", the Committee decided not to examine in detail the information contained in the first

[1] Some of these documents are in the form of legal affidavits, others are in the form of written statements. For purposes of convenience, the term " statements " will be used throughout.

[2] These have been placed at the disposal of the Committee by Governments and non-governmental organisations. They include those mentioned in United Nations documents E/AC.36/4 and E/AC.36/4/Add. 1 and 2.

group of statements, but noted that this information resembled that contained in the third group summarised below under the headings " life in the camps " and " economic significance of forced labour ".

204. With regard to the Anders Collection of 18,304 Affidavits of Former Members of the Polish Armed Forces, alleged by interned in the Soviet Union during the years 1939-1941, the Committee examined the following material submitted by the United States Government : *(a)* a memorandum on Soviet forced labour based on 18,304 statements and short reports from the Anders Collection ; *(b)* a list and brief description of forced labour camps mentioned in the Anders Collection ; *(c)* a list of ships used to transport prisoners; and *(d)* photostat copies and translations of a number of typical depositions from the collection.

205. The Committee also examined the statements of 194 civilians who allege that they were interned in forced labour camps in the U.S.S.R. for varying periods between the years 1925 and 1951. The Committee has made a detailed examination of this group of statements and has summarised the information contained therein as follows :

Personal Background.

206. Most of the statements, *i.e.*, 142, emanate from persons of Russian national origin, although several other nationalities (Czech, Estonian, German, Latvian, Lituanian, Polish) are represented. With regard to the occupational background of the authors, 63 statements are from manual workers, 12 from " white-collar " workers, and 83 from professional people (lawyers, doctors, civil servants, etc).

Legal Aspects of Forced Labour.

207. It is stated that various procedures are applied leading up to internment in a forced labour camp. The majority, *i.e.*, 102, of those concerned state that they were tried and sentenced by administrative organs (the N.K.V.D. and *troikas* are frequently mentioned). Four persons state that they were sentenced by military courts and 29 that they were taken to forced labour camps without any kind of trial or formal proceedings, while about one quarter of the total number, *i.e.*, 45, state that they were tried by a judicial court.

208. Some of the statements give information concerning the right of defence and of appeal. In 19 cases it is said that Defence Counsel was permitted, whilst 44 persons state that it was not. Forty-seven persons state that they were granted the right of appeal, and 48 state that they were not.

209. In regard to the nature of the crime or offence, a large majority, *i.e.*, 107, of these persons allege that they were prosecuted on political grounds. Of these, 31 state that they were prosecuted as " socially " or " politically dangerous elements ". Forty-one others state that they were prosecuted for " attempting to cross the border without permission ", for possessing " invalid papers ", for " attempting to escape from the Soviet Union ", for being " without fixed residence or occupation ", or for minor offences and derelictions such as " breaches of factory discipline ".

210. Although only a few of the statements give the precise terms of the accusation or sentence[1], many of them give precise information concerning the

[1] Official or photostat copies of several sentences were placed at the disposal of the Committee.

Law, Article and Section under which the sentence was carried out. Over half t... number of persons concerned, *i.e.*, 103, state that they were sentenced under ... or another of the provisions of Article 58 of the Penal Code of the R.S.F.S.... relating to " counter-revolutionary crimes ". In 39 of these cases, the senten... were based on Section 10 of this Article, concerning " propaganda or agitat... containing an appeal to overthrow, undermine, or weaken the Soviet régime...

211. As far as the length of sentence is concerned, the majority, *i.e.*, 123, these persons state that they received a sentence of five years or more.

Life in the Camps.

212. In many of the cases mentioned in the preceding paragraph, howev... it is stated that the period of actual internment was less than that prescribed ... the sentence. One hundred and two persons state that they were interned for l... than five years, while 69 state that they were interned for five years or more.

213. With regard to hours of work in the camps, the average (taken from th... group of statements) is between 11 and 12 hours per day. Some persons state th... they were required to work for as long as 15 or 16 hours, while others state that th... were obliged to work for periods of eight hours or less per day.

214. Some, but not all, of the statements provide information concernin... remuneration for work. In 43 cases it is stated that no payment was received f... the work in the camp. Eighty-three persons state that they received a small rem... neration in the form of either fixed rates of pay or piece-work rates. In some ... these cases it is stated that the actual payment was deferred until the time of relea...

215. By far the largest volume of information supplied in the statemen... relates to various aspects of life in forced labour camps. This information is ge... rally given in the form of a narrative account of personal experience, with elabora... details concerning food, clothing, housing, health conditions, etc. A large major... of the authors of these statements allege that living conditions in the cam... involved considerable hardship. Most of them state that the food rations we... inadequate ; some, that they were on a " starvation diet ". Most complain of th... supplies of clothing ; some state that it was not supplied at all. Most of them all... that the housing, sanitation and medical facilities were inadequate ; some sta... that these conditions were so primitive as to be dangerous to health. A sm... minority state, however, that living conditions, though not good, were satisfacto...

Economic Significance of Forced Labour.

216. According to the statements, the different camps in which these l... persons were detained were engaged in a wide range of economic activities: mini... fishing, forestry and agriculture, as well as various major construction projec... including the construction of canals, railways and industrial establishmen... Sixteen of these persons state that they were engaged in some form of administ... tive work in the camps themselves.

Location of Camps and Numbers of Inmates.

217. Many of the statements give information concerning the names a... locations of camps and the number of inmates in the camp or camp-site in wh... their authors were confined.

Comments and Observations of the Government of the Union of Soviet Socialist Republics

The following letter from the delegation of the Union of Soviet Socialist Republics to the United Nations has been transmitted to the *Ad Hoc* Committee on Forced Labour :

The Delegation of the Union of Soviet Socialist Republics to the United Nations presents its compliments to the United Nations Secretariat and herewith returns, unexamined, the documents attached to the Secretariat's letter of 22 November 1952 [1], since these documents contain slanderous fabrications concerning the Soviet Union.

Additional Material

Addition to Paragraph 78.

An amnesty Decree promulgated on 27 March 1953 by the Presidium of the Supreme Soviet of the U.S.S.R.[2] announces that the penal legislation of the U.S.S.R. and the Union Republics is soon to be revised. Article 8 of this Decree reads—

> Recognition shall be granted to the need to revise the penal legislation of the U.S.S.R. and Union Republics with a view to replacing criminal liability for certain crimes committed by officials in office, economic, environmental and other crimes of lesser danger by measures of an administrative and disciplinary nature and also with a view to reducing criminal liability for certain crimes.
>
> The Ministry of Justice of the U.S.S.R. shall be commissioned, within a month, to prepare appropriate proposals and place them before the Council of Ministers of the U.S.S.R. for study and submission to the Presidium of the Supreme Soviet of the U.S.S.R.

Addition to Paragraph 80.

Even later references to the Corrective Labour Code occur in several Soviet books.[3]

Addition to Paragraph 89.

A recent Soviet book[4] confirms that current Soviet penal legislation makes provision for the following three types of deprivation of liberty : (1) deprivation of liberty in ordinary places of imprisonment, *i.e.*, in colonies of various kinds; (2) deprivation of liberty in corrective labour camps, and (3) deprivation of liberty in prisons.

Addition to Paragraph 113.

The following passage on the aims of Soviet legislation is taken from a book by A. Ya. Vyshinski :

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[1] The letter was returned with the documents.

[2] *Izvestia*, 28 Mar. 1953.

[3] Cf. M. A. CHELTSOV : *Sovetski Ugolovny Protsess* [Soviet Criminal Procedure], second edition (Moscow, State Publishing House for Literature on Law, 1951), pp. 418-419, and V. D. MENSHAGIN and Z. A. VYSHINSKAYA : *Sovetskoe Ugolovnoe Pravo* [Soviet Criminal Law] (Moscow, State Publishing House for Literature on Law, 1950), pp. 169, 396 and 397.

[4] V. D. MENSHAGIN and Z. A. VYSHINSKAYA, *op. cit.*, p. 169.

The aims pursued by Soviet law are essentially different from those pursued by bourgeois law.

Soviet socialist law aims at overcoming the opposition of class enemies and their agents to the cause of socialism, at ensuring the completion of socialist construction and the gradual transition to communism.[1]

The same ideas are expressed in the manual on Soviet criminal law by Menshagin and Vyshinskaya, published in Moscow in 1950. They state—

The tasks of Soviet socialist legality also determine the part played by Soviet socialist penal legislation in protecting the workers' and peasants' State against every kind of criminal violation, both by hostile elements and by a certain section of the corrupt or unreliable members of Soviet society whose minds still harbour survivals of the ideas of capitalist society.[2]

Addition to Paragraphs 114-117.

On 27 March 1953 the Presidium of the Supreme Soviet of the U.S.S.R. issued a Decree [3] granting a partial amnesty based on the following considerations which are set out in the preamble :

As a result of the consolidation of the Soviet social and State structure, the increased prosperity and higher cultural level of the population, the greater awareness of citizens and their honest attitude towards the performance of their social duties, legality and the socialist legal order have been strengthened and criminality in the country has considerably decreased.

The Presidium of the Supreme Soviet of the U.S.S.R. considers that, in these circumstances, there is no necessity for the continued detention in places of imprisonment of persons who have committed crimes not constituting a great danger to the State and who have proved by their conscientious attitude to work that they can return to an honest life of labour and become useful members of society.

Under Articles 1-3 of the Decree, an amnesty is granted to persons with sentences up to and including five years in length and also, irrespective of their period of sentence, to persons convicted of official, economic and certain military crimes, women with children up to 10 years of age, expectant mothers, persons up to 18 years of age, men over 55 and women over 50 years of age and convicts suffering from serious and incurable infirmities. Under Article 4 persons sentenced to more than five years' deprivation of liberty have their sentences reduced by half. Article 5 terminates all proceedings instituted for various crimes resembling those covered in Articles 1-3 if they were committed before the publication of the Decree. Under Article 7, the amnesty is not granted to " persons condemned for a period exceeding five years for counter-revolutionary crimes, large-scale pillage of socialist property, banditry and deliberate murder ".

Addition to Paragraph 117.

Menshagin and Vyshinskaya, in their book published in Moscow in 1950 [4], still mention the Decree of 4 June 1947 to institute penalties for the pillage of State and public property in a list of current All-Union penal laws. The economic and political importance of this Decree and of the other of the same date to provide

[1] A. YA. VYSHINSKI : *Teoriya Sudebnykh Dokazatelstv v Sovetskom Prave* [The Theory of Judicial Proof in Soviet Law] (Moscow, Legal Publishing House of the People's Commissariat for Justice of the U.S.S.R., 1941), p. 12.

[2] *Op. cit.*, p. 49.

[3] *Izvestia*, 28 Mar. 1953.

[4] *Op. cit.*, p. 52.

increased protection for the private property of citizens is stressed by M. A. Cheltsov in his book published in Moscow in 1951.[1]

Addition to Paragraph 119.

Several recent Soviet publications [2] confirm that the principle of analogy is still applicable, but state that it may be invoked only in exceptional cases and subject to certain specific limiting conditions. These are defined by Menshagin and Vyshinskaya as follows : (1) the act to which any penal law is applicable by analogy must constitute a danger to society ; (2) the act must not be directly envisaged by the penal law ; (3) the act must be qualified exclusively according to the penal law envisaging the act most similar to it in character ; and (4) there can be no qualification by analogy if the law envisages a crime which is limited by any specifically indicated feature.[3]

In a footnote, Cheltsov explains—

It should be observed that, up to now, the question of the application of analogy has frequently been incorrectly settled by the courts. The Supreme Court of the U.S.S.R. has repeatedly explained that " analogy is not applicable when the Penal Code contains a specific article envisaging the crime which constitutes the charge "....

A directive from the Plenum of the Supreme Court of the U.S.S.R. dated 29 November 1946 states that " ... analogy is inadmissible in respect of the subject of a crime, inasmuch as a law, in establishing a special subject, thereby excludes from its sphere of application all other persons not having the quality of that special subject "....

Frequently the errors of a court in the legal assessment of an act are the result of an erroneous definition of the object and objective aspect of the crime. The Plenum of the Supreme Court of the U.S.S.R. has indicated that " actions shall not unjustifiably be qualified as hooliganism when they are crimes envisaged in other Articles of the Penal Code. The infliction of beatings, serious or slight bodily injuries, insults, etc., must be qualified according to the appropriate Articles of the Chapter in the Penal Code which covers crimes against life, health, liberty and personal dignity ... " (Directive of the Plenum of the Supreme Court of the U.S.S.R. dated 29 April 1939)....[4]

Cheltsov studies the problem of analogy in combination with that of the interpretation of criminal law in general, stating—

This is the most serious part of the application of the law. It goes beyond any narrow legal confines. Interpreting the law is not only a legal but also a political activity. Lenin once stressed " ... we do not recognise non-class courts. We have to have elected, proletarian courts, and the courts must know what we permit. " The publication of the Penal Code facilitated, but did not eliminate, the work of interpreting the law. The application of analogy and the conclusion that the elements which constitute a crime are absent within the meaning of the note to Article 6 of the Penal Code require an attentive interpretation of the law. When a higher court draws attention to the fact that a court of first instance has committed a breach of Soviet penal policy in some particular case, it often means that the court has misinterpreted the law in question and so reached an incorrect decision on its application.

Judges must take their socialist sense of justice as a compass to direct them in their work of interpreting the law—whether restrictively or extensively—as well as of applying it by analogy. When considering the specific features of each case, and also the specific features both of time and place, judges must, in doubtful cases, ask them-

[1] *Op. cit.*, p. 69.

[2] M. A. CHELTSOV, *op. cit.*, pp. 355-357 ; V. D. MENSHAGIN and Z. A. VYSHINSKAYA, *op. cit.*, pp. 80-84 ; and *Teoriya Gosudarstva i Prava* [The Theory of the State and Law] (Moscow, State Publishing House for Literature on Law, 1949), pp. 429-431.

[3] *Op. cit.*, pp. 81-82.

[4] *Op. cit.*, p. 356.

selves every time the mental question—would the Soviet legislator, whose will the co... fulfils, have applied the law in question to the act concerned ?[1]

Addition to Paragraphs 124 and 125.

Several recent Soviet publications[2] confirm that penal law may not be retr... active, except where it establishes a lighter penalty for an offence, renders it n... longer punishable, or expressly makes a provision retroactive when institutin... or increasing punishment for an offence. As an example of this final possibility Menshagin and Vyshinskaya[3] quote an Ordinance issued on 21 November 19... by the Presidium of the Central Executive Committee of the U.S.S.R.[4], Artic... 1 of which qualifies and punishes as treason " the refusal of a citizen of th... U.S.S.R. who is an official of a State institution or undertaking of the U.S.S.R. operating abroad to return to the U.S.S.R. when the State authorities so suggest " Article 6 lays down that the Ordinance is retroactive.

Addition to Paragraph 126.

Menshagin and Vyshinskaya[5] comment at length on the factors which consti... tute a crime. These are four in number : the object of the crime (the thing o... person against which the act was perpetrated) ; the objective aspect of the crim... (the manner in which it was committed and the circumstances surrounding it... commission) ; the subject of the crime (the person who committed it) and th... subjective aspect of the crime (the state of mind of the person who committed it... which involves the problem of guilt or fault). In connection with the last of thes... four factors, the authors explain that a fault may result from criminal intent negligence or imprudence. They add—

> In socialist penal law, the person's fault is of particularly great importance f... his criminal liability in respect of any given act which constitutes a danger to socie... and of which he is the author ...
>
> In the absence of any fault (intent or negligence), the factors which constitute a crime are likewise absent, and the question of the criminal liability of the pers... committing the act which constitutes a danger to society also lapses automatically.[6]

Addition to Paragraph 129.

In his manual, Cheltsov states that the dividing line between judicial an... administrative work is clear in such matters as the institution and improvemen... of public or social services, which are the responsibility of the administrativ... authorities. He then continues—

> This dividing line is less distinct when the authorities of the Soviet administrati... impose a penalty for some transgression of the law on individual citizens. In such case... there are the following similarities between the work of the judicial and administrativ... authorities. Both apply a common legal precept to the individual factual cases f... which the legal precept makes provision. A measure taken against an offender by th... administrative authorities has the same nature of a limitation or withdrawal of speci...

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[1] *Op. cit.*, pp. 355-357.

[2] Cf. M. P. KAREVA and G. I. FEDKIN : *Osnovy Sovetskovo Gosudartstva i Prava* [The Principles of t... Soviet State and Law] (Moscow, State Publishing House for Literature on Law, 1952), pp. 102-10... V. D. MENSHAGIN and Z. A. VYSHINSKAYA, *op. cit.*, pp. 60-61 ; *The Theory of the State and Law*, op. c... pp. 417-419 ; and *Osnovy Sovetskovo Gosudarstva i Prava* [The Principles of the Soviet State and L... (Moscow, Legal Publishing House of the Ministry of Justice of the U.S.S.R., 1947), p. 517.

[3] *Op. cit.*, p. 60.

[4] *Collection of Laws of the U.S.S.R.*, 1929, No. 76, Article 732.

[5] *Op. cit.*, pp. 92-120.

[6] *Ibid.*, pp. 104-105.

legal benefits as a punishment inflicted by a court—a fine, corrective labour or expulsion.[1]

Addition to Paragraph 130.

That the Act of 16 August 1938 is still in force is confirmed by Cheltsov's frequent references to it.[2]

Addition to Paragraph 131.

In his book, *The Theory of Judicial Proof in Soviet Law*, Vyshinski gives the following description of the role of Soviet courts :

> Being absolutely independent, objective and impartial in its attitude to facts, phenomena and events and being subject only to the law, a Soviet court also serves to give publicity to a new law and a new socialist sense of justice ... Soviet courts actively participate in the construction of the State and implement its policy. This policy aims at eliminating the opposition to the cause of socialism of those who are its enemies and at consolidating the dictatorship of the proletariat, the power of the Soviets, respect for the rules of Soviet communal life and State discipline.[3]

Similar ideas recur in very recent Soviet publications. Cheltsov, for example, writes—

> Socialist justice is a State activity which is performed by Soviet courts on the basis of socialist democracy, is intended to defend the foundations of the Soviet régime and legal order and to educate citizens in a spirit of devotion to their country and the cause of socialism, consists in applying socialist law to individual factual relationships, and takes the form of an investigation into cases with the participation of the persons interested.
>
> ... the prime duty of a Soviet court is to lend active assistance to socialist construction by combating the remnants of the exploiting classes which have been shattered by the socialist revolution and which attempt to recover their lost power and harm the construction of socialism in every way.
>
> In accomplishing this task, the Soviet courts, at every stage of socialist construction, have punished the enemies of the Soviet régime—the conspirators, terrorists and diversionists, the saboteurs and other criminals who undermine the foundations of the socialist legal order ...
>
> The Soviet court, which consists of independent judges subject only to the law in their judicial work, is a powerful organ of authority of the socialist State, severely punishing the enemies of the Soviet people, plunderers of socialist property and other criminals, and at the same time educating Soviet citizens in all it does.[4]

Addition to Paragraph 135.

Discussing the provisions empowering military courts to deal with cases involving treason, espionage, terrorism, diversionary activities and other similar offences, several Soviet authors[5] state that these provisions are even applicable in peacetime and operate irrespective of the status of the person committing the offence.

On the subject of procedure, Cheltsov observes that, in cases which military

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[1] *Op. cit.*, p. 11.
[2] *Ibid.*, *passim*.
[3] *Op. cit.*, p. 14.
[4] *Op. cit.*, pp. 9-10. See also D. S. KAREV : *Sovetskoe Sudoustroistvo* [The Soviet Judicial System] (Moscow, State Publishing House for Literature on Law, 1951), pp. 12 *et seq.*
[5] S. A. GOLUNSKI and D. S. KAREV, *Sudoustroistvo S.S.S.R* [The Judicial System of the U.S.S.R.] (Moscow, Legal Publishing House of the Ministry of Justice of the U.S.S.R., 1946), p. 138; D. S. KAREV, *op. cit.*, p. 126 ; and M. P. KAREVA and G. I. FEDKIN, *op. cit.*, p. 197.

courts are competent to hear and which involve crimes committed by pers... other than members of the Armed Forces, the investigation has no special featu... and is subject to the general rules laid down in the Code of Criminal Proce... of the Union Republic on whose territory the crime has been committed (Art... 19 of the Statute governing military courts and the military public prosecut... office).[1] He goes on to state that—

The task of military courts—that of ensuring the swift and pitiless repressi... traitors to the Soviet socialist motherland, spies, terrorists, and diversionists—in m... cases requires the judicial hearing to be accelerated and reduced in scope. How... only an observance of basic procedural principles (with the limitations imposed u... them by the background to the court and the circumstances of the case) can guaran... that accuracy of repression which is essential if the aims of justice are to be achiev...

The special camp courts referred to in the allegations[3] are the subject of t... following comments by Golunski and Karev :

In accordance with Article 102 of the Constitution of the U.S.S.R., a Decree iss... on 30 December 1944 by the Presidium of the Supreme Soviet of the U.S.S.R. se... special camp courts to consider cases involving crimes committed in the correcti... labour camps and colonies of the Ministry of Internal Affairs.

The competence of the special camp courts includes all cases involving cri... committed in the corrective labour camps and colonies of the Ministry of Inter... Affairs, with the exception of cases involving crimes committed by persons with milit... rank working for the Ministry of Internal Affairs. . . .

The people's jurymen of regional, territorial and supreme courts must be ca... in for the judicial sessions of the special camp courts.[4]

The same authors note that the Supreme Court of the U.S.S.R. acts as t... court of second instance for cases considered by special courts, including ca... courts. It also has a " judicial chamber for camp court cases ". This, it is stat... considers appeals and challenges against the sentences and rulings of camp cour...

Addition to Paragraph 136.

In his recent manual, Cheltsov stresses the principle that—

A fundamental guarantee in Soviet criminal procedure is the high purpose it h... been assigned—that of serving the aims of socialist justice, which is one of the migh... weapons of the Soviet State in the education of the communist mind. The workers ... Soviet justice cannot have any tendency to condemn the innocent, apply unnecessa... measures of constraint or impose excessively severe punishments—all that in the han... of bourgeois judges and investigating officers constitutes a means of racial, nation... and class discrimination.[6]

Addition to Paragraph 141.

In connection with the position of the accused, Cheltsov quotes a directive from the Plenum of the Supreme Court of the U.S.S.R., which states—

An accused shall be considered innocent until his guilt is proved in the manne... provided for by law.[7]

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[1] *Op. cit.*, p. 411.
[2] *Ibid.*, pp. 414-415.
[3] See Part I, paragraph 20 (2).
[4] *Op. cit.*, p. 119.
[5] *Ibid.*, pp. 120-121.
[6] *Op. cit.*, p. 14.
[7] *Ibid.*, p. 147.

Discussing the role of a defending counsel in Soviet procedure, Cheltsov states that the defence has the same public and legal functions as the prosecution. He then observes that—

A Soviet defending counsel is not a representative of the accused, who does as the accused desires ; he is a member of the social organisation, whose function is to defend the legitimate interests of the accused.[1]

In a later passage, he observes—

In Soviet criminal procedure, an accused is never left without defence, even if, at certain stages of the trial, he cannot avail himself of the services of the special person empowered to perform the functions of the defence, *i.e.*, the defending counsel.[2]

According to Cheltsov, a defending counsel may be either chosen by, or appointed for, a defendant. He quotes Articles 54 and 55 of the Code of Criminal Procedure and the practice of the Supreme Court of the U.S.S.R. as justification for the latter practice.[3]

Discussing the duties of defending counsels, Cheltsov quotes a passage from a book by A. Ya. Vyshinski which reads—

The first requirement of a defending counsel is a high sense of political responsibility, superior political qualifications, an excellent training, good schooling, social discipline... an ability to defend his point of view and fearlessly give battle for his beliefs, not in the interests of his client but in the interests of socialist construction and the interests of our State.[4]

Cheltsov then observes—

It must be strongly emphasised that a defence is admitted in order to elucidate the truth more fully and must consequently never conflict with this basic purpose of the trial.[5]

Addition to Paragraph 143.

A book published in Moscow in 1952[6] states that the executive committees of regional (territorial), district and city Soviets can impose various penalties, including corrective labour up to a maximum of 30 days ; the executive committees of village Soviets can also impose corrective labour up to a maximum of five days.

Addition to Paragraph 151.

A recent book by A. E. Pasherstnik contains several comments on these restrictions on the freedom of employment. He states that " together with the right to work, one of the basic and determinant factors in the institution and development of employment relationships is the fulfilment by citizens of another most important constitutional principle of the Soviet State—the duty to work ".[7] In this connection, he recalls the principles enunciated in the Constitution of the U.S.S.R. : " He who does not work, neither shall he eat " and " From each according to his ability, to each according to his work ".

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[1] *Ibid.*, pp. 30-31.
[2] *Ibid.*, p. 107.
[3] *Op. cit.*, pp. 112-113.
[4] A. Ya. Vyshinski : *Revolyutsionnaya Zakonnost i Zadachi Sovetskoi Zashchity* [Revolutionary Legality and the Tasks of the Soviet Defence] (Moscow, 1934), p. 38.
[5] *Op. cit.*, p. 115.
[6] M. P. Kareva and G. I. Fedkin, *op. cit.*, p. 243.
[7] A. E. Pasherstnik : *Pravo na Trud* [The Right to Work] (Moscow, Publishing House of the Academy of Sciences of the U.S.S.R., 1951), p. 163.

Addition to Paragraphs 153-156.

Kareva and Fedkin, in their book published in Moscow in 1952, include the Decree of 2 October 1940 in a number of legal texts which they quote as being still valid in the Soviet Union.[1]

Pasherstnik comments in some detail on this Decree and on the way it is applied.

He refers to the inauguration of the State labour reserve system as " a measure of enormous importance for the national economy ".[2] In a later passage he states—

Recruits for the schools and training centres of the State labour reserve system are also found from among young people who have submitted applications. The rights and duties of conscripts also extend to those entering the schools and training centres on their own initiative....

Experience with the yearly levies for the trade training centres and factory schools has shown that Soviet youth has set great store by these educational establishments. In many cases, the number of applications for admission has been greater than the number of vacancies available. In 1951 the entire intake of the trade, railway and mining centres consisted of young people from the towns and country districts who had expressed a wish to be given training in these centres.[3]

Elsewhere he states—

Legally, the order directing a young specialist into employment is based on his prior consent, given on entering the educational establishment, since an entrant knows that when he graduates he will be liable to be compulsorily assigned to work. This was quite rightly pointed out by G. K. Moskalenko in his work *The Stalin Constitution and the Principles of Labour Legislation* (Moscow, 1947, page 7). G. K. Moskalenko is also right when he observes that conscription for the labour reserve schools and training centres in the last analysis presupposes the expressed readiness of the conscript, inasmuch as a levy for the trade training centres and factory schools is made with the help of guidance services and social influences (see *ibid.*, page 9).[4]

According to Pasherstnik, also, the system trained over one and a half million young workers in the war years alone, while in the first eight years of its existence over four and a half million workers passed out of its trade training centres and factory schools. He further states that, in 1948, one million young skilled workers finished their training in the trade and railway training centres and factory schools and were directed into employment in industry, transport and construction work, the corresponding figures for 1949 and 1950 being 723,000 and 494,000.

He then states—

The trade and railway training centres and factory schools come under the authority of the Ministry of Labour Reserves of the U.S.S.R.[5]

The Ministry of Labour Reserves of the U.S.S.R. supervises the use of manpower in industry, construction work and transport.

The local authorities of the Ministry of Labour Reserves are the republic, regional, territorial and urban labour reserve departments.[6]

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[1] *Op. cit.*, p. 388.
[2] *Op. cit.*, p. 130.
[3] *Ibid.*, p. 132.
[4] *Ibid.*, p. 176, footnote 1.
[5] The Ministry of Labour Reserves of the U.S.S.R. was set up by a Decree issued on 15 May 1940 by the Presidium of the Supreme Soviet of the U.S.S.R. and published in *Pravda* on 16 May 1940. Article 3 of this Decree makes the Ministry of Labour Reserves responsible for directing the registration, training and assignment of the labour reserves of the U.S.S.R.
[6] *Op. cit.*, p. 135.

Later, he states—

It must be particularly stressed that there is no specific time-limit for the employment relationships arising out of orders directing persons into employment on their graduation from higher or secondary special educational establishments or from the educational establishments of the State labour reserve system.... When the stipulated period has expired, the young specialists and workers continue working in their undertaking (construction site) or institution on the same footing as all other workers and employees. It would not be lawful for the administration of an undertaking or institution to dismiss a young specialist or worker solely because the period had elapsed ; nor would it be lawful for a young specialist or worker whose period of service had expired to leave his work without the consent of the administration. Neither party may terminate the employment relationship unless the general conditions laid down in the labour legislation governing workers and employees are fulfilled.[1]

Discussing the young specialists graduating from higher and secondary special educational establishments, Pasherstnik notes that the State provides for their training in accordance with the requirements of the national economy and that, on graduating, they are assigned to different economic sectors, departments and undertakings. He also quotes the following figures :

During the first post-war Five-Year Plan, the national economy of the U.S.S.R. was supplied with 652,000 specialists with a higher education and 1,278,000 with a secondary education. As compared with 1940, the number of specialists working in the national economy showed an increase of 84 per cent.
... in 1950, 1,298,000 persons were under training in the technical schools and other secondary special educational establishments of the U.S.S.R., as against 975,000 in 1940 ; in the higher educational establishments, there were 1,247,000 persons as compared with 812,000 in 1940.[2]

He also states that—

Young specialists are directed into employment on finishing their training in higher educational establishments and technical schools and, having been educated at State expense, are obliged to work for three years in specific places, as directed by the appropriate Ministry. It is strictly forbidden to use young specialists for work outside the special trade in which they have been trained in their educational establishment.[2]

Addition to Paragraph 158.

In his book [3], Pasherstnik quotes from an article which he wrote for the journal *Sovetskoe Gosudarstvo i Pravo* (The Soviet State and Law), 1946, Nos. 5-6, under the title " Some Questions of Soviet Labour Law ". The quotation reads—

It should not be forgotten that, in our legislation, mobilisation for agricultural work is not a permanent form of employment. It is conditioned by the war and by a transitional situation.

Addition to Paragraph 161.

A recent Soviet publication [4] notes that exceptions to the general rule that transfers must be made by agreement between the administration and the worker

[1] *Ibid.*, p. 217.
[2] *Ibid.*, p. 137.
[3] *Ibid.*, p. 221.
[4] N. G. ALEKSANDROV, *Sovetskoe Trudovoe Pravo* [Soviet Labour Legislation] (Moscow, State Publishing House for Literature on Law, 1949), pp. 135-140.

are permitted only in cases specifically provided for in law. The cases when a worker can be transferred to other work or to another undertaking, institution or locality, whether he agrees or not, are listed as (1) a temporary transfer to another job, when the exigencies of production so require ; (2) a temporary transfer to another job as a disciplinary penalty; (3) a temporary transfer to another job in the event of temporary incapacity for work ; (4) a transfer to another job as a result of pregnancy ; (5) a transfer to another permanent job in the same undertaking or institution ; (6) a transfer to a permanent job in another undertaking, institution or locality.

On the same subject, Pasherstnik writes—

> The redistribution of manpower is partly achieved by transfers from one undertaking or locality to another. As a rule, transfers are also made by agreement with the workers. Very limited recourse is had to compulsory transfers made on the basis of administrative orders.[1]

Addition to Paragraphs 162-163.

Books published in Moscow in 1950, 1951 and 1952 [2] confirm that the Decree of 26 June 1940 is still in force.

In an analysis of the termination of employment relationships under Article 4 of the Decree of 26 June 1940, Pasherstnik [3] quotes from a Ruling passed by the Plenum of the Supreme Court of the U.S.S.R. on 6 January 1944 and reproduced in *Sudebnaya Praktika Vekhovnovo Suda S.S.S.R.* [The Judicial Practice of the Supreme Court of the U.S.S.R.], 1944, No. III (IX). The quotation reads—

> [When] the director of an undertaking or institution is obliged to sanction the departure of a worker from the undertaking or institution (Article 4 of the Decree of 26 June 1940 and the special directives issued by the Government) but fails to meet this obligation, the worker shall be entitled under Articles 2 *(b)* and 21 *(b)* of the Act concerning the judicial system of the U.S.S.R. and of the Union and Autonomous Republics to demand the termination of the contract of employment through judicial channels by filing an appropriate claim. If the claim is met, the court shall issue a decision compelling the director of the undertaking or institution to release the claimant from his work within a stipulated time fixed by the court in accordance with the special circumstances of the case.

Pasherstnik goes on to state that—

> Where, however, the granting of permission for a worker or employee to leave an undertaking or institution is left to the discretion of the director of the undertaking or institution (Article 3, part 2 of the Decree issued by the Presidium of the Supreme Soviet of the U.S.S.R. on 26 June 1940), a worker is not entitled to demand the termination of his employment relationship through judicial channels but may appeal against the refusal of the administration to a higher authority through the intermediary of his superiors.[3]

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[1] *Op. cit.*, p. 174.

[2] V. D. MENSHAGIN and Z. A. VYSHINSKAYA, *op. cit.*, p. 52 ; A. E. PASHERSTNIK, *op. cit.*, pp. 53 and 215-216 ; and M. P. KAREVA and G. I. FEDKIN, *op. cit.*, pp. 92 and 388.

[3] *Op. cit.*, p. 53, footnote 1.

UNITED KINGDOM AND TERRITORIES ADMINISTERED BY THE UNITED KINGDOM

Summary of Allegations, of Replies to Allegations and of the Material Available to the Committee

UNITED KINGDOM

I. Allegations

1. In the course of debates in the Economic and Social Council, allegations were made concerning: *(a)* the labour of prisoners; *(b)* emergency measures compelling workers to change their place of work and to accept work in any part of the country.

2. The labour of prisoners was the subject of the following statements:

(1) The representative of the *U.S.S.R.*—

... In the United Kingdom there were many legal provisions governing the labour of prisoners, and imposing very severe conditions upon them. For instance, a law passed in 1822, and still in force, provided that the severity of sentences could be increased by hard labour. Other more recent laws extended the application of all forms of penitentiary labour; that was the case, for instance, with the provisions of the law applying to individuals who were a danger to the Crown.

... prison labour existed in many countries.

There were two ways of regarding such labour: as disciplinary, or as re-educative. In England, as in other countries, prison labour was regarded as a means of constraint. British jurisprudence showed a complete contempt for human dignity. The Law of 1913 provided not only for compulsory labour, but for a most abject form of it, comparable with the work of a galley-slave. Further, compulsory labour could be accompanied by corporal punishment inflicted in public.[1]

(2) The representative of *Poland*—

In Article 46, paragraph 4, of the relevant United Kingdom Prison Regulations, dated 15 June 1949, occurred the words: "The Governor shall enter the corporal punishment with the number of lashes or strokes inflicted ..."; and in paragraph 5 of that Article the words: "every instrument used for the infliction of corporal punishment shall be of a pattern approved by the Secretary of State". In Article 47: "Cellular confinement, corporal punishment or restrictions of diet shall in no case be awarded unless the Medical Officer has certified that the prisoner is in a fit condition". Thus, it appeared that, in the United Kingdom, prisoners were subjected to cellular confinement, corporal punishment, and restrictions of diet. In Article 56 of the same Regulations there were the words: "Every prisoner shall be required to engage in useful work for not more than ten hours a day, of which, so far as is practicable, at least eight hours shall be spent in associated or other work outside the cells, provided ...". In Article 57, the words: "Prisoners may receive payment for work in accordance with the rates approved by the Commission". ... Recently, the London *Daily Worker* had contained a report from one Sidney Brown, who had been confined in Brixton Prison, in London, for participating in an anti-war demonstration outside the United States Embassy...[2]

[1] United Nations, Economic and Social Council, 9th Session, 319th meeting: *Official Records*, pp. 517-518.

[2] *Ibid.*, 321st meeting: *Official Records*, pp. 548-549.

(3) The representative of the *U.S.S.R.*—

As regards prison conditions in the United Kingdom, he recalled that at the Ninth Session of the Council his delegation had cited a number of facts illustrating the inhuman conditions prevailing in the United Kingdom prisons in particular as regards corporal punishment. He gave further examples which showed that the situation had not improved.[1]

3. Emergency measures compelling persons to do certain work were the subject of the following statements:

(1) The representative of *Poland*—

... the laws of Czechoslovakia and Bulgaria cited by the United Kingdom representative in accusing those countries of using forced labour were very similar to the United Kingdom National Service Acts.[2]

(2) The representative of the *U.S.S.R.*—

... an Act passed on 6 October 1947 had deprived the British workers of all their rights. Under that Act male workers between 18 and 50 years of age, as well as unmarried women between 18 and 40 years of age, could be compelled to change their place of work. Unmarried workers might even be compelled to accept work in any part of the country, even though they had been trained for work of another kind. Violation of those provisions could be punished by fine or imprisonment.[3]

II. Replies to Allegations and to the Committee's Questionnaire

4. Answering the allegations on convict labour made by the representatives of the U.S.S.R. and Poland, the representative of the *United Kingdom* made the following statement:

The U.K. published each year a report by the Prisons Commission, which gave detailed information of the number of persons detained, the offences they had committed, etc.[4]

5. Replying to the statements made by the Polish representative on emergency measures, the representative of the *United Kingdom*—

... [explained] certain aspects of the National Service Act of the United Kingdom and stated that since the war direction of labour had been applied in his country in only 29 cases.[5]

6. In its reply to the Committee's questionnaire[6] the United Kingdom Government states—

I. *Punitive, Educational or Corrective Labour*

The answer to questions *(a)* and *(b)* of Part I is "No" in each case. The supplementary questions in Part I do not therefore arise. The following notes explain the position in the United Kingdom ...

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[1] United Nations, Economic and Social Council, 12th Session, 475th meeting: *Official Records*, paragraph 6.
[2] *Idem*, 8th Session, 244th meeting: *Official Records*, p. 172.
[3] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraph 18.
[4] *Idem*, 9th Session, 322nd meeting: *Official Records*, p. 567.
[5] *Idem*, 8th Session, 362nd meeting: *Official Records*, p. 459.
[6] United Nations document E/AC.36/11/Add.10.

In the United Kingdom there is no separate category of " offences against the established constitutional or political order ". The few offences that could be so described are offences against the ordinary criminal law, tried under the same procedure and subject to the same range of penalties as any other criminal offences (except that for the offence of high treason, the only sentence that can be passed is death).

Persons can be convicted of such offences only by a properly constituted court of competent authority and, if sentences involve the carrying out of labour, the type of labour imposed differs in no way from that required of persons convicted of other offences against the criminal law. Prison labour is supervised by the officers of prisons or equivalent departments, and carried out in the manner prescribed by statutory prison rules applying to all convicted persons, which cover hours of work, days of rest, care, health arrangements, and (in some cases) earnings schemes. There is no provision for the performance of special labour designed to " correct " the political views of persons convicted of " offences against the established constitutional or political order ". Prison labour as a whole (of which only a negligible part is at any time constituted by persons convicted of such offences) is of no importance to the economy of the country. Where, however, the offence is one of sedition, seditious libel or seditious conspiracy, the offender cannot be required to work, though he may do so within his own consent, and if he does not do so is not eligible to earn remission. [A copy of the statutory Prison Rules was transmitted by the United Kingdom.]

II. *Other Cases of Compulsion to Work*

There is no system of forced labour in the United Kingdom. In support of this statement, the following information is submitted to assist the Committee to understand the position in the United Kingdom.

Question (a).

The only circumstances (other than those discussed under Part I above) in which an individual may be required to undertake specific work, in the United Kingdom, are those in which a man who chooses to object on the grounds of conscience to performing compulsory military service under the National Service Acts, 1948-1950, is ordered by a tribunal to be registered as a conscientious objector conditionally on his performing work specified by the tribunal. The position in regard to this is as follows :

(i) Any man who objects on the grounds of conscience to performing compulsory military service under the National Service Acts, 1948-1950, can apply, for registration as a conscientious objector, to a local tribunal and subsequently to an appellate tribunal if he wishes to appeal against the decision of the local tribunal (National Service Act, 1948, Section 17 (1)-(4)).

(ii) If the tribunal is satisfied that the applicant is genuinely a conscientious objector, it may order that he shall be registered as such unconditionally, *or* on the condition that he will undertake work specified by the tribunal, of a civilian character and under civilian control, for a period corresponding to the period of service which is required of conscripted men in the Armed Forces, *or* that he shall be called up for service in the Forces but to be employed only in non-combatant duties (National Service Act, 1948, Section 17 (6), as amended by the National Service (Amendment) Act, 1948, and the National Service Act, 1950) [copies of which were attached to the United Kingdom reply].

(iii) When the tribunal orders the applicant to be registered on the condition that he does some work of a civilian character, the order of the tribunal generally includes alternative forms of work, as, for example, " full-time forestry work, or work on the land under an approved public authority, or full-time hospital work as an orderly or stretcher-bearer or stoker ". The wages and other conditions of work are those recognised for the particular occupation in the district.

(iv) As regards implementation, if a conditionally registered conscientious objector fails to comply with the order of a tribunal he can be prosecuted under Section

19 (5) of the National Service Act, 1948. The number of such prosecutions is very small.

(v) On an average, approximately three hundred conscientious objectors are registered as such each year on condition that they undertake civilian work as above.

(vi) The National Service Acts apply only in Great Britain. They do not apply in Northern Ireland or in British territories overseas.

Question (b).

No.

Question (c).

No, except to the extent that, under the Aliens Order (1920), aliens admitted to the country may be admitted on condition that they do not take employment other than that specified by the authorities, without the permission of the latter. In other words, if an alien admitted on such a condition leaves the employment for which he was admitted, he requires the permission of the Ministry of Labour and National Service to take another employment. In certain cases the alien is admitted for a limited period to take specified employment on the express condition that he will not leave the employment without the consent of the Ministry of Labour and National Service ; but he accepts employment in the United Kingdom, on these conditions, of his own free choice, and not by compulsion.

These restrictions are imposed solely for the protection of the national labour market. The alien is of course free to leave the country when he pleases, and is permitted, not compelled, to take employment in the United Kingdom.

The wages and conditions of employment of aliens admitted to work in the United Kingdom are the same as those of British workers, that is to say, the recognised terms and conditions for the occupation and district concerned.

It is also to be observed that Regulation 58 A of the Defence (General) Regulations, 1939, empowers the Minister of Labour and National Service (or a national service officer authorised by him) to direct any person in Great Britain to perform such services in the United Kingdom or in any British ship, not being a Dominion ship, as may be specified in the direction, being services which that person is in the opinion of the Minister (or National Service Officer) capable of performing. The Regulation further empowers the Minister to make provision by Order for securing that persons employed in an undertaking engaged on essential work continue to give their services in that undertaking. The Regulation can only be used for the purposes specified in the Emergency Powers (Defence) Act, 1939, the Supplies and Services (Transitional Powers) Act, 1945, the Supplies and Services (Extended Purposes) Act, 1947 and the Supplies and Services (Defence Purposes) Act, 1951, that is to say, for securing certain vital requirements of the country during the period of post-war economic readjustment. The power of issuing directions under this Regulation has not, however, been exercised since 1945 and for some time before that it was exercised only sparingly. Every person to whom a direction was issued was given an opportunity to appeal to a local appeal board ; moreover, an Order made by the Minister under Regulation 58 A provided machinery whereby a person performing services in pursuance of a direction, or the employer of such a person, could apply to a National Service Officer for the withdrawal of the direction and there was a right of appeal to a local appeal board against the National Service Officer's decision. The last of the Essential Work Orders made under the Regulation was revoked in April 1949. The powers of direction would not again be used except possibly in the event of an immediate attack upon this country being apprehended.

Regulation 58 A provides that services required by a direction given under it shall be on such terms as to remuneration and conditions of service as the Minister or Officer may, in accordance with the Regulation, direct, provided that in determining the terms of employment regard shall be had to the usual recognised rates for the occupation and the district concerned. In fact, when the power of direction was used, the terms and conditions on which the work was to be performed were invariably not less

the recognised terms and conditions enjoyed by other workers employed on the same work in the locality.

Unless previously revoked this Regulation remains in force until 10 December 1952. Any further extension of its currency will require the prior approval of Parliament.

III. Material Available to the Committee

7. In addition to the reply of the United Kingdom quoted above, the Committee examined the legal texts cited therein. They cover the legal aspects of the allegations summarised above, with the exception of the Laws of 1822 and 1913 referred to by the representative of the U.S.S.R.[1]

8. With regard to the Law of 1822 the Committee examined the Act of 30 July 1948 abolishing penal servitude, hard labour and the sentence of whipping, and thereby repealing the former law.

9. In connection with the reference to " the Law of 1913 " the Committee examined " The Statutes ", third revised edition, volume XV (covering the year 1913) which include an Act of 15 August 1913 punishing forgery and kindred offences with penal servitude. Penal servitude was however abolished by the above-mentioned Act of 30 July 1948.

10. The Committee also examined the report of the Commissioner of Prisons for the year 1949.[2]

BECHUANALAND

I. Allegation

1. In the course of debates in the Economic and Social Council, an allegation was made with regard to Bechuanaland by the representative of the *World Federation of Trade Unions*. His statement reads—

... The mass recruitment organised in the whole of British Central Africa in order to supply labour for African mines was another barely disguised form of forced labour. Such recruitment was organised by tribal chiefs under the control of colonial officials. The chiefs were replaced or dismissed if they refused to carry out such duties, as was more and more frequently the case. The United Kingdom Government's report to the United Nations on Bechuanaland was conclusive in that respect : virtually the sole purpose of the Territory seemed to be to supply an annual contingent of 9,000 to 10,000 workers for the South African mines. Social legislation was practically non-existent, the state of health of the workers was poor and their working conditions were governed by the laws in force in the Union of South Africa.[3]

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[1] See above, paragraph 2 (1).

[2] United Kingdom, Home Office : *Report of the Commissioner of Prisons for the Year 1949* (London, 1950).

[3] United Nations, Economic and Social Council, 10th Session, 365th meeting : *Official Records*, paragraph 94.

II. Material Available to the Committee

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

3. The representative's reference was apparently to the following passage:

> The number of migratory labourers entering the Territory is negligible. Between 9,000 and 10,000 leave the Territory each year for employment in the mines in the Union of South Africa. This form of employment is regulated by the Bechuanaland Protectorate Native Labour Proclamation, 1941, which provides for the registration of labour recruiters, the conditions of registration, the maximum numbers to be recruited, the entering into a written contract with each employee specifying the condition of employment, the wages, the nature of the work, the period of the contract and the conditions of repatriation and the medical examination of recruits.
>
> The conditions under which these employees work are governed by the laws in force in the Union of South Africa. All receive free food, housing and medical attention.[1]

4. Although the international labour Convention No. 50 concerning the regulation of certain special systems of recruiting workers has not been made applicable in Bechuanaland, the recruitment of indigenous workers in the territory is regulated by provisions very similar to those of the Convention, published in the Native Labour Proclamation, 1941[2], which also governs the contracts of employment of indigenous manual workers. It defines recruitment in the same terms as Convention No. 50 (Article 3) and, essentially, provides workers with the guarantees required by the Convention. It prohibits public officers from taking any part, whether directly or indirectly, in recruiting operations for private undertakings, subjects recruitment to a licence issued by the public authorities, fixes the conditions applicable to such licences and prohibits disloyal recruiting practices. It requires contracts of employment to be concluded in writing for a maximum of one year, to contain certain specified particulars and be signed in the presence of a public officer. It further provides for a compulsory medical examination and regulates the transport and repatriation of the workers hired.

5. According to the report submitted to the I.L.O. by the United Kingdom Government on the application of Convention No. 50 for the period 1950-1951, the courts have not been called upon to deal with any contravention of this Proclamation, which is regularly enforced.[3]

6. According to the representative of the W.F.T.U., virtually the sole purpose of the territory is to supply labour for South African mines. The indigenous population numbered 290,000 according to the census taken in 1946 and the number of persons emigrating to South Africa in 1949 was 17,000, of whom four-fifths were working in the mines.[4]

7. Apart from persons emigrating in this way, the number of wage earners in Bechuanaland is very small, about 90 per cent. of the indigenous population being engaged in stock-raising.[4]

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[1] United Nations: *Non-Self-Governing Territories. Summaries and Analyses of Information Transmitted to the Secretary-General during 1948* (Lake Success, New York, 1949), p. 185.

[2] *The Laws of the Bechuanaland Protectorate*, revised edition (London, 1949). Vol. I, pp. 417-423.

[3] International Labour Conference, 34th Session, Geneva, 1951: *Summary of Reports on Ratified Conventions* (Geneva, 1951), p. 259. The report for the period 1 July 1951 to 30 June 1952 states that there have been no changes since the previous report.

[4] United Kingdom, Commonwealth Relations Office: *Annual Report of the Bechuanaland Protectorate for the Year 1949* (London), p. 4.

CAMEROONS

I. Allegations

1. In the course of debates in the Economic and Social Council, allegations were made concerning *(a)* forced labour for failure to pay taxes and *(b)* compulsory porterage.

2. These allegations appear in the following statements to the Council :

(1) The representative of *Poland*—

At the 1949 Session of the Trusteeship Council, when the part of the Cameroons under British administration had been under discussion, the representative of Costa Rica had asked whether the Natives were not subject to forced labour for tax evasion, since for that offence they could be sentenced to one year's imprisonment, during which time they were made to work. The United Kingdom representative had replied that those Natives were not subjected to forced labour. However, the work they did while in prison was not in any way counted against the taxes, for the non-payment of which they had been sentenced.[1]

(2) The representative of the *U.S.S.R.*—

In the first place, many forms of forced labour, properly so-called, existed there [in the colonies and non-self-governing territories administered by the United Kingdom] and were used for intensifying the exploitation to which the Native population was subjected. Thus, in Tanganyika under British administration, any African could be employed for forced labour if he had not paid his taxes. Men between 18 and 45 years of age could be subjected by decree to forced labour. Forced labour also existed in the Cameroons under British administration. The authorities were entitled in particular to conscript the Natives for work as porters.[2]

II. Material Available to the Committee

3. The Committee has not received any material with a bearing on these allegations from any Government, non-governmental organisation or private individual.

The information which appears below has been extracted from the documents gathered and examined by the Committee.

Forced Labour for Failure to Pay Taxes

*4. In its report to the General Assembly of the United Nations on the administration of the Cameroons for the year 1950[3], the Government of the United Kingdom states that Native taxes are collected in cash and cannot be paid in kind or commuted for labour or other types of service. It does, however, recognise that any person who, without lawful justification or excuse, refuses or neglects to pay

[1] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 551.

[2] *Idem*, 12th Session, 469th meeting : *Official Records*, paragraph 20.

[3] United Kingdom, Colonial Office : *Report ... to the General Assembly of the United Nations on the Administration of the Cameroons under United Kingdom Trusteeship for the Year 1950* (London, 1951), paragraphs 284 and 285.

any tax payable by him is liable to a fine of £100 or to imprisonment for one y... or both. The very great majority of prosecutions for tax offences are tried in ... Native courts. The report gives details as to the number of persons sentenc... recent years—

... In 1949 and 1950 there were no prosecutions for refusal or neglect to pay ... in those areas of the territory administered with the Benue Province or in Dikwa ... sion. In Adamawa there were nine prosecutions in 1948, two in 1949 and four in ... Fines up to 10s. were imposed. In 1949, in the Cameroons Province 122 persons ... prosecuted, and 186 in Bamenda. Fines ranged between 1s. and £5 and periods of ... prisonment from one week to three months. The 1950 figures are not yet avail...

5. According to the document quoted by the Polish representative[1], ... system was criticised by the representative of Costa Rica, who pointed to ... severity of the punishments and to the fact that, since imprisonment was con... with forced labour, tax defaulters were in practice made to work while still remai... liable for their taxes.

6. To this, the representative of the United Kingdom answered, first ... the penalties prescribed by law were maximum sentences, the usual penalty b... a 5s. fine or seven days' imprisonment[2], and secondly, that from the legal p... of view, the sentences were simply penalties for the offence of refusing to obey ... law and were not in any sense compensatory and could not be regarded as paym... in kind.[3]

Porterage and Other Forms of Compulsory Labour

7. In its report to the General Assembly of the United Nations on the ad... nistration of the Cameroons in 1951[4], the Government of the United King... summarises its legislation on compulsory labour in the following terms :

Law regarding compulsory labour. Under Part III of Chapter VI of the Lab... Code Ordinance, as amended by Amendment Ordinance No. 34 of 1950, relating ... the exaction of labour which is not forced labour within the meaning of the For... Labour Convention, 1930, it is lawful for any Native authority or such authority ... may be prescribed to require the inhabitants of any town or village subject to its jur... diction to provide labour for any of the following purposes :

Labour for—

(i) the construction and maintenance of buildings used for communal purp... including markets, but excluding juju houses, and places of worship ;

(ii) sanitary measures ;

(iii) the construction and maintenance of local roads and paths ;

(iv) the construction and maintenance of town or village fences ; and

(v) the construction and maintenance of communal wells ;

(vi) other communal services of a similar kind in the direct interest of the inhab... tants of the town or village ;

Provided that—

(i) no such labour may be required unless the inhabitants of the town ... village or their direct representatives have been previously consulted ...

[1] United Nations document T/SR.133, p. 9 ; see also document T/247, pp. 12 and 13.
[2] United Nations document T/251, p. 14.
[3] United Nations document T/SR.133, p. 9.
[4] UNITED KINGDOM, Colonial Office : *Report ... for ... 1951* (London, 1952), paragraph 585.

the Native or other authority in regard to the need for the provision of the service proposed and a substantial majority of such inhabitants or their representatives have agreed ;

(ii) any person who does not wish to execute his share of any labour required under the provisions of this section may be excused therefrom on payment of such sum per day, while such labour is being done, as represents the current daily wages for labour.

Provision further exists for the Governor to exact labour from any persons in the event of war, famine, earthquake, violent epidemic or epizootic disease, invasion by animal, insect or vegetable pests, flood or fire, or in the event of any such calamity being threatened, or in any other circumstances that would endanger the existence or the well-being of the whole or part of the population of Nigeria.

GAMBIA

I. Allegation

1. In the course of debates in the Economic and Social Council, an allegation was made with regard to Gambia by the representative of *Poland*. His statement reads—

According to the International Labour Organisation there had recently been cases of forced labour in practically every non-self-governing territory. Even in the small colony of Gambia, whose total population amounted to only 210,000, 20,000 Natives had been subjected to forced labour in one year.[1]

II. Material Available to the Committee

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

3. In his statement, the Polish representative was probably referring to an I.L.O. publication in which the following passage appears :

The wage question and that of employment are closely connected. The dangers of extensive unemployment or underemployment are considerable. Two types of problem have already emerged. In the Gambia the population is predominantly peasant. Yet, of the 50,000 workers, some 20,000 have been working in war industries and much of the land has gone out of cultivation. Towards the end of 1942 it was decided to reduce the industrial labour force to 7,000.[2]

4. This text makes no reference to forced labour. There is no indication that the 20,000 persons working in the war industries were compelled to enter such employment. This mass recruitment of industrial workers has now ceased. According to the report by the British Colonial Office on the administration of Gambia for the year 1949 [3], the majority of the people are farmers and, out of about 6,500 employees in the various occupations, 1,700 manual workers and 150 clerical staff are in Government service.

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[1] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 551.

[2] International Labour Office : *Social Policy in Dependent Territories*, Studies and Reports, Series B (Economic Conditions), No. 38 (Montreal, 1944), p. 121.

[3] United Kingdom, Colonial Office : *Report on the Gambia for the Year 1949* (London, 1950), pp. 5 and 6.

5. The Forced Labour Ordinance, issued in 1934[1] prohibits and represses forced or compulsory labour in accordance with the Forced Labour Convention (No. 29), except in the event of war, famine, earthquake, violent epidemic or epizootic disease, invasion by animal, insect or vegetable pests, flood or fire, or in the event of any such calamity being threatened (Article 6), and subject to the right of the Native authorities to exact labour from the inhabitants of any village for the maintenance of Native buildings used for communal purposes, sanitary measures, the maintenance, improvement or clearing of local roads and paths (in which case, the sanction of the Governor is necessary), the repairing of village fences, the digging and construction of wells and the clearing and damming of creeks, provided that the inhabitants of the village or their direct representatives have been consulted (Article 7). In addition, Section 9, subsection *(o)* of the Native Authority Ordinance, No. 3 of 1933, gives Native authorities power to issue orders " requiring any Native to cultivate land to such extent and with such crops as will secure an adequate supply of food for the support of such Native and for those dependent upon him ".

6. The latest reports to the I.L.O. on the application of the Forced Labour Convention in Gambia[2] confirm that this legislation is in force and is respected.

GOLD COAST

I. Allegation

1. In the course of debates in the Economic and Social Council, an allegation was made with regard to the Gold Coast by the representative of *Poland*, as follows :

> According to the International Labour Organisation there had recently been cases of forced labour in practically every non-self-governing territory. ... Natives had been subject to compulsory labour in... the Gold Coast. ...[3]

II. Material Available to the Committee

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

The following information is derived from the material collected by the Committee.

3. Under the terms of Article 107 of the Labour Ordinance, 1948 (No. 16 of 1948), any recourse to forced or compulsory labour is prohibited and punished. Article 106, however, excludes from the concept of forced labour, and consequently from the prohibition, compulsory service in any branch of the Armed Forces, penal servitude as defined in Article 2 *(c)* of the international labour Convention No. 29, compulsory labour in the event of war or of a calamity such as fire, flood, famine, earthquake, epidemic or epizootic disease or invasion by animal or vegetable pests,

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[1] I.L.O. : *Legislative Series*, 1934—Gam. 1.

[2] International Labour Conference, 33rd Session, Geneva, 1950 : *Summary of Reports on Ratified Conventions* (Geneva, 1950), pp. 160-161 and *idem*, 34th Session, Geneva, 1951 : *Summary*... (Geneva, 1951), p. 233.

[3] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 551.

minor communal services performed as stipulated in Article 2 *(e)* of the international labour Convention No. 29, such as the maintenance of buildings used for communal purposes, sanitation, emergency measures for the prevention of disease or of the spread of disease, the maintenance and clearing of local roads and paths, the repairing of town or village fences, the digging or construction of wells and the provision and maintenance of local cemeteries.[1]

KENYA

I. Allegations

1. The allegations made with regard to Kenya in the Economic and Social Council were concerned with *(a)* compulsory labour in wartime, *(b)* conscription of voluntarily unemployed persons, and *(c)* conscription of labour in peacetime for industries of national importance.

2. These allegations appear in the following statements :

(1) The representative of the *U.S.S.R.*—

Mr. Tsarapkin [the representative of the U.S.S.R.] stated that during the war forced labour had been introduced in Nigeria, Kenya and Tanganyika, as was made clear in the report published in 1946 by the International Labour Organisation. In 1945, 18,865 persons had been subject to forced labour in Kenya and 39,000 in Tanganyika.[2]

(2) The representative of the *U.S.S.R.*—

In its report on the application of the Convention concerning forced or compulsory labour, adopted by the International Labour Organisation in 1930, the United Kingdom Government itself had recognised the existence of forced labour in Nigeria, Tanganyika, Kenya, Uganda, etc. Thus, in Kenya, an Act passed in 1949 aimed at regulating the employment of persons not working voluntarily. The Act provided for the compulsory registration of all ablo-bodied men between the ages of 18 and 45. The persons registered could be made to work for any length of time. Violations of the Act were punishable by imprisonment.[3]

(3) The representative of the *World Federation of Trade Unions*—

In Kenya, for example, the Government was legally entitled to conscript workers even in peacetime. During the Second World War there had been a law prohibiting compulsory labour in the service of individuals, but that law had been evaded on the pretext that forced labour could be used in industries of national importance. Under the law published in the *Official Gazette* in January 1950, the Government was entitled to decide even in time of peace which industries were of national importance and therefore had the right to use forced labour. Thus it was obvious that only domestic servants could escape conscription into forced labour. There was no possibility for appeal against measures taken under that law and no provision making it essential to pay any wage. Moreover, there was not even any provision for the support of the families of those who were conscripted into forced labour.[4]

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[1] *Annual Volume of the Laws of the Gold Coast Containing all Legislation enacted during the Year 1948* (Accra, 1949), pp. 91-92.

[2] United Nations, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 109.

[3] *Idem*, 12th Session, 469th meeting : *Official Records*, paragraph 27.

[4] *Ibid.*, 470th meeting : *Official Records*, paragraph 28.

II. Reply by the Representative of the United Kingdom to the Economic and Social Council

3. The *United Kingdom* representative replied to the Council as follows:

A number of charges had been made against the United Kingdom on the basis of documents and statements which had been correctly quoted. While he disagreed radically with the interpretation which the U.S.S.R. representative had placed on them, it was the right of every Council member to refer to any document so long as he quoted it faithfully. The W.F.T.U. representative's charges, on the other hand, were totally inadmissible as they were based on a deliberate misrepresentation of existing texts, as for example, in the case of the Kenya law on voluntary unemployment. If the representative's accusations against the other countries were as unreliable as those which he had made against the United Kingdom, they were utterly unworthy of comment.[1]

III. Material Available to the Committee

4. The Committee has not received any material with a bearing on these allegations from any Government, non-governmental organisation or private individual. The information which appears below has been extracted from the documents assembled by the Committee.

Compulsory Labour in Wartime

5. The I.L.O. report to which the representative of the U.S.S.R. referred is probably the publication entitled *Proposed International Labour Obligations in respect of Non-Self-Governing Territories*, in which the following passage appears:

The most precise statement regarding the liquidation of war emergency forced labour emanates from the British Government. During the war forced labour for private employers was authorised for certain purposes in Nigeria, Kenya and Tanganyika, while in Northern Rhodesia a conscript labour force under Government control was made available to farmers. The forced labour used on the Nigerian tin mines has already been abolished. It has now been decided that in the other territories no further men will be compulsorily recruited for private employment after 31 December 1945. Forced workers actually on contract will be required to complete their contract periods, but the whole system will be liquidated not later than 30 September 1946.[2]

This passage ends with a footnote which reads " On 30 September 1945 the number of forced workers in employment in Kenya was 18,765, and in Tanganyika 29,450 ".

Conscription of Voluntarily Unemployed Persons

6. The Voluntarily Unemployed Persons (Provision of Employment) Ordinance, 1949[3] which entered into force on 1 January 1950, introduced the following placement system for voluntarily unemployed persons. Within seven days, a

[1] United Nations, Economic and Social Council, 12th Session, 474th meeting: *Official Records*, paragraph 33.

[2] International Labour Conference, 29th Session, 1946, Report IV (1): *Proposed International Labour Obligations in respect of Non-Self-Governing Territories* ... (Montreal, I.L.O., 1946), p. 16.

[3] I.L.O.: *Legislative Series*, 1949—Ken. 1.

unemployed persons not in possession of a certificate of exemption have to report to a labour exchange (Article 6), which has to offer them suitable employment or provide them with a certificate setting out the date on which they must report again. Anyone who is regarded as a voluntarily unemployed person [1] and refuses to accept an offer of employment is ordered to report to a labour exchange committee (Article 7). If he fails to do so, he is liable to arrest without a warrant (Article 8). If he cannot produce sufficient evidence in support of his exemption (Articles 11 and 12), the committee may declare him to be a voluntarily unemployed person (Article 13). It may then permit him to engage in any employment it approves, direct him to enter into a written contract of service for any period not exceeding six months in any paid national employment, direct him to a rehabilitation or training centre or, in certain circumstances, direct him to be repatriated to his regular place of residence and order him to remain outside the area in respect of which the committee has jurisdiction or any other area to which the provisions of the Ordinance are applied (Article 14). Anyone declared by the committee to be a voluntarily unemployed person or directed by it to enter into a contract of service, may appeal against such a declaration or direction to a first-class magistrate (Article 16). Persons guilty of an offence against this Ordinance are liable to the maximum penalties of three months' imprisonment with or without hard labour or a 500s. fine, or both. For second or subsequent offences, such persons are liable to the maximum penalties of 12 months' imprisonment or a 2,000s. fine, or both (Article 20).

7. In its report on the Colony and Protectorate of Kenya for the year 1949, the British Colonial Office makes reference to this Ordinance, briefly summarising it, but without indicating its objectives or the reasons for its introduction.[2]

* 8. On the other hand, the annual report for 1950 by the African Affairs Department of the Colony and Protectorate of Kenya gives the following information on the initial application of the Ordinance :

The Voluntarily Unemployed Persons (Provision of Employment) Ordinance, 1949, was applied to Nairobi on 15 January, but did not come into full operation until March. Meetings of the Committee for Africans were held regularly twice a week and 1,382 Africans were either registered as voluntarily unemployed persons or arrested by the police and taken before the committee. Of this number, 379 obtained employment for themselves, 441 failed to comply with their reporting orders, 321 were either repatriated or permitted to return to their Reserves, 97 were found not to be voluntarily unemployed and only nine were directed into employment.

The Provincial Commissioner comments—

> The Ordinance is expensive in operation but has operated effectively and without causing much antagonism. The work of the labour exchange committee in particular has been carried out with firmness but sympathy and understanding, and the man genuinely wanting work had nothing of which to be afraid provided he could satisfy the committee that he had somewhere to live and something to live on.
>
> The close proximity of the Kikuyu Reserve to some extent vitiated the value of the Ordinance as a means of keeping undesirables out of the city. Many of the known " bad hats " take good care to keep at least one foot firmly in the Re-

[1] Defined in the Ordinance as one who does not genuinely seek employment when he has no regular employment, or no lawful and regular means of livelihood other than an income derived from his employment or no lawful and regular income sufficient for his livelihood (Article 2).

[2] UNITED KINGDOM, Colonial Office : *Report on the Colony and Protectorate of Kenya for the Year 1949* (London, 1950), p. 76.

serve, so that they cannot be caught for having been seven days in the city without employment.[1]

The Ordinance was also applied to Mombasa in the latter part of the year, but it is too early yet to judge its effect.

Conscription of Labour in Peacetime for Industries of National Importance

9. In his statement on the subject, the representative of the W.F.T.U. referred to a law published in the *Kenya Official Gazette* in January 1950. No trace of such a law has been found either in the *Kenya Official Gazette* for January 1950 or in the Compendium of Ordinances enacted in Kenya in 1949 and 1950. The only legislative text of that period which may be connected with his statement is the Emergency Powers Ordinance, 1948 (No. 12 of 1948)[2], as amended on 8 February 1950 (Ordinance No. 5 of 1950).[3]

10. Article 2 of this Ordinance defines the circumstances in which a state of emergency may be proclaimed. Article 3 goes on to state that—

3 (1) Where a Proclamation of Emergency has been made, and so long as the Proclamation is in force, it shall be lawful for the Governor in Council to make Regulations for securing the public safety or interest and the essentials of life to the community, and such regulations may be applied to the whole or any part or parts of the colony in which a state of emergency has been declared to exist and may confer or impose on any person such powers and duties as the Governor in Council may deem necessary for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion and for any other purposes essential to the public safety and the life of the community, and may make such provisions incidental to the powers aforesaid as may appear to the Governor in Council to be required for making the exercise of those powers effective :

Provided that nothing in this Ordinance shall be construed to authorise the making of any Regulations imposing any form of compulsory military service or industrial conscription :

Provided further that no such Regulation shall make it an offence for any person or persons to take part in a strike, or peacefully to persuade any other person or persons to take part in a strike.

(2) Without prejudice to the generality of the foregoing power, such regulations may be made with regard to any of the matters coming within the classes of subjects hereinafter mentioned, that is to say—

.....

(g) requiring persons to do work or render services and remunerating such persons :

.....

11. Article 1 A is devoted to definitions, which include the following :

" essential service " means an essential service within the meaning of the Essential Services (Arbitration) Ordinance, 1950 [which lays down that the services to be regarded as essential are the water, electricity, health, hospital and sanitary services and the transport services necessary to the operation of all or any of these services][4] ;

" industrial conscription " means compulsory enrolment by name for work in industry.

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[1] COLONY AND PROTECTORATE OF KENYA, African Affairs Department : *Annual Report, 1950* (Nairobi, 1951), pp. 59-60.

[2] *Idem, Ordinances Enacted During the Year 1948* (Nairobi), pp. 41-43.

[3] *Ibid*, 1950, pp. 17-19.

[4] *Ibid.*, pp. 9 and 16.

12. In its report on the Colony and Protectorate of Kenya for the year 1950 (page 52), the British Colonial Office comments on the February 1950 amendment in the following terms :

The Emergency Powers Ordinance, 1948, was found to be defective in that it did not expressly provide for the powers conferred by it to be used on occasions of emergency or public danger, it did not permit the making of a proclamation of emergency applying to a part only of the Colony or permit emergency regulations to be applied only to a part of the Colony, it did not define " strike " or " industrial conscription " or differentiate strikes in essential services nor did it sufficiently indicate the subject in relation to which emergency regulations could be made. The Amending Ordinance remedies these defects and brings the legislation more into line with similar legislation elsewhere.[1]

FEDERATION OF MALAYA

I. Allegation

1. In the course of the debates in the Economic and Social Council, the following allegation was made with regard to this territory by the representative of the *World Federation of Trade Unions* :

... According to a Telepress Agency report of 7 July 1950, 15,000 political prisoners were carrying out forced labour in concentration camps.[2]

II. Material Available to the Committee

2. In its reply to the Committee's questionnaire[3], the United Kingdom Government stated that emergency powers had been taken in the Federation of Malaya and mentioned Regulation 22 of the Emergency (Detained Persons) Regulations, 1948. A copy of this Regulation was attached to the reply.

3. The Committee has also traced some information which may have some relation to the allegation mentioned under Part I above.

4. The United Kingdom Government's reply contains the following summary of the legislation applicable in the Federation of Malaya for the suppression of terrorist activities :

There is no provision in the laws of the overseas territories whereby a person who has not been alleged to have committed any offence may be detained in prisons or camps or otherwise restricted in movements and subjected to educational or reformatory labour.

Emergency powers have been taken in the Federation of Malaya, where a vigorous fight against militant communism is in progress, and a state of emergency has been declared in order to deal with a systematic campaign of murder and terrorism having as its aim the overthrow of the Government by force. Among the temporary powers that have been assumed in the interests of the public and of the security of the Federation are Regulations permitting the detention of persons against whom there is reasonable presumption of having aided, abetted or consorted with the terrorists. Provision is made under the Regulations for appeals against such detention to be heard by advisory

[1] United Kingdom, Colonial Office : *Report on the Colony and Protectorate of Kenya for the Year 1950* (London, 1951), p. 52.

[2] United Nations, Economic and Social Council, 12th Session, 470th meeting : *Official Records*, paragraph 30.

[3] United Nations document E/AC.36/11/Add.10.

committees under a judicial chairman. In the ordinary camps in which nearly all detainees are confined, inmates cannot be required to work other than camp chores. There is a special detention camp for a small number of detainees (at present about 30) who have repeatedly broken camp regulations or whose conduct is such that it is undesirable that they should continue to associate with ordinary detainees. The conditions under which inmates of this special detention camp may be required to work are laid down in Regulation 22 of the Emergency (Detained Persons) Regulations, 1948, copies of which are attached.

In addition, any detainee under the age of 17 may under the Regulations be sent for detention to one of the approved schools established under the ordinary reformatory system for juvenile offenders. In accordance with rules applying to all inmates of such schools, such a person may, if medically fit, be required to perform useful work, the object of which as indicated in the rules is to help him to earn his livelihood on discharge.

5. Regulation 22 of the Emergency (Detained Persons) Regulations, 1948, reads as follows:

22 (1) Every person detained in a special detention camp shall do such work not of a severe or irksome nature as he may be required to do by the Superintendent, provided that—

(a) the total hours of work shall not exceed eight in any one day; and

(b) no detained person shall be required to do any work (except such as may be necessary for keeping his rooms, furniture and utensils clean and the place of detention clean and in good order and for the preparation of food) on the weekly day of rest observed in the State or Settlement in which the place of detention is situated or on any public holiday declared in such State or Settlement.

(2) Every such detained person doing any work in accordance with this Regulation shall be paid in respect of any work, other than work necessary for keeping his rooms, furniture and utensils clean or the place of detention clean and in good order or in the preparation of food, at the rate laid down in the Schedule hereto, applicable to the stage[1] in which such person is detained....

6. In connection with the texts which have been quoted under paragraphs 4 and 5 above, it may be relevant to quote the following extracts from a book by David R. Rees-Williams, Tan Cheng Lock, S. S. Awbery and F. W. Dalley[2]:

... the Administration in the early stages of the re-occupation gave unqualified recognition to all labour movements. This enabled the Malayan Communist Party to set up "cells" dubbed "trade unions" for every type of trade and worker, which were linked up and controlled by a General Labour Union which in turn was controlled by the Malayan Communist Party. Meanwhile the Communist Party was given tacit recognition by the Government, and in 1947 the Societies Law was amended to provide that all societies should be lawful without registration. The Communist Party, like other political associations, was thus a lawful body. In an effort to obtain its co-operation in the difficult task of putting the country on its feet leaders of the Party were appointed to the advisory councils of the Administration (page 5).

The period from the end of 1945 to the beginning of 1946 was one of mass labour unrest with constant strikes. The communist-controlled General Labour Union was much to the fore in these strikes and often caused repudiation of agreements reached with accredited representatives of the strikers as a result of Government mediation (page 6). ...

.....

[1] For determination of privileges detainees are classified in three stages. Promotion from stage to stage is earned by good behaviour.

[2] D. R. Rees-Williams, Tan Cheng Lock, S. S. Awbery and F. W. Dalley: *Three Reports on the Malayan Problem* (New York, Institute of Pacific Relations, 1949).

... On 12 November 1947, in reply to a parliamentary question in the House of Commons, I [D. R. Rees-Williams] made the following statement :

> The police have been steadily gaining the mastery over lawless gangs in Malaya. These operate chiefly in the difficult country near the Siamese frontier, and in Central and South-East Johore. In the frontier area the gangs are being successfully intercepted, and the roads are patrolled by military forces and special trained anti-bandit squads of the Malayan police. In Johore at least four armed gangs have been operating in recent months. At least two of these have been broken up in successful operations by the Malayan police, who, with the full co-operation of the military are intensifying their efforts against the remainder of the gangs (page 9)....

.....

The Commissioner-General in Malaya has reported to me [Mr. Creech Jones, Secretary of State for the Colonies] that he is satisfied on the evidence that the Malayan Communist Party has been mainly responsible for planning and arranging for the carrying out of the present violent attack on established government and the campaign of murder of peaceful citizens ; and is the mainspring in the present disturbances and the directing and nerve centre of the whole subversive movement (page 12)....

NIGERIA

I. Allegations

1. The allegations made in the Economic and Social Council with regard to this territory were concerned with : *(a)* forced labour in general ; *(b)* requisitioning of labour by indigenous authorities for communal works ; *(c)* compulsory porterage ; *(d)* forced convict labour.

2. These allegations appear in the following statements :

(1) The representative of *Poland*—

... In Nigeria, the Native Authority Ordinance gave the Native authorities power to requisition Native labour for public purposes, and any other purposes approved by the Governor.[1]

(2) The representative of the *World Federation of Trade Unions*—

In Nigeria, forced labour was authorised by law ; the Governor could authorise the requisition of forced labour for employment as bearers and could issue regulations governing their working conditions. An indigenous authority could, with the Governor's approval, requisition workers for the execution of communal works. A chief recognised as such by the Governor could, within clearly defined limits, demand personal services to which he had a right according to customary and local law *(Annual Report on Nigeria for the Year 1947*, page 22*)*.[2]

(3) The representative of the *U.S.S.R.*—

... In Nigeria ... forced labour was in many cases sanctioned by law.[3]

(4) The representative of the *World Federation of Trade Unions*—

The existence of forced labour in Nigeria was not denied in the United Kingdom Colonial Office *Annual Report on Nigeria for the Year 1947*, which, however, attempted

[1] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 551.
[2] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraph 93.
[3] *Idem*, 12th Session, 469th meeting : *Official Records*, paragraph 27

to minimise the scale on which it existed; it admitted, for example, that 41,746 persons were under arrest, the majority of whom were employed on public works and in prison factories. Forced labour was in fact the only system by which the Government could obtain the necessary manpower for the production of raw materials in view of the low wages paid for free labour.[1]

II. Material Available to the Committee

3. The Committee has not received any material with a bearing on these allegations from any Government, non-governmental organisation or private individual.

The information which appears below has been extracted from the documents assembled by the Committee.

Forced Labour in General

4. Forced labour in Nigeria is at present covered by the General Regulations appearing in Chapter VI, Articles 108-123, of the Labour Code of 1945.[2]

After giving, in Article 110, a definition of "forced labour" similar to that appearing in Article 2 of the Forced Labour Convention (No. 29), with the same exceptions apart from that in paragraph *(b)*, the Regulations are divided into two main sections entitled "Provisions relating to the exaction of labour which is forced labour within the meaning of the Convention" (Articles 111-119) and "Provisions relating to the exaction of labour which is not forced labour within the meaning of the Convention" (Articles 120-122). In principle, Articles 111-119 prohibit and penalise forced labour within the meaning of the Convention; they do, however, authorise compulsory porterage.[3] In addition, Article 117 states—

> A chief who is duly recognised as such by the Governor and who does not enjoy adequate remuneration in other forms may, on or after the coming into operation of regulations regulating the enjoyment of such services and subject to such regulations, have the enjoyment of such personal services as are reserved to him by Native law and custom.

Articles 120-122 authorise and regulate a number of minor communal services imposed by the indigenous authorities.[4] Article 121 further stipulates that—

> The Governor may exact labour from any person in the event of war, famine, earthquake, violent epidemic or epizootic disease, invasion by animal, insect or vegetable pests, flood or fire, or in the event of any such calamity being threatened, or in any other circumstances that would endanger the existence or the well-being of the whole or part of the population of Nigeria.

Offences against these Regulations are punishable with fines and sentences of imprisonment varying with the type of forced labour exacted and, to some extent, with the length of the offence (Articles 116 and 122).

5. The annual reports on Nigeria by the United Kingdom Colonial Office

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[1] United Nations, Economic and Social Council, 12th Session, 470th meeting: *Official Records*, paragraph 29.

[2] *The Laws of Nigeria*, revised edition (Lagos, 1948), Vol. III, p. 448; I.L.O.: *Legislative Series*, 1946—Nig. 1, B.

[3] See below, paragraphs 9 and 10.

[4] See below, paragraphs 6-8.

mention the 1945 provisions and summarise them.[1] The report to the I.L.O. on the application of the Forced Labour Convention (No. 29) for the period from 1 July 1948 to 30 June 1949 states that " No reports or statistics relating to the application of the Convention are available ".[2] The only other material on the subject is a reference to the Labour Code of 1945 and to its chapter headings in the United Nations reports on non-self-governing territories.[3]

Requisitioning of Labour by Indigenous Authorities for Communal Works

6. Such requisitioning is authorised by the 1945 Labour Code in Article 120, which is one of the " Provisions relating to the exaction of labour which is not forced labour within the meaning of the Convention ". The Labour Code (Amendment) as amended by an Ordinance, 1950 (No. 34 of 1950)[4], this Article now reads—

(1) It shall be lawful for any Native authority or such other authority as may be prescribed to require the inhabitants of any town or village subject to its jurisdiction to provide labour for any of the following purposes :

(i) the construction and maintenance of buildings used for communal purposes, including markets, but excluding juju houses and places of worship ;

(ii) sanitary measures ;

(iii) the construction and maintenance of local roads and paths ;

(iv) the construction and maintenance of town or village fences ;

(v) the construction and maintenance of communal wells ;

(vi) other communal services of a similar kind in the direct interest of the inhabitants of the town or village ;

Provided that—

(i) no such labour shall be required unless the inhabitants of the town or village or their direct representatives have been previously consulted by the Native authority or other prescribed authority, as the case may be, in regard to the need for the provision of the service proposed and a substantial majority of such inhabitants or their representatives have agreed ;

(ii) any person who does not wish to execute his share of any labour required under the provisions of this Section may be excused therefrom on payment of such sum per day, while such labour is being done, as represents the current daily wages for labour.

(2) In this Section—

" town " includes any town which is not a township ;

" prescribed " means prescribed by Order of the Governor in Council.

7. The purpose of the 1950 amendment was to—

(a) authorise local government bodies other than the indigenous authorities to exact the services in question ;

(b) abolish the sanction of the Governor where it was previously required

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[1] See, *inter alia*, UNITED KINGDOM, Colonial Office : *Annual Report on Nigeria for the Year 1947* (London, 1949), p. 22.

[2] International Labour Conference, 33rd Session, Geneva, 1950 : *Summary of Reports on Ratified Conventions* (Geneva, 1950), p. 164. The reports for the two succeeding years refer back to this report without giving any further information.

[3] UNITED NATIONS : *Non-Self-Governing Territories, Summaries and Analyses of Information transmitted to the Secretary-General during 1948* (Lake Success, New York, 1949), p. 251, and *idem*, 1949 (Lake Success, New York, 1950), p. 307.

[4] *Nigeria Gazette*, No. 56, 19 Oct. 1950 ; I.L.O. : *Legislatives Series*, 1950—Nig. 1.

but, on the other hand, to make such obligatory services contingent on the prior agreement of a substantial majority of the inhabitants of the locality or their representatives;

(c) authorise construction as well as maintenance work.

In its report on Nigeria for the year 1950[1], the United Kingdom Colonial Office points out that these new provisions have been introduced "in response to the force of local opinion and not on Nigerian Government initiative".

8. Article 23 (1) of the Native Authority Ordinance, 1943[2], quoted by the Polish representative in the Economic and Social Council, empowers the indigenous authorities to impose compulsory cultivation, *i.e.*, to issue orders "requiring any Native to cultivate land to such extent and with such crops as will secure an adequate supply of food for the support of such Native and of those dependent upon him". In addition, Article 25 allows these authorities to issue rules, subject to the approval of the Governor, "for the purpose of exterminating or preventing the spread of tsetse fly" and to regulate "the repairing, improving, stopping or diverting of streets, water-courses or drains" and "the construction of new streets, water-courses or street drains and building lines".

Compulsory Porterage

9. According to Article 113 of the Labour Code of 1945, "the Governor may, to such extent as Regulations made under Section 114 of this Chapter permit, authorise the exaction of forced labour in order to provide carriers for purposes of transport". Detailed Regulations governing compulsory labour of this type appear as a Schedule to the Labour Code.[3] Compulsory porterage is permitted under paragraph 1 of the Schedule only "for the purposes of facilitating the movement of Government officers when on, or proceeding to or from, duty, or for the transport of Government stores, and, in cases of very urgent necessity, the transport of persons other than Government officers".

According to paragraph 3, only adult able-bodied males between 18 and 45 years of age may be called upon to provide such services and, in any event, under paragraph 6, may not be required for more than 60 days in any one period of 12 months including the time taken in going to and from the place of work or, in accordance with paragraph 8, for distances of more than 100 miles from the porter's home. The Schedule also fixes the length of the working day and the maximum weight of the loads to be transported, makes provision for a weekly day of rest and lays down rates of pay.

10. In its report to the I.L.O. on the application of the Forced Labour Convention (No. 29) for the period from 1 July 1948 to 30 June 1949[4], the Nigerian Government states that these powers have not been used during the period under review. No further reference to the subject is made in subsequent reports.

Forced Convict Labour

11. In his allegation, the representative of the W.F.T.U. referred to the United Kingdom Colonial Office *Report on Nigeria for the Year 1947*. The following

[1] UNITED KINGDOM, Colonial Office: *Report on Nigeria for the Year 1950* (London, 1951), p. 10.
[2] *The Laws of Nigeria*, revised edition (Lagos, 1948), Vol. IV, p. 483.
[3] I.L.O.: *Legislative Series*, 1946—Nig. 1, B.
[4] International Labour Conference, 33rd Session, Geneva, 1950: *Summary of Reports on Ratified Conventions* (Geneva, 1950), pp. 163-164.

are the exact words used in the report in its description of the prisons and the work of convicts :

PRISONS

There are 47 government prisons and 67 Native authority prisons in Nigeria. The former are administered by officers of the Prisons Department or, in the case of smaller establishments, by the local administrative officer. The latter are run by the Native authority themselves under the supervision of administrative officers, but the Director of Prisons is responsible for their general conduct.

During the year the total population of government prisons was 31,746 of whom 1,887 were women. Of these only 1,112 men and 14 women were serving sentences of over 18 months.

.....

The majority of prisoners are employed in public work in the local towns, but in the larger prisons valuable industries have been established. During 1947 a scheme of payment of wages to selected prisoners was approved, and about 600 men serving long sentences who have already served two years are allowed to participate.[1]

12. No indication is given in the report as to the offences which led to the conviction of these 31,746 persons (and not 41,746 as the representative of the W.F.T.U. is alleged to have said according to the summary records of the meeting).

NORTHERN RHODESIA

I. ALLEGATION

1. In the course of debates in the Economic and Social Council, an allegation was made with regard to this territory by the representative of *Poland*. His statement reads—

According to the International Labour Organisation there had recently been cases of forced labour in practically every non-self-governing territory. Even in the small colony of Gambia, whose total population amounted to only 210,000, 20,000 Natives had been subjected to forced labour in one year. In Rhodesia, the Natives were compelled to work, and the people who mined approximately 100 million dollars worth of ore each year were paid only 16 cents a day for their labour.[2]

II. MATERIAL AVAILABLE TO THE COMMITTEE

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

3. The information which appears below has been derived from the documents gathered by the Committee.

4. In referring to the International Labour Organisation, the Polish representative did not quote any specific publication issued by it and it has consequently

[1] *Op. cit.*, pp. 71-72.

[2] UNITED NATIONS, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 551.

been extremely difficult to trace the information which he had in mind. In the publication entitled *Proposed International Labour Obligations in respect of Non-Self-Governing Territories*, the following passage appears:

The most precise statement regarding the liquidation of war emergency forced labour emanates from the British Government. During the war forced labour for private employers was authorised for certain purposes in Nigeria, Kenya and Tanganyika while in Northern Rhodesia a conscript labour force under Government control was made available to farmers. The forced labour used on the Nigerian tin mines has already been abolished. It has now been decided that in the other territories no further men will be compulsarily recruited for private employment after 31 December 1945. Forced workers actually on contract will be required to complete their contract periods, but the whole system will be liquidated not later than 30 September 1946. The same final date has been fixed for the end of compulsion in Northern Rhodesia. As regards the particular crops involved, the decision is that forced labour for private employers shall cease by 30 September 1946 in the cases of sisal and of essential foodstuffs for local consumption, and by 31 March 1946 for all other purposes. Forced labour for use in the anti-locust campaign may nevertheless continue until 30 September 1946.[1]

5. The present situation is not clear as regards the "conscript labour force" mentioned in this publication. According to information submitted to the Secretary-General of the United Nations in 1949[2], "farm labour continued to be scarce although some help was provided by a government-operated, volunteer farm labour corps with a strength of 1,700 men". In its report on Northern Rhodesia for the year 1950, the United Kingdom Colonial Office states—

Government continued to maintain the farm labour corps in order to safeguard food production. This corps averaged 1,000 men during the year, and was in constant demand by farmers to whom squads of 18 men were hired at a charge of 3s. 1½d. per head per day inclusive of rations.[3]

It has not been possible to trace any laws or regulations relating to this corps. It is consequently not clear how it is recruited and whether it is a different body from the wartime "conscript labour force".

6. The latest reports[4] to the I.L.O. on the application of Convention No. 29 show that Northern Rhodesian legislation authorises only such forms of compulsory service as are excepted from the definition of forced labour by Article 2 of the Convention. Article 234 of the Penal Code provides that "any person who unlawfully compels any person to labour against the will of that person is guilty of misdemeanour".

SIERRA LEONE

I. Allegation

1. In the course of debates in the Economic and Social Council, an allegation was made with regard to Sierra Leone by the representative of *Poland*. His statement reads—

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[1] *Op. cit.*, p. 16.

[2] *Non-Self-Governing Territories* ..., *op. cit.*, p. 326.

[3] United Kingdom, Colonial Office: *Annual Report on Northern Rhodesia for the Year 1950* (London, 1951), p. 10.

[4] See, *inter alia*, *Summary of Reports on Ratified Conventions* (Geneva, 1950), *op. cit.*, p. 165.

According to the International Labour Organisation there had recently been cases of forced labour in practically every non-self-governing territory.... Natives had been subject to compulsory labour in Sierra Leone....[1]

II. Material Available to the Committee

2. The Committee has not received any material with a bearing on this allegation from any Government, non-governmental organisation or private individual. The following material has therefore been collected by the Committee.

3. Article 4 of the Forced Labour Ordinance, 1932[2], provides that recognised chiefs may exact from those subject to their jurisdiction such personal services as the clearing, planting and maintenance of their farms, the building and repair of their houses and the transport of themselves and their stores. Under Article 6, the authorities may exact compulsory labour for the construction, repair and maintenance of public highways and government buildings, the movement of government officers, the transport of government stores and, in cases of very urgent necessity, the transport of private persons.

The Ordinance contains detailed regulations governing these cases of compulsory labour, the Forced Labour Convention (No. 29) being taken as a basis.

4. Other forms of forced labour are prohibited under Article 3 of the Ordinance. However, according to Article 2, the term "forced labour" does not include—

(a) Any work or service exacted under and by virtue of Section 10 of the Public Health (Protectorate) Ordinance, or any Section amending or replacing the same.

Provided that the residents in any health area or their direct representatives shall have the right to be consulted in regard to the need for such services.

(b) Any work or service exacted under and by virtue of the Rural Areas Ordinance, or any Ordinance repealing or replacing the same.

(c) Any work or service exacted from any person as a consequence of a conviction in a court, provided that such work or service is carried out under the supervision and control of the proper authorities, and that such person is not hired to or placed at the disposal of private individuals, companies or associations except a municipal corporation.

(d) Any work or service exacted in cases of emergency, that is to say, in the event of war or a calamity or threatened calamity as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, or in any other case where circumstances have arisen which endanger the existence or the well-being of the whole or any part of the population of Sierra Leone.

(e) Minor communal services which are performed by the members of any community in the direct interest of such community, and as part of the normal civil obligations incumbent on the members thereof by Native law and custom.

5. Article 10 of the Public Health (Protectorate) Ordinance, 1926[3] authorises local chiefs to exact various types of labour in the "health areas" from indigenous residents between 18 and 45 years of age in the interests of public health.

*6. In its reports to the I.L.O. on the application of the Forced Labour Convention (No. 29)[4], the Government of Sierra Leone states that local chiefs seldom

[1] United Nations, Economic and Social Council, 9th Session, 321st meeting: *Official Records*, p. 551.

[2] *The Laws of the Colony and Protectorate of Sierra Leone*, revised edition (London, 1946), Vol. I, p. 1124.

[3] *Ibid.*, Vol. II, p. 2162.

[4] *Summary of Reports on Ratified Conventions, op. cit.* (Geneva, 1950), pp. 167-168; *idem* (Geneva, 1951), p. 236; and *idem* (Geneva, 1952), p. 180.

exercise their powers in this regard and compulsory porterage is used only when free labour is unavailable. The Government gives detailed information on the conditions offered for compulsory labour (working hours, wages and so on) and, in addition, quotes statistics. In 1948-1949, 406 men were required for porterage and worked a total of 605 man-days. In 1949-1950, the figures were 505 men and 505 man-days ; and in 1950-1951 they were 274 men and 274 man-days. The figures for compulsory labour on the construction and maintenance of roads and buildings were even lower. The most recent report adds that during the period under review there were no court decisions involving questions of principle relating to the application of the Convention and no observations were received from organisations of employers or workers.

SOUTHERN RHODESIA

I. Allegation

1. The following allegation concerning Southern Rhodesia was submitted to the Committee by the *Anti-Slavery Society* in a memorandum dated 22 February 1952 :

> Last year the Legislature of Southern Rhodesia enacted the Native Land Husbandry Act, 1951, of which Section 53 provides that any Native who is unemployed or has been unemployed for a month, shall be liable to be ordered by the appropriate authority to work for three months at the prevailing wage on work connected with the conservation of natural resources or the promotion of good husbandry. It is argued that this comes within the meaning of exception *(e)* of Article 2 of the Forced Labour Convention, but this is not a minor communal service which can be considered as a normal civic obligation incumbent upon a citizen of a fully self-governing country.

2. In the course of the hearing conducted by the Committee, the representative of the *Anti-Slavery Society* contended that the " appropriate authority " to impose such labour as cited in paragraph 1 above " is described as the Native Council or, if there is no Native chief or headman in such area, the head of the kraal as described in the Native Affairs Act ".

He alleged that this provision had been inserted in the Act in order " to get round the Forced Labour Convention ", and with a view to giving " the appearance that the Natives themselves are exacting this labour ", while in fact there was no Native rule in that country, but only " direct rule by the Government of Southern Rhodesia " which he contended to be " a Government of Europeans ". In the view of the representative of the *Anti-Slavery Society* this system " is a breach of the Forced Labour Convention ".

He furthermore expressed the opinion that the report on the Forced Labour Convention shows that according to paragraph 2 *(e)* of Article 2 of that Convention the community " in which conscript labour would be exacted " was to decide " whether it would or would not exact this service ". In fact, however, he alleged that " the Africans of Southern Rhodesia have no representatives ... except the small number of Africans who qualify for the franchise ... ". While the land is owned and occupied exclusively by Africans, according to the representative, the occupants do " not have the opportunity of saying whether they will or will not have their land improved as the European wishes to improve it ". This situation he alleged, did " not conform with the Convention ".

II. Viewpoint of the United Kingdom Government

3. At the conclusion of his oral statement, the representative of the *Anti-Slavery Society* submitted a memorandum entitled "Southern Rhodesia Native Land Husbandry Act. Provisions about compulsory employment on local land conservation work." He stated that this memorandum "in which a contrary opinion is expressed" was handed to him "by an official". The full text of this memorandum is reproduced below—

Southern Rhodesia Native Land Husbandry Act,
Provisions about Compulsory Employment on Local Land Conservation Work

Part V of the Native Husbandry Act on Southern Rhodesia provides that a Native Council or, where no Native Council exists, a chief or headman, may call on the services of "unemployed" Africans living in any particular area (*i.e.*, Africans who are not employed otherwise than in farming on Native land in the area) "to perform labour in the direct interests of the Native inhabitants of the area in connection with the conservation of natural resources of the area or the promotion of good husbandry". Africans may only be called out for this purpose for a period not exceeding 90 days in any year and may only be employed in the area under the jurisdiction of their own Council or chief. During their period of employment they must be paid at not less than the current rate in the district concerned for the class of work they are required to perform.

2. The necessity for this special form of obligatory communal work arises out of the prevailing system of African land tenure in Southern Rhodesia, under which arable land is held individually and grazing land communally. The Native Land Husbandry Act ensures the protection of arable land by placing the responsibility for its proper care and use on the individual farmer. The communally held grazing land, which is equally essential to the Africans' farming economy, cannot however be treated in the same way. The Act attempts to get over this difficulty by providing that those who use it shall devote part of their time and effort to its protection and maintenance. The purpose of this portion of the Act is the humanitarian purpose of averting the malnutrition of Africans that would result from continued impoverishment of the land.

3. It is clear from the foregoing paragraphs that the work required to be performed in terms of Part V of the Native Land Husbandry Act is of a communal nature and, as provided in Article 2 (2) *(e)* of the Forced Labour Convention, is carried out by members of a community in the direct interest of the community as a whole. The proviso in this Article (a copy of which is attached) that members of a community or their direct representatives shall have the right to be consulted in regard to the need for their services is covered by Section 53 of the Act, which places the responsibility of deciding whether the employment of compulsory labour is necessary on the Native Councils and chiefs in the first instance. For these reasons the Southern Rhodesia Government have taken the view, which is shared by the United Kingdom Government, that the provisions of Part V of the Act are not inconsistent with Article 2 of the Forced Labour Convention.

4. The draft memorandum enclosed with Mr. Greenidge's letter to the Foreign Office of 10th July—no doubt as the result of compression—inadvertently conveys in several respects an erroneous impression.

(i) It relates the provision to "any Native who is unemployed, or has been unemployed for a month"; whereas these are not alternatives in the Act, the provision in which applies to any Native who is unemployed *and* has been unemployed for at least a month.

(ii) By referring to "appropriate authority" without appending the definition in the Act, the memorandum naturally conveys the impression that the reference is to the Government or some public department. In fact the dis-

cretion in question is conferred by the Act on the local Native Council or (where there is no such Council) the local Native chief or headman.

(iii) The memorandum omits to mention the highly relevant point that a Native can only be required to work in his own local area.

(iv) By running together parts of clauses 2 *(b)* and 2 *(c)* of Article 2 of the Convention, the memorandum purports to imply that the measure is contrary to the Convention ; whereas clause 2 *(e)*, which contains the relevant condition, contains no reference to " obligations incumbent upon a citizen of a fully self-governing country ". It is quite clear that clauses 2 *(b)*, 2 *(d)* and 2 *(e)* of the Article are separate exceptions and that compliance with any one of them (not with all three) is sufficient to remove a measure from the definition of " forced or compulsory labour " for the purposes of the Convention.

III. Material Available to the Committee

4. In connection with the allegation submitted by the representative of the *Anti-Slavery Society*, the Committee also examined the text of the Native Land Husbandry Act of Southern Rhodesia, 1951 (No. 52).[1] Certain provisions from this Act are quoted below—

Under Section 50 the term " appropriate authority " is defined as—

(a) in any area for which a Native Council has been established, such Native Council ;

(b) in any area for which no Native Council has been established, the chief or headman in such area, or if there is no chief or headman in such area, the head of a kraal, as defined in the Native Affairs Act [*Chapter 72*] in such area ;

5. Section 51, referring to the liability of Natives to call up for labour, provides that—

... any Native who is unemployed and has been unemployed for a period of one month or longer and who—

(a) is a farmer or grazier ; or

(b) not being a farmer, is engaged in agriculture of Native land ; or

(c) is the son of a Native referred to in paragraph *(a)* or *(b)* of this subsection and is resident on the Native land in respect of which his father holds a farming right or on which his father is engaged in agriculture ;

shall be liable to be given an order under Section *fifty-three* not more than once in every year.

6. Sections 53 to 58 of this Act are given below—

53 (1) If the appropriate authority in any area is satisfied that Natives are needed to perform labour in the direct interests of the Native inhabitants of such area in connection with the conservation of natural resources of such area or the promotion of good husbandry, such authority may order any Native in such area who in terms of Section *fifty-one* is liable to be given an order under this section, to attend before the Native Commissioner on such date and at such place as may be fixed in the order—

Provided that—

(i) if in any area for which a Native Council is established the chief is not so satisfied, the matter shall be referred to the Native Commissioner and such Native Commissioner may himself give such order ;

(ii) if the Native is absent from the area, the appropriate authority shall give such order through the Native Commissioner.

[1] The Statute Law of Southern Rhodesia, 1951 (1952), pp. 893-922.

(2) An order in terms of this Section may be given—

(a) either verbally or in writing ;

(b) in the case of a Native Council, through any person appointed by such Council ;

(c) in the case of a chief, headman or head of a kraal, either personally or through any person appointed by such chief, headman or head of a kraal ;

and an order given verbally by the head of a kraal on a particular day, addressed to the occupants of such kraal, shall be deemed to be an order given to the Natives who were the occupants of such kraal on that day.

(3) If an appropriate authority omits to give an order to a Native in terms of this Section and the Native Commissioner after due enquiry is satisfied that such omission was wilfully made with the object of assisting such Native to evade any obligation to perform labour in terms of this Section, the Native Commissioner may himself exercise the powers conferred by this Section upon an appropriate authority, and the provisions of this part of this Act shall, *mutatis mutandis*, apply in relation to any order given by a Native Commissioner thereunder.

54 (1) Every Native to whom an order has been given under Section *fifty-three* shall attend before the Native Commissioner on the date and at the place specified in such order and shall bring his certificate with him.

(2) Subject to the provisions of Section *fifty-five*, the Native Commissioner may then insert in ink in the certificate of such Native the name of the Government of the Colony as the employer of such Native, and the date on which such Native attended before him as the date on which such Native has entered into the employment of the Government of the Colony, the rate of wages and the period, not exceeding the completion of 90 working days in the calendar year, for which the employment is to endure, and thereafter such Native shall be deemed to have agreed to enter into the employment of the Government of the Colony in accordance with the terms so entered on his certificate and shall be subject to the provisions of the Masters and Servants Act [*Chapter 231*] and the Native Labour Regulations Act [*Chapter 86*] which apply to servants and Native labourers.

55. A contracted Native shall be paid not less than the ruling current wages in the Native district concerned for the class of work which he is required to perform.

56 (1) The Native Commissioner shall make the necessary arrangements—

(a) for the payment of contracted Natives ;

(b) for their proper housing and feeding ;

(c) for their movement from place to place wherever their labour is required ; and

(d) for their care when sick or injured.

(2) The moneys required for the payment of contracted Natives shall be paid either from the Native Production and Marketing Development Fund established under the Native Development Fund Act, 1948, or from the Native Reserves Fund or from moneys provided by Parliament for the purpose.

57. Any Native who wilfully fails to comply with an order made under Section *fifty-three* shall be guilty of an offence and liable to a fine not exceeding five pounds or, in default of payment, to imprisonment for a period not exceeding one month.

58. If, upon the request of a Native Commissioner, any appropriate authority fails or refuses without reasonable cause to give orders in terms of Section *fifty-three* for the call up of Natives who are needed to perform labour in the direct interests of the Native inhabitants of the area of such appropriate authority in connection with the conservation of natural resources or the promotion of good husbandry, the Native Commissioner shall report the fact to the Minister. If the Minister, after consultation with the Natural Resources Board, is satisfied that the natural resources in such area are deteriorating, he may authorise such Native Commissioner to exercise the powers conferred by Section *fifty-three* upon an appropriate authority, and the provisions of this Part of this Act shall, *mutatis mutandis*, apply in relation to any order given by a Native Commissioner thereunder.

7. The Committee also had before it the report from the Government of Southern Rhodesia for the period 1 July 1951 to 30 June 1952 on the measures taken to give effect to the provisions of the Convention (No. 29) concerning forced or compulsory labour, which reads as follows :

There has been no change in the situation since the annual report which is quoted below.

Articles 1 to 25 of the Convention—

No such thing as compulsory labour exists in the Colony. The Native Labour Supply Act, 1942, brought in as an emergency measure during the war, was repealed. The Native is amply protected under the existing laws of the Colony.

TANGANYIKA

I. Allegations

1. The allegations made in the Economic and Social Council with regard to Tanganyika were concerned with *(a)* forced labour during the last war, *(b)* the groundnut scheme, which allegedly involved forced labour, *(c)* compulsory labour for public works and services, and *(d)* compulsory labour for failure to pay taxes.

2. These allegations appear in the following statements :

(1) The representative of the *U.S.S.R.*—

Mr. Tsarapkin [the U.S.S.R. representative] stated that during the war forced labour had been introduced in Nigeria, Kenya and Tanganyika, as was made clear in the report published in 1946 by the International Labour Organisation. In 1945, 18,865 persons had been subject to forced labour in Kenya and 39,000 in Tanganyika.[1]

... in Tanganyika under British administration, any African could be employed for forced labour if he had not paid his taxes. Men between 18 and 45 years of age could be subjected by Decree to forced labour.[2]

(2) The representative of the *Byelorussian S.S.R.*—

He [the Byelorussian S.S.R. representative] observed that the groundnut scheme now being applied in Tanganyika by the British authorities was based entirely on the use of forced labour.[3]

(3) The representative of *Poland*—

The United Kingdom Government was a party to the 1930 Forced Labour Convention. Yet in the report of a mission which had visited Tanganyika occurred the words—

" Legal provision for the calling out of labour for essential public works and services is contained in the Native Authority Ordinance.

It is stated that labour so engaged must be paid and the making of orders for this purpose is subject to the proviso that no person shall be compulsorily employed—

1. For a longer period than 60 days in any one year.

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[1] United Nations, Economic and Social Council, 8th Session, 238th meeting : *Official Records*, p. 109.

[2] *Idem*, 12th Session, 469th meeting : *Official Records*, paragraph 20.

[3] *Idem*, 8th Session, 238th meeting : *Official Records*, p. 119.

2. If he be fully employed in any other work or has been so employed during the year for a period of three months.

3. If he be otherwise exempted under directions issued by the Governor.

Only able-bodied males between the ages of 18 and 45 may be called out for compulsory labour. For the 12 months ended 30 September 1947, workers who were compulsorily employed totalled approximately 8,000 persons. It was stated that such labour is paid at prevailing local rates." Local rates for such compulsory labour were 14 cents per day.[1]

(4) The representative of the *World Federation of Trade Unions (W.F.T.U.)*—

In Tanganyika, forced labour could be imposed upon African workers under the Native Tax Ordinance if they were unable to pay their taxes in cash, if they had not taken reasonable steps to procure the means of payment or if they could not procure the means of payment without changing their usual mode of life. In 1947, 2,734 Africans had had to work in that way to pay their taxes.[2]

II. Material Available to the Committee

3. The Committee has not received any material with a bearing on these allegations from any Government, non-governmental organisation or private individual.

4. The information which appears below has been extracted from the documents assembled by the Committee.

Forced Labour during the Second World War

*5. In referring to a report published by the I.L.O. in 1946, the representative of the U.S.S.R. apparently had in mind the publication entitled *Proposed International Labour Obligations in Respect of Non-Self-Governing Territories*, in which the following passage appears :

The most precise statement regarding the liquidation of war emergency forced labour emanates from the British Government. During the war forced labour for private employers was authorised for certain purposes in Nigeria, Kenya and Tanganyika, while in Northern Rhodesia a conscript labour force under Government control was made available to farmers. The forced labour used on the Nigerian tin mines has already been abolished. It has now been decided that in the other territories no further men will be compulsorily recruited for private employment after 31 December 1945. Forced workers actually on contract will be required to complete their contract periods, but the whole system will be liquidated not later than 30 September 1946.[3]

This passage ends with a footnote which reads : " On 30 September 1945 the number of forced workers in employment in Kenya was 18,765 and in Tanganyika 29,450 ".

*6. During the last war, one of the purposes for which compulsory labour was used in Tanganyika was the production of rubber. In a book published in 1950 under the title *East African Agriculture*, a special chapter is devoted to rubber production,

[1] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, pp. 550-551.

[2] *Idem*, 10th Session, 365th meeting : *Official Records*, paragraph 91.

[3] *Op. cit.*, p. 16.

written by the man responsible for organising and directing this war work.[1] The author explains that the tapping system adopted made a heavy call on labour, and it proved necessary to conscript large numbers of the local population, in fact, about 11,000 of the 18,000 workers hired.

*7. The report of the Trusteeship Council's Visiting Mission to the Trust Territory of Tanganyika under British Administration also speaks of compulsory labour during the war. The following passage is taken from Chapter V, paragraph A.5:

> During the Second World War conscription of labour providing, among other projects, for work on private estates was introduced (Compulsory Service Ordinance, 1940). The Ordinance expired 24 February 1946, but under Defence (Conscripted Labour Continuance) Regulations, 1946, persons engaged in the production of certain essential supplies were required to continue to perform the duties in which they were engaged, although not beyond 30 September 1948.[2]

In its reply to this report the United Kingdom Government draws attention to an error in the date, which should be 30 September 1946, and not 1948.[3]

The Groundnut Scheme

8. *A Plan for the Mechanised Production of Groundnuts in East and Central Africa*[4] was submitted by the Minister of Food to Parliament in February 1947. Its object was to introduce an intensive groundnut production scheme in a number of the territories under British administration. It involved the setting-up of 107 mechanical units, 80 in Tanganyika, 17 in Northern Rhodesia and 10 in Kenya. In Tanganyika the sites chosen were sparsely populated and little cultivated. The programme consequently involved the extensive construction of such facilities as railway lines, roads, port installations and so on. In 1948, the scheme was transferred to a corporation owned and financed by the United Kingdom Government, but having its own organisation and a board of directors answerable to the Government.

9. Before the scheme was adopted, the British Government sent out a mission in 1946 to make enquiries on the spot, and its report[5] makes a very close study of the manpower problem. The mission felt it was essential to establish a regular labour force for each unit, particularly as the areas selected were largely unpopulated (page 20, paragraph 12). It was, however, of the opinion that the manpower needs would be relatively small because of the high degree of mechanisation. Its estimate for land clearing and the actual growing was 25,500 Africans for 1948, 49,600 for 1949, 57,100 for 1950, 49,600 for 1951, 44,600 for 1952 and 32,100 for 1953 (page 23, paragraph 25). However modest these figures were, the mission realised that in Tanganyika the recruitment of labour would encounter certain difficulties and it therefore felt that indigenous manpower should be recruited from the overpopulated areas of East and Central Africa (pages 28-29, paragraphs 45-47). The mission further advocated various measures for the accommodation, feeding and welfare of the workers and their families.

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[1] *East African Agriculture, a Short Survey of the Agriculture of Kenya, Uganda, Tanganyika, and Zanzibar, and of its Principal Products*, edited by J. K. Matheson and E. W. Bovill (London, 1950), Chapter XVIII, pp. 165-172.

[2] United Nations document T/218, p. 124.

[3] United Nations document T/333, p. 56.

[4] UNITED KINGDOM, Ministry of Food: *A Plan for the Mechanised Production of Groundnuts in East and Central Africa* (London, 1947), Cmd. 7030.

[5] Annexed to the document mentioned in the preceding footnote.

10. The Visiting Mission sent to Tanganyika by the Trusteeship Council in 1948 devotes a long chapter of its report to the groundnut scheme and its operation.[1] It summarises its observations and the information it compiled and, in a section devoted to labour questions, gives a detailed description of the wages, housing conditions and feeding of the persons working for the scheme. Nowhere does it intimate that the plan involves forced labour. The material submitted to the Committee contains no information as to the way in which the workers needed for the scheme were hired.

11. However, in Chapter V, paragraph A.4 of its report, the Visiting Mission speaks of the recruiting system in operation in Tanganyika in the following terms :

The Master and Native Servants (Recruitment) Ordinance, 1946, provides for the licensing of recruiters under certain safeguards. Recruiters may be required to deposit a bond and in addition, to furnish sureties. The Ordinance lays down regulations concerning the age of the recruited person, his free transport and that of his family to the place of employment, transport on return to the place of recruitment, the supply of necessities during the journey to and from the place of recruitment, etc.

The African Association of Arusha in commenting on the recruiting system said, " We do not like the labour recruiting system. In the old days, the Government stopped the Arabs from slave-trading. But now the Government seems to be doing a similar thing by licensing recruiters who are very much like slave traders. They cheat our people, give them false promises and send them to work under very poor conditions to strange masters."[2]

12. The following is the *United Kingdom Government's* reply :

Having recorded some accurate factual information on this subject the Mission inserts, without comment, an inaccurate and misleading statement by the African Association of Arusha. Other criticisms of labour conditions were recorded but this appears to have been the only case of allegations against the proper conduct of the licensed recruiting system. Its true value can be assessed from a consideration of the actual circumstances. In the first place, although some of the people of the Arusha district are accustomed to engage themselves for seasonal agricultural employment locally—unattested and free to choose their employer and place of employment—they are not accustomed, as are the members of some tribes, to leave their homes for work in other parts of the Territory. There is *no* recruitment of labour by licensed recruiters in the Arusha district. Those making these exaggerated statements to the Mission consisted almost entirely of clerks and others engaged in non-manual work, without first-hand knowledge of the system of labour recruiting. The proper control of recruiting activities is one of the major preoccupations of the Labour Department ; the administrative officers in districts where recruiting takes place are active in protecting the interests of recruits and in ensuring that the terms of contracts are clearly understood and accepted by them ; and the whole system is designed to apply strictly the provisions of the Recruiting of Indigenous Workers Convention.[3]

13. In its reports to the I.L.O. on the application of the Recruiting of Indigenous Workers Convention (No. 50), the Government of Tanganyika gives detailed information every year on the recruitment of indigenous workers in the Territory. These reports record that 28,000 persons were recruited in 1948, 36,830 in 1949 and 46,176 in 1950 (including 11,000 short-term engagements for the building of a railway). They also show that the Government's tendency is to reduce the number of professional recruiters and so bring them under more effective supervision and

[1] United Nations document T/218, Chapter IV, pp. 106-119.
[2] *Ibid.*, p. 123.
[3] United Nations document T/333, pp. 55-56.

that, since 1947, there has even been talk of replacing them by a statutory recruiting organisation known as the Labour Supply Corporation. This change, however, has not been possible as yet. In this connection, the I.L.O. Committee of Experts on the Application of Conventions and Recommendations made the following comments in its report for 1952 :

The Committee notes that in the case of Tanganyika, two professional recruiters continued to operate in the territory in the period under review. The report states that the Ordinance to implement the statutory recruiting organisation—known as the Labour Supply Corporation—has not been brought into operation. The Committee hopes that the Government will actively continue its efforts to find a satisfactory solution to the problem of the supply of labour which will lead eventually to the ending of the necessity for professional recruiters, and will be glad if the Government will inform it of such progress as may be made in this respect.[1]

Compulsory Labour for Public Works and Services

14. In his statement in the Economic and Social Council, the Polish representative spoke of compulsory labour for essential public works and services, quoting the report by the Visiting Mission of the Trusteeship Council. The passage to which he was referring may be found on pages 123-124 of the report in question.[2]

15. The Native Authority Ordinance, 1927, as amended by the Native Authority (Amendment) Ordinance, 1949, makes provision in Article 9 for " the engagement of paid labour for essential public works and services " in the circumstances indicated in the report by the Visiting Mission. Article 10 lays down that in periods of famine, the local population may be required to help with public work, such as irrigation, relief or any other work and also to cultivate the land. Article 13 provides that offenders against the Ordinance are liable to a fine not exceeding 200 shillings or imprisonment not exceeding two months, or both.

16. In its reports for 1950 and 1951 to the General Assembly of the United Nations on the administration of Tanganyika, the United Kingdom Government states—

Typical works for which such labour may be engaged include urgent repairs to the Territory's communication system, *e.g.*, in the case of serious damage caused to railways or roads by floods ; anti-locust measures ; tsetse control operations ; and serious forest fires.[3,4]

The report for the year 1949 adds—

Although labour called out in these circumstances is officially described as " compulsory ", the expression " requisitioned labour " would provide a more accurate description. Many of those called out need no compulsion and respond willingly to the call for labour.[5]

*17. The reports by the Government of Tanganyika to the I.L.O. on the application of the Forced Labour Convention (No. 29) give more detailed information

[1] International Labour Conference, 35th Session, Geneva, 1952 : *Report of the Committee of Experts on the Application of Conventions and Recommendations* (Geneva, 1952), p. 36.
[2] See above, paragraph 2 (3), where the passage is quoted *in extenso*.
[3] UNITED KINGDOM, Colonial Office : *Report ... to the General Assembly of the United Nations on the Administration of Tanganyika ... for the Year 1950* (London, 1951), p. 124.
[4] *Idem, Report ... for the Year 1951* (London, 1952), p. 120.
[5] *Idem, Report ... for the Year 1949* (London, 1950), p. 131.

on the question. The report for 1948-1949 [1] mentions that in addition to the cases of compulsory labour envisaged in the Native Authority Ordinance, Tanganyika legislation also authorises compulsory porterage for the transport of goods and persons where there are no adequate all-weather communications. The report provides a good deal of information on the extent of these different forms of compulsory labour and the conditions in which they are performed. It stresses the point that they are being progressively reduced and that their complete abolition is still the aim of the authorities even though it cannot be achieved as yet at the present stage of the Territory's development. Each annual report contains statistics on the amount of manpower requisitioned. Between 1 July 1950 and 30 June 1951 [2], 2,122 men were conscripted for porterage (carriage of baggage of officials on tour, tax money, sick persons and essential supplies), 6,405 for minor public works (essential anti-tsetse measures and essential and urgent road and building work) and 1,091 for work for the Native authorities (essential Native administration road and building work of direct benefit to the community).

Compulsory Labour for Failure to Pay Taxes

18. Article 11, headed " Discharge of tax by labour ", of the Native Tax Ordinance, 1934, laid down that—

11 (1) Any able-bodied male person under the apparent age of 45 years from whom house tax or poll tax, or any instalment thereof, is due who has not the means of payment of the tax or instalment and who in the opinion of any collector being an administrative officer, financial assistant, or tax officer, has not taken such reasonable steps as may have been within his power to procure the means of payment of the tax or the instalment, or is unable to procure the means of such payment without undue interference with his customary mode of life, may, subject to any directions in that behalf which may be given by the Commissioner, be required by such collector to discharge his obligation to pay the tax by labour instead of by cash payment.

(2) Every person required to pay his tax by labour shall, if he so desires, be provided with rations, and shall be required to work for such period or to such extent as may at the current rate of wages in the district be equivalent to the amount of tax owing or, if payable by instalments, the outstanding balance of the tax, together with the value of any rations supplied.

(3) Such labour shall be performed only upon government undertakings or essential public works and services and in such manner and subject to such conditions as may be prescribed.

(4) Any person required to pay his tax by labour may at any time tender the equivalent in cash of the period of labour which remains to be performed by him together with the value of any rations which he has received, and thereupon he shall be granted a tax receipt and shall be discharged from such labour.

(5) On completion of the labour a tax receipt shall be given.

(6) Any person who having been required to pay his tax by labour wilfully refuses or fails to perform such labour in the manner prescribed shall be guilty of an offence, and shall be liable on conviction to imprisonment with or without hard labour for a period not exceeding three months ; and thereupon such person shall be liable for the full amount of the tax originally due, notwithstanding the performance of some portion of the labour allotted to him.[3]

[1] *Summary of Reports on Ratified Conventions, op. cit.* (Geneva, 1950), pp. 169-170.
[2] *Idem* (Geneva, 1952), p. 181.
[3] *Tanganyika Territory Ordinances enacted during the Year 1934* (Dar-es-Salaam), 1935, pp. 60-61.

19. Similar provisions appeared in Article 18 of the Native Authority Ordinance, 1927.

20. Between 1 July 1950 and 30 June 1951, according to the Government's report to the I.L.O., 1,127 tax defaulters were required to perform compulsory labour (minor Government works connected with roads and buildings and the upkeep of stations) and worked 44,498 man-days in all.

21. In a previous report the Tanganyika Government states that the system " has been progressively reduced, and a further reduction is expected to continue as opportunities for earnings by gainful employment or by peasant production increase ".[1] In a subsequent report to the I.L.O. on the application of Convention No. 29, the Government announces : " The Native Tax (Amendment) Ordinance 1951, was enacted on 25 June 1951 and repealed Section 11 of the Native Tax Ordinance, Chapter 183 ; the legal sanction for discharge of tax obligation by labour was thereby removed ".[2]

UGANDA

I. Allegation

1. In the course of the debates in the Economic and Social Council an allegation was made with regard to this territory by the representative of *Poland*. His statement reads—

In his *African Survey*, Lord Hailey had stated that in Uganda, in the year ending 30 September 1936, 339,977 men, presumably *luwalo* labourers, had been employed by the Native administration for one month or less on public works, and that the removal of such large numbers from the free labour market must depress wages.[3]

II. Material Available to the Committee

2. The Committee has not received any other material with a bearing on this allegation from any Government, non-governmental organisation or private individual.

3. The information which appears below has been derived from the documents assembled by the Committee.

4. In quoting Lord Hailey's *African Survey*, the Polish representative obviously had in mind the following passage :

In Uganda the Native Authority Ordinance empowers chiefs to require work *(luwalo)* from able-bodied males for the benefit of the community ; the period is limited to 30 days a year. The Governor may issue orders to chiefs respecting compulsory cultivation for relief work, and compulsion may be resorted to for porterage or labour for public works ; in the latter case, the sanction of the Secretary of State is required. The total period of work must not exceed 60 days. A memorandum of 1923 laid down that forced labour could only be employed under narrowly defined conditions ; in particular, it was not to be called out at harvest or seed time. The 1936 annual report states that no forced labour has been employed by the Government since 1927. For

[1] I.L.O., *Summary of Reports on Ratified Conventions, op. cit.* (Geneva, 1950), p. 169.
[2] *Idem* (Geneva, 1952), p. 181.
[3] United Nations, Economic and Social Council, 9th Session, 321st meeting : *Official Records*, p. 551.

the year ending 30 September 1936, however, 339,977 men, presumably *luwalo* labourers, were employed by the Native administrations for a period of one month or less on public works, and 20,258 men were employed for short periods as porters. In removing such large numbers of men from the free labour market, the *luwalo* system depresses wages, and it is proposed to convert the obligation into a money-tax levy payable to the Native administrations, the rate to be fixed first at 60 and then at 50 per cent. of the existing commutation rate; at present the option to commute is in force in every district except one.[1]

5. The institution called *luwalo*, which was a kind of tax payable in labour though redeemable in cash, seems to have been abolished by the Native Administration Tax Ordinance, 1938. Article 6 of this Ordinance, entitled "Abolition of *luwalo* on imposition of tax", stipulates that—

No person who is liable to pay the tax shall also be liable to be ordered to work under the provisions of paragraph B (8) of Section 7 of the Native Authority Ordinance or to make any payment in commutation of such obligation.[2]

6. Article 7, on the other hand, lays down that taxes may be paid in labour if the taxpayer cannot pay in cash. The text of this Article reads as follows:

(1) Any able-bodied male person under the apparent age of 45 years from whom the tax is due who has not the means of payment of the tax and who, in the opinion of any collector being an administrative officer, has not taken such reasonable steps as may have been within his power to procure the means of payment of the tax, or is unable to procure the means of such payment without undue interference with his customary mode of life, may, subject to any directions in that behalf which may be given by the Governor, be required by such collector to discharge his obligation to pay the tax by labour instead of by cash payment at any time after the expiration of six months from the date when the tax became due:

Provided that no person shall be required to discharge his obligation to pay tax by labour as aforesaid except in respect of tax due and payable for the year in which he is so required or for either or both of the two years immediately preceding such year:

Provided also that no person shall be required to discharge his obligation to pay any tax by labour as aforesaid if he has already been convicted of an offence under subsection (1) of Section 11 of this Ordinance in respect of such tax.

(2) Every person required to pay his tax by labour shall, if he so desires and if the directions of the Governor so permit, be provided with rations, and shall be required to work for such period or to such extent as may at the current rate of wages in the district be equivalent to the amount of tax owing, together with the value of any rations supplied.

(3) Such labour shall be performed only upon Native administration undertakings or essential public works and services and in such manner and subject to such conditions as the Governor may direct.

(4) Any person required to pay his tax by labour may at any time tender the equivalent in cash of the period of labour which remains to be performed by him together with the value of any rations which he has received, and thereupon he shall be granted a tax receipt and shall be discharged from such labour.

(5) On completion of the labour a tax receipt shall be given.

(6) Any person who, having been required to pay his tax by labour, wilfully refuses or fails to perform such labour in the manner prescribed shall be guilty of an offence, and shall be liable on conviction to imprisonment for a period not exceeding two months, notwithstanding the performance of some portion of the labour allotted to him.[3]

[1] Lord HAILEY, *op. cit.*, p. 619.
[2] *Uganda Protectorate, 1938. Ordinances and Subsidiary Legislation* (Entebbe), p. 59.
[3] *Ibid.*, pp. 59-60.

7. A *luwalo* tax still exists in the Kingdom of Buganda[1], but it takes the form of a cash payment of 4, 9 or 14s., as appropriate. On the other hand, a taxpayer who cannot pay in cash is required to work for the Government for one month if he is liable to a 14s. tax and for 21 days if he is liable to a 9s. tax, the object being to enable him to earn enough money for the tax. Should he refuse or absent himself from work, he is liable to a fine not exceeding 20s. or to imprisonment for not longer than two months. Here again, no recent statistics are available.

8. Provision is also made for the following types of compulsory labour under the Native Authority Ordinance, 1919.[2] The relevant Articles are summarised below.

(a) Any chief may require male natives between the ages of 18 and 45 years to work for a maximum of 30 days a year " in the making or maintaining of any work of a public nature constructed or to be constructed or maintained for the benefit of the community " (Article 7 (8)).

(b) Any chief may requisition paid porters " for Government officials on duty and for the urgent transport of Government stores " (Article 7 (9) *(a)*).

(c) Subject to the previous sanction of the Secretary of State, any chief may requisition paid labour for a maximum of 60 days per man per year for various public works such as the building of railways, the construction or repair of roads, bridges, telegraph and public buildings and for services necessary for the maintenance of public health (Article 7 (9) *(b)*).

(d) In the event of famine or threatened famine, the Provincial Commissioner may, with the sanction of the Governor, order the indigenous population to be requisitioned for irrigation and other work and to cultivate the land (Article 10).

Disobedience of such instructions is punishable with a fine not exceeding 150s. or imprisonment for not longer than two months, or both (Article 12).

9. According to the most recent reports submitted by the Government on the application of the Forced Labour Convention (No. 29), only limited use is made of the forms of compulsory labour excepted from the definition of forced labour by Article 2 of the Convention. Discussing minor communal services, the report for the period from 1 July 1948 to 30 June 1949 states—

> Long-established custom in certain areas of the protectorate has required the contribution of male adults, by means of labour towards the maintenance of certain services for the benefit of the community as a whole. The following examples are given of work of this nature which may be performed by hired labour if the individual agrees; the maintenance of short stretches of subsidiary village tracks ; the cleaning of rural wells ; the building of small medical aid posts ; the communal hunting of vermin, such as wild pig ; and the transport of the sick to hospital. The value of this work is widely recognised by the people and does not involve an average of more than a few hours' work a month. Comparatively little compulsion is required and the necessity of the work may be discussed in local councils at which male adults have a right to speak.[3]

10. Otherwise, according to these reports, the only form of forced labour still in existence is the *porterage* of goods and persons. With the constant extension of the road system and the increased use of mechanical transport, however, this form of forced labour is declining. Between 1 July 1950 and 30 June 1951, 4,772

[1] Levied under the Luwalo Law, 1939 ; see *Uganda Protectorate, 1939. Ordinances and Subsidiary Legislation* (Entebbe), p. 151 ; 1946, p. 295 ; and 1947, p. 117.

[2] *Laws of the Uganda Protectorate* (Entebbe, 1936), p. 1281 ; 1942, p. 5 ; and 1949, p. 71.

[3] *Summary of Reports on Ratified Conventions, op. cit.* (Geneva, 1950), p. 171.

men were called upon for porterage and served a total of 5,014 man-days.[1] No one was required to work for more than five hours a day or cover a distance of more than 15 miles. In its report for 1952, the I.L.O. Committee of Experts on the Application of Conventions and Recommendations " notes the report of the Government as to the extension of the road system and hopes that this will speedily lead to the cessation of all forms of forced labour and its substitution by mechanical forms of transport ".[2]

11. According to Article 243 of the 1950 Penal Code, " any person who unlawfully compels any person to labour against the will of that person is guilty of misdemeanour ".[3] The penalty imposed is imprisonment for a period not exceeding two years. According to the latest report by the Uganda Government to the I.L.O. no proceedings have been instituted under this provision during the period under review.

Comments and Observations of the Government of the United Kingdom

The Secretary of the *Ad Hoc* Committee on Forced Labour has received the following document from the Government of the United Kingdom[4] :

UNITED KINGDOM

Allegations concerning Emergency Laws Compelling Workers to Change their Place of Work and to Accept Work in any Part of the Country

1. As regards the statement by the representative of Poland that " the laws of Czechoslovakia and Bulgaria ... were very similar to the United Kingdom National Service Acts ", it will be recalled that the laws in question, to which the United Kingdom representative had made reference at the 238th meeting of the Economic and Social Council, were the Czechoslovak Law No. 247 of 25 October 1948, dealing with the employment of prisoners, including persons who " menace the structure of the people's democratic order ", in fulfilment of the national economic plan ; the Bulgarian Law of November 1946, establishing " labour education communities " chiefly intended for political prisoners ; and the Bulgarian Law of 1946 setting up " idlers' camps ". There is clearly no parallel or analogy between laws of this nature and National Service Acts, which deal with compulsory military service. The position of conscientious objectors, the only category of persons who, under the National Service Acts, might be required to perform civilian work, has already been described in the reply of Her Majesty's Government to the Committee's earlier questionnaire, and will be seen from that reply to be entirely different from that of persons affected by the Czechoslovak and Bulgarian laws in question.

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[1] *Summary of Reports on Ratified Conventions, op. cit.* (Geneva, 1952), p. 181. According to the British Colonial Office (*Report on Uganda for the Year 1950*. London, 1951, p. 18), Uganda had a population of 4,958,520 in 1948, including 4,917,555 Africans.

[2] International Labour Conference, 35th Session, Geneva, 1952 : *Report of the Committee of Experts on the Application of Conventions and Recommendations* (Geneva, 1952), p. 36.

[3] *Uganda Protectorate, 1950. Ordinances and Subsidiary Legislation* (Entebbe), p. 92.

[4] Transmitted to the Secretary of the Committee under covering letter dated 13 Apr. 1953.

2. The statement by the representative of the U.S.S.R., that a United Kingdom Act of 6 October 1947 had deprived British workers of all their rights, and in particular enabled workers to be compelled to change their place of work and accept work in any part of the country, presumably refers to the Control of Engagement Order, 1947, which came into force on the date stated (*Statutory Rules and Orders*, 1947, No. 2021 ; I.L.O. : *Legislative Series*, 1947—U.K.2). The purpose of this Order was to bring persons who became available for employment to Local Offices of the Ministry of Labour (or approved employment agencies) so that they might be guided into employment where they could best contribute to the improvement of the country's economic position, which was then critical. It provided that an employer might not engage or seek to engage any worker to whom the restrictions applied (that is, with certain numerous exceptions, men between 18 and 51, and women between 18 and 41 years of age) otherwise than through a Local Office of the Ministry of Labour or an approved employment agency. Similarly, workers, although free to seek employment, were obliged—if within the scope of the Order—to obtain the consent of a Local Office of the Ministry or an approved employment agency, before accepting it.

3. It was announced that when this Order came into operation, the power of direction under Regulation 58A of the Defence (General) Regulations, 1939[1], the use of which had been discontinued earlier in the year, would be resumed to a limited extent to make the Order effective. Rules issued for the guidance of National Service Officers exercising powers of direction provided, however, that workers must be given as wide a choice as possible among available jobs in essential work, and directions were to be used only in the last resort, if a worker, having been given a full opportunity and a reasonable range of selection, still insisted on taking unessential work or refused to take any work at all. Moreover, every effort had to be made to place the worker on essential work in his own occupation. Wherever possible, the work offered was to be within daily travelling distance of the worker's home, and, generally speaking, persons with family responsibilities were not to be directed away from home. The arrangements continued whereby workers were given an opportunity of appeal against the issue of a direction to the Local Appeal Boards, which were independant bodies constituted originally under the Essential Work Orders.

4. In the event, the number of directions issued under the new arrangements was negligible. Fifteen were issued in 1947, 14 in 1948, and none in 1949 or 1950. The Order was finally revoked on 13 March 1950.

5. In the view of Her Majesty's Government, these facts suffice to disprove entirely the allegation that the Order " deprived the British workers of all their rights ", or constituted a system of " forced labour " in any sense of the term.

Allegations regarding the Labour of Prisoners in the United Kingdom

6. It is not true that in the United Kingdom there are " many legal provisions governing the labour of prisoners and imposing very severe conditions upon them ". The work which persons serving sentences of imprisonment are required to perform is regulated entirely by Statutory Rules made with the approval of Parliament. The current Rules for England and Wales are those of 1949, made by the Home Secretary in pursuance of Section 52 of the Criminal Justice Act,

[1] See the reply of Her Majesty's Government to the Committee's Questionnaire—Question 2 *(c)*.

1948 (now Section 47 of the Prison Act, 1952). A copy of these Rules has been supplied to the Committee. Broadly similar Rules are in operation in Scotland and Northern Ireland. The Committee might wish to know that these Rules conform with, and in some respects go beyond what is required by, the Standard Minimum Rules for the Treatment of Prisoners drawn up by the International Penal and Penitentiary Commission and now under consideration by the United Nations. In their present form they broadly represent what has been the practice throughout the present century.

7. It is true that a law passed in 1822 provided for the imposition of hard labour ; it was, indeed, a theory of the times that work performed in prison by convicted criminals should be hard physical work of an unrewarding kind in order that the deterrent aspect of sentences of imprisonment should be increased, but there is no reason to suppose that conditions in English prisons of those days compared unfavourably with those existing in other countries, including Russia.

8. Before the end of the nineteenth century, however, penal theory had changed, and in 1895 a committee set up by the Government of the day unanimously condemned all forms of unproductive labour in prisons, and recommended that prisoners should be employed in useful and industrial work " such as will fit the prisoner to earn his livelihood on release ". In consequence of the acceptance of this committee's report by the then Government, and the passing of the Prison Act, 1898, it has since been the policy to equip all prisons with workshops and to employ prisoners on such types of useful work as they are capable of doing and as are likely to be of assistance to them on their discharge. Contrary to the assertion of the Russian delegate that in England prison labour is regarded as a means of constraint and the jurisprudence shows a complete contempt for human dignity, the policy followed in this country is that set out in Rule 6 of the Prison Rules, 1949, viz. : " The purpose of training and treatment of convicted prisoners shall be to establish in them the will to lead a good and useful life on discharge and to fit them to do so. " The annual reports published by Her Majesty's Commissioners of Prisons, to which the United Kingdom delegate drew the Council's attention at its Ninth Session, make clear the determined efforts which are made to carry this into practice.

9. The sentence of imprisonment with hard labour was, as the Committee itself points out, formally abolished by Section 1 of the Criminal Justice Act, 1948, but it will be clear from what has been said above that hard labour as a form of work, as provided for in the Act of 1822, had, in fact, been a dead letter since 1898.

10. The Russian delegate's reference to a law of 1913 providing " not only for compulsory labour, but for a most abject form of it, comparable with the work of a galley-slave " is not understood, neither is his reference to compulsory labour accompanied by " corporal punishment inflicted in public ". There is no law of 1913, nor of any year in this century, making any such provision of the sort indicated, and there has certainly been no public whipping in this country for any criminal offence within living memory. The sentence of whipping as a judicial penalty for criminal offences was, in any event, as the Committee point out, abolished by the Criminal Justice Act, 1948.

11. There is no record of the " further examples " which the Russian delegate gave at the Twelfth Session of the Council which, he said, " showed that the situation had not improved ". There is, however, no reason to suppose that they had any more basis in fact then those quoted at the Ninth Session. With regard to the reference here to corporal punishment in prisons, the Committee will be aware

that there are three offences, and only three offences, against prison discipline for which corporal punishment may be awarded. These are mutiny, incitement to mutiny and gross personal violence to a prison officer. In every case the infliction of the punishment is subject to the confirmation of the Secretary of State. The punishment may not in any case exceed the limits prescribed in Section 18 of the Act, and under Rule 46 its imposition is subject to medical safeguards against injury to health.

12. The Commissioners of Prisons in their annual reports provide full information on all aspects of prison employment and discipline, including details of all punishments imposed in prisons during the year. The report for 1952 is not yet available, but during that year corporal punishment was inflicted in one case only. The case in question was one of gross personal violence to a prison officer.

13. There is no power in the Act or Rules which would permit the infliction of corporal punishment for offences such as idleness, neglect or carelessness at work, or for refusal to work.

14. As regards the allegations made by the Polish delegate at the Ninth Session, it will be known to the Committee that the *Daily Worker* is an organ of the Communist Party, and that accordingly its reports are worthy of no greater credence than that which attaches to the demonstrably false and irresponsible allegations made by the Soviet delegate. As regards the case of Sydney Brown, prison records show that a person of this name served a sentence of six weeks' imprisonment at Brixton in the summer of 1949 for using insulting words and behaviour. There is no record of his having complained in any way of the treatment he received while in prison.

15. It has been observed that although the circumstances in which the offence was committed are irrelevant to the allegation regarding the treatment of prisoners, the Polish delegate was at pains to explain that Brown was participating in an anti-war demonstration outside the American Embassy. A prisoner at Brixton would have received the same treatment if he had been convicted of similar conduct while participating in an anti-" peace " demonstration outside the Soviet Embassy or, for that matter, if he had been convicted of any other offence.

Bechuanaland

1. The allegations made can largely be refuted from material contained in the transmission under Article 73 e. of the Charter in respect of the Protectorate for 1951.

2. It is fantastic to suggest that the sole purpose of the Bechuanaland Protectorate is to provide labour for the mines in the Union of South Africa. Ninety-five per cent. of the population are, in fact, engaged in agriculture and stock-raising on their own farms or tribal lands in the Protectorate, as A/2134/Add.7 of 18 September 1952 shows. The Bechuana own approximately one million head of cattle (*i.e.*, over three per person or 15 per average family). The value of livestock and their products exported to neighbouring territories during 1951 amounted to £1,967,841. Only a small percentage of the population leaves the territory annually for temporary employment in the mines; it does so entirely of its own volition and the percentage is falling as development within the territory grows.

3. No pressure is put either by officers of the Administration or by tribal chiefs on Africans to accept employment in the mines or elsewhere. Not only, as is stated in the summary of material available to the Committee, are officers pro-

hibited from taking any part in recruitment, but the Native Labour Proclamation prohibits also chiefs and headmen from acting as labour agents, exercising pressure on possible recruits, or receiving remuneration or special inducement for assistance in recruiting. There is no truth whatsoever in the assertion that chiefs have been dismissed for failure to organise recruitment.

4. The economy of the Bechuanaland Protectorate is predominantly agricultural and pastoral and the Bechuana tribal system provides a considerable measure of social security for all members of the community. There is at present, therefore, no need for elaborate social legislation. That in force is appropriate and adequate for the stage of development which the territory has reached.

5. Conditions of workers in the mines are naturally governed by the laws of the Union of South Africa, where the mines are situated. Conditions of recruitment in Bechuanaland, however, are governed by the Bechuanaland Native Labour Proclamation which, as the summary of information indicates, provides workers essentially with the guarantees required by the international labour Convention (No. 50) concerning the regulation of certain special systems of recruiting workers. The Protectorate Administration is satisfied that the health of workers in the mines is subject to strict and constant supervision by fully qualified medical officers. The Protectorate maintains jointly with Basutoland and Swaziland an agency at Johannesburg (in the Union of South Africa) which assists in assuring the welfare of migrants from these territories while at work.

Cameroons

The laws of Nigeria apply equally to the Cameroons under British Administration. The position in the Trust Territory is thus no different to the general position throughout Nigeria. The Committee is therefore invited to refer to the observations made by the United Kingdom Government relating to Nigeria and to the information already available to the Committee in respect of Nigeria.

Gambia

1. The allegation by the representative of Poland, in the Economic and Social Council debates, of the existence of forced labour in the Gambia is unfounded. The exaction of forced labour, as defined in international labour Convention No. 29, is specifically forbidden by law and no case of the contravention of this law is known.

2. With regard to the extract from the I.L.O. publication *Social Policy in Dependent Territories*, which may have given rise to the allegation, workers from the farming areas were naturally, and voluntarily, attracted to the more remunerative employment offered by the Services during the last war. That was of course a temporary phase which has now passed. There was no coercion. On the contrary, the Gambia Government made every possible effort to persuade farmers to stay on the land with a view to increasing agricultural production.

3. The conditions under which local inhabitants may be called upon to work for communal purposes were fully described in this colony's report on the application of Convention No. 29 in respect of the year ending 30 June 1950, but this work is specifically excluded from the term " forced labour " as defined by Article 2 of international labour Convention No. 29.

GOLD COAST

1. No specific details of cases of forced labour are given in this allegation. Forced labour, as defined in the Forced Labour Convention, 1930, is prohibited by law. The United Kingdom Government is not aware of any grounds on which the allegation might have been based. The following paragraphs amplify the information already available to the Committee.

2. In accordance with I.L.O. Convention No. 29 the following have been excluded from the definition of "forced labour" by Section 106 of the Labour Ordinance, 1948:

(a) any work or service exacted under the provision of any enactment relating to compulsory service in any branch of His Majesty's Forces;

(b) any work or service exacted under the provisions of any enactment relating to compulsory service directed to furthering the prosecution of any war upon which His Majesty may be engaged;

(c) any work or service exacted from any person as a consequence of a conviction by any court of law or of a lawful order by such court, where the work or service is carried out under the supervision and control of a public authority and the person is not hired or placed at the disposal of private individuals, companies or associations;

(d) any work or service exacted in cases of emergency, calamity or threatened calamity or in any circumstances likely to endanger the existence or well-being of the whole or part of the population and more particularly and without prejudice to the generality of the foregoing in the event of—

(i) war or threatened war;
(ii) fire, flood, famine or earthquake;
(iii) epidemic or epizootic disease;
(iv) invasion by animal or vegetable pests;

(e) minor communal services of a kind which are to be performed by the members of a community in the direct interest of the community and which are normal civic obligations incumbent upon the members of the community and more particularly and without prejudice to the generality of the foregoing services for—

(i) the maintenance of buildings used for communal purposes, including markets but excluding shrines and places of worship;
(ii) sanitation;
(iii) emergency measures for the prevention of disease or the spread of disease;
(iv) the maintenance and clearing of local roads and paths;
(v) the repairing of town or village fences;
(vi) the digging and construction of wells;
(vii) the provision and maintenance of local cemeteries;

Provided always before the exaction of such minor communal services, the chief shall consult the inhabitants of the place, town or village concerned or their direct representatives in regard to the need for such exaction.

3. No law, regulation or administrative rule or practice provides for obligatory labour service for the performance of any work either in nationalised undertakings or in those directly or indirectly controlled by the public authorities, or in private undertakings or for the performance of any work towards the fulfilment of over-all plans laid down by the Government or public authorities, for public works in the public interest or the exploitation or production of any type of goods or resources.

4. Forced labour, within the definition of the international labour Convention (No. 29) concerning forced or compulsory labour, is specifically prohibited by Section 107 (1) of the Labour Ordinance, 1948, which reads as follows :

(1) The exaction or employment of any forced labour is prohibited.

(2) Any person who exacts forced labour or causes forced labour to be exacted or who permits forced labour to be exacted for his benefit in contravention of subsection (1) of this Section shall be liable, on summary conviction, to imprisonment for one year or to a fine of one hundred pounds or to both such imprisonment and fine.

5. Section 108 of the Labour Ordinance, 1948, imposes a penalty of a fine of £100 on any person who or which puts any constraint upon the population under his or its charge, or upon individual members of such population, to work for any private individual, company or association.

6. Section 109 of the Labour Ordinance, 1948, empowers—

(a) a District Commissioner or a Native authority or chief to exact any work or service provided for by paragraph *(d)* of Section 106, and

(b) a Native authority or chief to exact any minor communal services provided for by paragraph *(e)* of Section 106.

7. Section 110 of the Labour Ordinance provides that any person from whom labour or service of any kind is lawfully demanded under any of the above noted provisions who refuses or fails without reasonable cause to render such labour or perform such service shall be liable, on summary conviction, to a fine of two pounds.

8. No work or service has been exacted under Section 106 *(d)* of the Labour Ordinance.

9. As a result of the recent emphasis on community development action has been taken within the purview of Section 106 *(e)* on the following lines :

(1) Funds are provided by the Government for the purchase of materials and the payment of skilled labour needed for the development or improvement of local communications, sanitation or provision of water. The communities of the districts which elect to benefit by these developments provide of their own choice free voluntary unskilled labour for the projects after having been previously consulted by their chiefs.

Under this system work is not in fact exacted from the population, since the labour comes forward voluntarily as a result of being shown the benefits which accrue to their community from the work, and no case is known of a prosecution being undertaken under Section 110 of the Labour Ordinance.

(2) There are no restrictions of freedom of residence or movement applied in such manner and in such circumstances that their effect would be to compel persons to work in a specific area.

(3) No limitations are placed on the freedom of workers to choose their place of work and the undertakings they work for.

KENYA

1. The allegations relating to Kenya fall into three categories—

(a) Use of forced labour in wartime for certain purposes, including its use by private employers.

(b) The direction of voluntarily unemployed persons to employment under the provisions of the Voluntarily Unemployed Persons (Provision of Employment) Ordinance (No. 39 of 1949).

(c) The conscription of labour in peacetime for industries of national importance.

Wartime Measures

2. Under the Compulsory Military Service Ordinance (No. 20 of 1939) every male British subject or British protected person between specified ages and normally resident in Kenya was, unless exempted under the Ordinance, made liable to be enrolled for military service both within and without the colony, or to do any work or render any personal service which the Governor considered necessary in aid of, or in connection with the defence of, the colony. The Ordinance was repealed by Section 17 of the Compulsory National Service Ordinance, 1943 (No. 36 of 1943).

3. Under Section 2 of the Compulsory National Service Ordinance, 1943, every male or female British subject or British protected person between specified ages was rendered liable to be called up for national service, whether under the Government or not, and whether in the Armed Forces of the Crown, or as a member of any force or unit established for civil defence, or in agriculture or in industry or otherwise. The Ordinance expired on 24 February 1947.

4. Under the Emergency Powers (Defence) Acts, 1939 and 1940, the Defence (Native Personnel) Regulations, 1940 (Government Notice No. 770 of 1940) were made, under Section 2 (1) of which—

> Where the Governor is satisfied that it is necessary for the defence of the colony that Natives should be employed either on specific duties in connection with work of a military character, or as members of the East Africa Military Labour Service Unit, he may order the Provincial Commissioner of any province, or the officer in charge of any district, to provide a specific number of Natives for that purpose.

These Regulations were revoked by the Defence (Native Personnel) (Revocation) Regulations, 1946 (Government Notice No. 1038 of 15 November 1946).

5. All these measures were considered to be essential during the war and permissible under international labour Convention No. 29.

Voluntarily Unemployed Persons Legislation

6. The power to direct voluntarily unemployed persons to work is conferred by Section 14 of the Voluntarily Unemployed Persons (Provision of Employment) Ordinance, 1949 (No. 39 of 1949). This Ordinance came into force on 1 January 1950. It may remain in force for one year at a time, and its continuation is subject to the approval of the Legislature. Its life has recently been prolonged until the end of 1953. The Ordinance is designed to encourage males between the ages of 18 and 45 years in limited prescribed areas to engage in useful work and to ensure that those who show they have no intention of earning an honest living are directed to work in useful channels. It applies at present only to the urban areas of Nairobi and Mombasa. It is to be noted that under Section 14 voluntarily unemployed persons cannot be directed to private employment ; they can only be directed to enter into a written contract of service, for a period not exceeding six months, in paid national employment, that is to say, in Government or local government work. In practice, very few persons who come within the scope of the Ordinance

are so directed ; the majority of such persons are either permitted to engage in approved employment of their own choosing or are repatriated to their Native Land Units. During the year 1952 only 15 persons were directed to employment under Section 14.

Compulsory National Service

7. Under the Compulsory National Service Ordinance, 1951 (No. 19 of 1951), British subjects or British protected persons between specified ages can be directed to " national service " (*i.e.*, service in the Armed Forces or in any force or unit established for civil defence) or to service in an " essential undertaking " (*i.e.*, an undertaking, whether public or private, declared by the Governor in Council to be an undertaking essential to the successful prosecution of any war in which Her Majesty's Government may be engaged, the defence of the colony, or the maintenance of supplies and services essential to the life of the community). The Ordinance was designed for use in wartime. There is no conscription of labour in peacetime.

Compulsory Labour for Communal Services

8. The Compulsory Labour Regulation Ordinance (Cap. 112), which was based on the international labour Convention No. 29, has been repealed by the Compulsory Labour Regulation (Repeal) Ordinance, 1952 (No. 51 of 1952). At the same time the Native Authority Ordinance (Cap. 97) has been amended by the Native Authority (Amendment) Ordinance, 1952 (No. 43 of 1952). The amendment empowers chiefs, under specified conditions based on international labour Convention No. 29, to requisition paid labour in an emergency (Section 10A) as permitted under Article 2 of the Convention, and also for certain necessary measures for the preservation of natural resources (Section 10B), after consultation with the members of the community or their representatives in regard to the need for the work or service. No Native may be called upon to perform such work for periods exceeding 60 days in any period of 12 months.

9. Under the Native Authority Ordinance (Cap. 97, as amended), chiefs are also empowered to issue orders for labour for " destroying locusts in any stage of development " (Section 9 (1)) and " for any services declared by bye-law to be minor communal services, for not more than six days in any quarter " (Section 10 *(k)*) ; under Section 15, special powers are conferred to deal with famine relief. These provisions are all in accord with Article 2 of international labour Convention No. 29.

10. Under the African District Councils Ordinance, 1950 (No. 12 of 1950), compulsory labour can be imposed for minor communal services by means of bye-laws made by the Councils and subject to confirmation by the Member for Local Government. Bye-laws may be made by a Council " in respect of all such matters as are necessary or desirable for the maintenance of the health, safety and well-being of the inhabitants, or for the good rule and government, of the area for which it is established " (Section 22 (1)). Again, this labour is not " forced or compulsory labour " within the definition contained in Article 2 of international labour Convention No. 29.

Emergency Powers

11. Under the Emergency Powers Ordinance (Cap. 42) the Governor in Council may, during the currency of a Proclamation of emergency, make regulations " for

securing the public safety or interest and the essentials of life to the community and may confer or impose on any person such powers and duties as the Governor in Council may deem necessary " for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light and other necessities, for maintaining the means of transit or locomotion and for any other purposes essential to the public safety and the life of the community ". No such regulation may be made, however, imposing " any form of compulsory military service or industrial conscription ". Here also, there is no " forced labour " as defined in international labour Convention No. 29.

12. During the present state of public emergency which was proclaimed on 20 October 1952, under the Emergency Powers Order-in-Council, 1939, authority has been given—by Regulation 11 of the Emergency Regulations, 1952, published as Government Notice No. 1103 of 20 October 1952, as amended by the Emergency (Amendment) (No. 5) Regulations, 1952, published as Government Notice No. 1345 of 11 December 1952—to the Governor, or any person authorised by the Governor, to provide for the securing and continuance of any necessary service as defined in Regulation 34 by either—

(a) directing any person or class of persons employed in a necessary service to remain in and continue to perform such employment, for their usual remuneration, or

(b) ordering any person or class of persons to perform such work or duties in a necessary service as may be specified, for such remuneration as may be specified.

There is a proviso to Regulation 11 to the effect that nothing therein shall make it an offence for a person to take part in a strike in any service not being an essential service under the Essential Services (Arbitration) Ordinance (No. 4 of 1950). Since the beginning of the emergency no one has been directed under the Regulations. These provisions do not conflict with international labour Convention No. 29.

General

13. In this territory there is no system of forced or " corrective " labour used as a means of political coercion or punishment for holding or expressing political views.

Federation of Malaya

1. It is considered that the unofficial information contained in paragraph 6 of the " Summary of the Material Available to the Committee " has no relevance in relation to the allegation made by the W.F.T.U. representative in the Economic and Social Council.

2. The report of the Telepress Agency is false in every particular.

3. On 1 July 1950 the total number of persons detained in the Federation under the Emergency Regulations was 9,992, including 427 dependent children. These persons were detained under Regulation 17 of the Emergency Regulations, 1951. Regulation 17 of the Emergency (Detained Persons) Regulations, 1948, expressly provides that such detained persons shall not do any labour other than that which is necessary for keeping their quarters and their place of detention clean and in good order, and the detainees were not performing any labour other than that so authorised.

4. There were at that time no persons detained in special camps under Regulation 22 of the Emergency (Detained Persons) Regulations, 1948.

5. The Committee may be interested to know that the maximum number of persons ever detained at any one time in a special camp under Regulation 22 of the Emergency (Detained Persons) Regulations, 1948, was 116, and that was on 16 December 1950, and that the number of persons so detained at the beginning of January 1953 was 20.

6. The Committee may also wish to know that the total number of persons under 17 years of age who have been detained in advanced approved schools in accordance with Regulation 17 (1) *(b)* of the Emergency Regulation, 1951, since August 1950 is 209, of whom 69 have since been discharged.

NIGERIA

Forced Labour in General

1. It is confirmed that forced labour, as defined in international labour Convention No. 29, is prohibited (see references to porterage below).

Communal Services

2. The forms of communal services permitted are excluded from the definition of "forced labour" in Convention No. 29. No authorities other than "Native authorities" have in fact been authorised to exact such services.

Porterage and Services for Chiefs

3. There is in fact no exaction of compulsory porterage in Nigeria. The relevant provisions of the Labour Code Ordinance and the Schedule thereto are inoperative; viz., Section 117 in relation to porterage and certain services for chiefs, and Section 113 and the Schedule to the Ordinance in relation to carriers for purposes of transport. Both these Sections of the Ordinance are governed by Section 108 of the Ordinance, which reads—

> The Governor in Council may by order apply any or all of the provisions of this chapter to the whole of Nigeria or to such part or parts thereof as may be specified in such order.

No order has been made applying Sections 113 and 117 to any part of Nigeria.

Convict Labour

4. Section 377 of the Criminal Procedure Ordinance (Cap. 43, Laws of Nigeria) provides—

> Imprisonment, subject to the express provisions of any written law providing imprisonment as a punishment for an offence, may be either with or without hard labour as the Court may order, and where no specific order is made the imprisonment shall be with hard labour.

No distinction is made by law between one type of offence and another as to the character of the labour which may be exacted from a convict. The employment of convicts undergoing a sentence of imprisonment is governed by regulations made by the Governor in Council under Section 7 of the Prisons Ordinance (Cap. 177).

5. Of the persons committed to prison in 1947, a total of 13,385 were liable to be employed in public work or prison industries. Their offences were as follows:

Offenees against persons with violence.	1,251
Offences against persons without violence	1,956
Offences against property with violence	2,758
Offences against property without violence . . .	3,315
Offences under the Laws of Nigeria, Cap. 42 Part I. Cap. xxxi, Sections 364-369 (*e.g.*, compelling action by assault, intimidation, etc.)	221
Offences under the Laws of Nigeria, Cap. 42 Part III. Cap. xviii, Sections 190-203 (*e.g.*, false declarations or statements, resisting public officers in the execution of duty, disobedience of lawful orders, etc.)	1,114
Offences against public order (Laws of Nigeria, Cap. 42 Part II. Cap. vi, Sections 37-49) . . .	1,762
Offences against morality (Laws of Nigeria, Cap. 42 Part IV. Cap. xxi, Sections 214-233 A) . . .	451
Offences against Native law and custom	557
	13,385

6. Reference is invited to subparagraph *(a)* of the terms of reference of the Committee:

"*Systems of forced or 'corrective' labour employed as a means of political coercion or punishment for holding or expressing political views.*"

No such system exists in Nigeria; persons convicted of sedition are required to perform labour when under sentence only to the same extent as are persons convicted of any other kind of offence. No other kind of involuntary labour or service in Nigeria is even remotely near the kind of "system" described.

"*Such systems which are on such a scale as to constitute an important element in the economy of a given country.*"

Prison labour has no significance in the economy of Nigeria.

Northern Rhodesia

Work in the Copper Mines

1. The allegations relating to wage rates in the mining industry do not appear to fall within the purview of the Committee, unless the implication is that Africans are compelled to work on the copper mines. This implication is incorrect. All Africans employed on the copper mines seek employment voluntarily at the place

of employment and there is no outside recruitment; those seeking employment always exceed in number the posts vacant.

2. African wage rates are freely negotiated between the African Mineworkers Trade Union (which is affiliated to the International Confederation of Free Trade Unions) and the employers' organisation. Cash wages in many instances are only part of the worker's emoluments, as approximately 90 per cent. of African employees receive free housing, rations, services and medical attention. It is estimated that the value of housing and rations averages 65s. per month. The remaining 10 per cent. receive an inclusive wage. Particulars of wage rates are given in the annual reports of the Department of Labour and Mines; the actual range in December 1951 was from 360s. to 55s. for each period of 30 working days for underground employees and from 320s. to 45s. for surface employees. Average cash wages in the copper mines have increased as the result of negotiated agreements as follows :

Average rate for 30 working days	1949	1950	1951
Underground	69s. 0d.	73s. 9d.	89s. 2d.
Surface	58s. 4d.	63s. 8d.	74s. 0d.

3. Further substantial increases in wage rates have resulted from an arbitration award made in January 1953.

4. No forced labour is or has been employed in the mines.

General

5. The allegation states that Natives in Northern Rhodesia are compelled to work. In fact, forced labour is prohibited under Section No. 234 of the Penal Code and there is no forced labour, as defined in international labour Convention No. 29, in the territory.

Compulsory Services

6. Under the Native Authority Ordinance (Cap. 157), Native authorities are empowered, subject to specified conditions and safeguards, to requisition paid labour for certain necessary local works and services, which can be described as "minor communal services" or in connection with famine relief.

7. Under the Natural Resources Ordinance (Cap. 239, as amended by Ordinance No. 4 of 1951) Native authorities are empowered to requisition paid labour to execute prescribed measures deemed necessary for the conservation and protection of natural resources.

Wartime Conscription

8. There was conscription of African labour as a wartime measure in Northern Rhodesia, limited to labour essential for food production. Such conscription was abolished in 1946.

African Labour Corps

9. In 1942 provision was made in Emergency Powers (African Labour Corps) Regulations for the establishment of a Government-controlled African Labour Corps to assist in supplying labour for food production. These Regulations automatically expired on 31 December 1947. Enrolment in the Corps was entirely voluntary.

10. The Corps was reconstituted by the African Labour Corps Ordinance, 1948 (Laws of N. Rhodesia Cap. 235), which re-enacted the conditions of service; enrolment remained voluntary. This Ordinance continued in operation from year to year, was amended by Ordinance No. 20 of 1951, and finally lapsed on 31 December 1952. The Corps was then disbanded.

Sierra Leone

1. No specific instances of the use of forced labour are mentioned in the allegation.

2. The United Kingdom Government confirms that the law and practice in the Protectorate is as described in the memorandum of information already available to the Committee. Forced labour as defined in the international labour Convention No. 29 has not yet been completely abolished. However, the use of the powers of the authorities and Native chiefs under the Forced Labour Ordinance (in accord with the provisions of the Convention) is being progressively reduced as communications are developed and improved in the territory.

Southern Rhodesia

1. The following information relating to the provisions of Section 53 of the Native Land Husbandry Act of Southern Rhodesia is submitted by Her Majesty's Government in the United Kingdom to supplement the material already available to the Committee.

2. The Native Land Husbandry Act must be viewed in the light of the need to preserve the agricultural interests of the African population of Southern Rhodesia, having regard to the considerable changes in African agricultural economy which have taken place in that territory during the past 50 years.

3. The traditional agricultural methods of the Southern Rhodesian African were based on a system of shifting cultivation and grazing by which, as a patch of land became exhausted, it was abandoned and the tribe moved on to virgin land in another part of the country. This system was both wasteful and unproductive and could only be maintained as long as there was still new land to be exploited. Over the years, the increasing shortage of new land has gradually restricted the free movement of tribes, and this trend has been accentuated during the past 50 years by the rapid increase in population from half a million at the beginning of the century to nearly two million today. The change from nomadic shifting agriculture to intensive cropping and grazing on the same piece of land each year is now almost complete.

4. If intensive agriculture is to be effective in the climatic conditions of Southern Rhodesia, where periods of heavy rainfall alternate with periods of drought, special measures must be taken to maintain soil fertility and to ensure that the soil, which for the most part has very little depth, is not eroded and washed away in the rains and that the complementary work of water conservation is carried out to offset the effects of the dry seasons. These measures of protection are essential not only in the interests of the individual farmer and his neighbours but also of the farms more distant from the watersheds.

5. The following additional factors have in recent years militated against the proper care of the soil in African areas :

(a) *Fragmentation of land holdings and overstocking.* With the rapid increase in population, pressure on land has led to excessive fragmentation of arable land into uneconomic small holdings and gross overstocking in many grazing areas. These practices have resulted in rapid exhaustion of the rather poor soil cover.

(b) *Migratory labour.* There has been a continuing increase in the numbers of Africans leaving rural areas to seek employment elsewhere. The majority of these Africans take up short-term employment only. They continue to hold land in the Native areas and Native reserves which in their absence is tilled by their wives and families. It is calculated that while 50 per cent. of the male inhabitants of the reserves and Native areas are employed in the towns at any one time, over 90 per cent. of them are nominally occupiers of farms. This system of migratory labour has caused a decline in agriculture among Africans and has resulted in a lowering of standards of efficiency on their farms.

6. These factors have combined to produce an alarming deterioration in the natural resources of Southern Rhodesia which, unless checked in time, will result in permanent loss to the territory and in widespread poverty among the African inhabitants. It is therefore in the interests of Africans no less than the other inhabitants of the territory that new farming methods designed to save the soil and to increase its fertility and carrying capacity should be adopted as a matter of urgency. This is the intention behind the Native Land Husbandry Act, which sets out and provides for the implementation of rules for better farming.

7. The problem in regard to individual land holdings is relatively straightforward. The occupier, whether African or European, is required to carry out soil improvement and conservation measures in the normal course of his work. This solution cannot, however, be adopted in the case of communally owned grazing land in the African areas for which responsibility does not rest with any single farmer. Provision has therefore had to be made to enable Native authorities to call on the services of all landholders in their areas from time to time to undertake necessary works of conservation in their own interests and the interests of their neighbours. The rights of Africans whose services are required for this purpose are fully protected. They must be paid at not less than the current rate of wages in the district concerned for the class of work they are required to perform, and they may only be employed in their own areas under the authority of their own Native council or chief. There is no question of their being required to work on European occupied land, nor would they be employed on tasks normally performed with the aid of machinery.

8. The Native Land Husbandry Act fixes a maximum period in any one year for which an African may be required by his local Native authority to work in

the interests of the community on essential land conservation projects. In determining the length of this maximum period, the Southern Rhodesia Government took the view that it would cause serious inconvenience and hardship to individual landholders working outside their own areas to require them to give up their employment and to go back periodically to their farms to help with the work of land conservation there. They therefore considered that the only practical arrangement would be to limit this duty to the smaller number of Africans actually in occupation of land in Native areas and reserves. (It should be noted in this connection that the main task of soil conservation would normally fall to be carried out in the dry season when the African farmer has little or nothing to do on his own land.) The Southern Rhodesia Government were supported in this view by African representatives who were consulted about the provisions of the Bill at the drafting stage. A number of other changes in the Bill were also made at that time to meet African views.

9. In practice it is hoped that it will not prove necessary to invoke the provisions of Section 53 of the Native Land Husbandry Act. All major work on the conservation of soil and water is undertaken with the aid of heavy mechanical units. A Native reserve has recently been fully protected by these means with the assistance of only 60 African labourers, all of whom were volunteers. Other conservation work not requiring the use of machinery would also normally be carried out by volunteer labour. Only if this was not forthcoming would it be necessary for a Native authority to exercise their powers under Section 53 of the Act. It is in the interests of the economic life of the territory as a whole, and in particular of the future prosperity of the African population, that such powers should be available to the authorities in the last resort.

TANGANYIKA

1. The allegations concerned *(a)* forced labour during the war; *(b)* the groundnut scheme; *(c)* compulsory labour for public works and services; *(d)* compulsory labour for failure to pay taxes.

2. The following information supplements that already available.

General

3. Section 256 of the Penal Code makes it an offence unlawfully to compel any person to labour against his will. In no circumstances may compulsory labour be engaged contrary to international labour Convention No. 29. There are legislative provisions (referred to below) authorising the requisitioning of labour, subject to precise administrative instructions, as permitted under Article 2 of that Convention.

4. The labour referred to by the representative of the U.S.S.R. in this connection was not " forced labour " as defined in the Forced Labour Convention, No. 29. It was labour enrolled under the provisions of the Compulsory Service Ordinance, 1940, for the purpose of " maintaining supplies and services essential to the life of the community during the war ".

5. This legislation was enacted to meet the special emergency created by the war and was of a temporary nature. Conscription of labour ceased on 31 December 1945. Workers who had not completed their stipulated period of service by that date were permitted to continue to work either until the completion of this

period or until the final date laid down for their repatriation, whichever was the earlier, and in no case beyond 30 September 1946. No conscripted labour was employed after that date.

The Groundnut Scheme

6. The source of information on which the representative of the Byelorussian S.S.R. based his allegation is unknown, but his statement is entirely without foundation. There has never been any question of the use of forced labour on the groundnut scheme or any of its ancillary projects. A large proportion of the workers employed by the Overseas Food Corporation have offered their services voluntarily at the places of employment. The remainder have been " recruited " on licences issued under the provisions of local legislation, which complies with the requirements of the Recruiting of Indigenous Workers Convention (No. 50). The following figures, showing the relationship between the number of workers " recruited " and the total labour force, may be of interest :

Year	Approximate total number employed (as at 31 December)	No. of " recruited " workers
1947	No record	977
1948	25,000	3,939
1949	22,800	5,310
1950	17,600	3,324
1951	12,500	6,396
1952 [1]	8,199	1,539

[1] As at 30 Sept. 1952.

7. As regards the general question of recruiting raised in this connection, there is little to add to the reply of the United Kingdom Government quoted in the " Summary of the Material Available to the Committee ", paragraph 12. Licensed recruiters, the majority of whom are employers or associations of employers authorised to " recruit " their own labour, are virtually licensed agents who, free of cost to the workers, provide facilities for transport to places of employment for those seeking work. The workers in all cases offer their services voluntarily.

8. With regard to paragraph 13 of the Committee's summary, the following is an extract from the report of the Government of Tanganyika to the I.L.O. on the application of the Recruiting of Indigenous Workers Convention (No. 50) for the period 1 July 1951 to 30 June 1952 :

> The policy outlined in the reply in the 1949 report to Question V on Convention 50 has been continued. There are still only two professional recruiters in the Territory and it is satisfactory that their activities are diminishing. During 1951 they " recruited " only 5,174 men, or 1.1 per cent. of the total Africans in employment (approximately 450,000). The work of these professional recruiters is beneficial, for they supply labour to employers who have not sufficiently strong resources to form their own organisation for the transport of workers from their homes to places of employment.

Compulsory Labour for Public Works and Services

9. The circumstances in which such labour may be employed are as explained in the information material available to the Committee. It should again be stressed

that the official description " compulsory labour " is not an accurate one, in view of the fact that many of the workers required for these purposes need no compulsion and respond voluntarily to the call for labour. Administrative directions are in force to ensure that requisitioned labour, which is in any event used to a very limited extent, is employed only on those works and services specifically permitted under the provisions of the Forced Labour Convention (No. 29).

10. The statement by the representative of Poland that the wage rates for compulsory labour in 1947 were 14 cents a day is quite incorrect. As will be seen from the report submitted to the I.L.O. in respect of the period ending 30 September 1947, wage rates then varied from 30 to 60 cents a day. These rates have since been increased substantially.

11. In cases where resort to the use of forced or compulsory labour is permitted in accordance with the provisions of the Convention, the prior sanction of the Chief Secretary is required, except that in an emergency Provincial Commissioners or District Commissioners, as the case may be, are authorised to sanction its engagement. In such emergency the action taken has to be reported immediately, and the responsibility for recourse to forced or compulsory labour rests with the Chief Secretary.

12. Power is delegated to Provincial Commissioners and District Commissioners to authorise the employment of compulsory labour in the following circumstances—porterage of public stores or for Government employees travelling on duty, where other forms of transport are impracticable ; emergency works such as saving or repair of bridges, railway embankments, etc. ; emergency repairs to telegraph lines ; forest fires ; other grave emergencies.

13. As a general rule persons required to perform compulsory labour are ordered to do so for a definite, and very limited, period of days. Under Section 9 (i) of the Native Authority Ordinance, no person may be compulsorily engaged for paid labour on essential public works and services for a longer period than 60 days in any one year. No Native who is fully employed in any other work, or has been so employed during the year, may be called upon. A person may be exempted by the Governor from engagement for labour under this Section of the law. Any attempt by any Native authority to continue to exact compulsory labour when the circumstances endangering the population or its normal living conditions and requiring compulsory labour had ceased would constitute a serious breach of responsibility and possibly an offence against Section 256 of the Penal Code. The proportion of men conscribed for work from any locality may in no case exceed 25 per cent. of the able-bodied male population ; such men as are conscribed must be not younger than 18 nor older than 45 years. When the work necessitates the workers sleeping away from their homes, inspection as to their physical fitness must be undertaken (by a medical officer if possible). Accommodation, when provided for such persons, must be in accordance with the standards laid down in the Master and Native Servants (General Care) Regulations, 1947 (Government Notice No. 87/47), as amended by the Master and Native Servants (General Care) (Amendment) Regulations, 1948 (General Notice No. 189 of 1948). Normally, workers are not transferred from their district to other localities involving considerable changes of climate and food. In practice it has not been necessary to keep compulsory labour at work for considerable periods.

14. Clear administrative instructions are given for Government porterage with regard to loads, distances and days of work. The use of forced or compulsory labour for the transport of goods and persons is being progressively reduced. It

is the policy of Government to substitute mechanical transport for head carriage whenever possible. The use of this form of labour, however, will be required for some years to come, *i.e.*, until an adequate all-weather system of communications serving all parts of the territory has been provided. Were this system to be abolished it would react to the detriment of the indigenous inhabitants themselves by impeding regular visits by administrative and departmental officers to outlying parts of their districts.

15. Under the provisions of Section 10 (1) *(c)* of the Native Authority Ordinance, a Native authority is empowered in times of shortage of food to require any of its subjects to cultivate land. In all cases where such work has been ordered it was for the express purpose of avoiding famines, to which this territory is at times particularly susceptible.

Compulsory Labour for Failure to pay Taxes

16. As stated in the " Summary of the Material Available to the Committee ", the legal sanction for the discharge of the obligation by labour was repealed by the enactment of the Native Tax (Amendment) Ordinance, 1951. The following comparative figures of the number of persons who have discharged their tax obligation by labour during recent years may be of interest.

Year	Number	Percentage of total number of taxpayers
1947	4,447	.0025
1948	4,148	.0024
1949	2,384	.0015
1950	2,010	.0012
1951	1,127	.0007

UGANDA

1. The following information supplements that already available to the Committee.

Luwalo

2. *Luwalo* is a Buganda word meaning literally " work done in turn ". Prior to the enactment of the Native Administration Tax Ordinance, 1938, the word was in general use throughout Uganda, to denote the services required annually of every able-bodied man by his chief for the benefit of his own local community. Such labour is not of course " forced labour " under the terms of Article 2 of the international labour Convention No. 29. Thereafter these communal services were commuted to a cash payment known as " Native administration tax ", outside Buganda. Buganda retained the word *luwalo*, but also adopted the principle of cash payment instead of labour. It must be emphasised that this tax is a Native administration levy and not a Government tax and that its proceeds are entirely directed to the benefit of the local community.

3. It is now most rare for any taxpayer to meet his liability by direct labour rather than cash payment, though the legal entitlement to do so still exists.

Compulsory Labour Permitted under Convention No. 29

4. In practice chiefs are not permitted to exercise the powers provided under the Native Authority Ordinance, 1935, to exact compulsory labour for certain purposes.

5. Powers to exact compulsory labour in certain circumstances in accordance with the terms of international labour Convention No. 29 have not been delegated by the Governor below Provincial and District Commissioners. Such powers are exercised only in respect of labour for carrying the effects of administrative officers and chiefs travelling on duty in remote or inaccessible areas of the Protectorate where there are considerable local populations but no roads.

6. Porterage seldom involves more than one day's work annually on the part of any individual man and does not involve his transfer to a district where different conditions, food and climate exist. Only adult, able-bodied males are called upon and particular care is taken to ensure that only men in good health are employed. The rates of wages for compulsory labour are kept under review by the local administrative authorities ; payment is made in cash to each porter on completion of the day's work.

Additional Material

Cameroons

Addition to Paragraph 4.

In paragraph 296 of its report to the General Assembly of the United Nations on the administration of the Cameroons for the year 1951 [1], the Government of the United Kingdom states—

The very great majority of prosecutions for offences against the Direct Taxation Ordinance are tried in the Native courts. During 1951 there were 256 prosecutions in the Victoria Division of Cameroons Province resulting in the imposition of fines ranging from 5s. to 40s. There was one prosecution in Adamawa. Figures for prosecutions for tax default in respect of the other parts of the territory are not yet available.

Kenya

Addition to Paragraph 8.

According to a report of the Kenya Labour Department [2], 386 persons were prosecuted in 1951 under the Voluntarily Unemployed Persons (Provision of Employment) Ordinance, 1949 ; 271 were convicted, 86 discharged and 20 acquitted. In the remaining nine cases the charge was withdrawn.

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[1] United Nations document A/2212, T/992.

[2] Colony and Protectorate of Kenya : *Labour Department Annual Report, 1951* (Nairobi, 1952), p. 33.

Sierra Leone

Addition to Paragraph 6.

A report to the I.L.O. on the application of the Forced Labour Convention (No. 29) for the period 1 July 1951-30 June 1952 confirms the general information given in the previous reports. It also gives fresh information on the conditions in which the compulsory labour still existing in the territory is performed and provides the following statistics :

Seventy-six man-days were worked by 137 men on porterage (average of over a half day per man). Thirteen man-days were worked by 13 men on maintenance and repairs to buildings (average of one day per man).

The above forced labour was exacted in two of the 12 Protectorate districts, namely Bombali and Koinadugu, and did not in any case exceed eight hours per day. There were no prosecutions, deaths, or cases of sickness.

Tanganyika

Addition to Paragraphs 5 to 7.

An official report published by the Colonial Office gives detailed information on compulsory labour in Tanganyika during the last war.

At the end of 1942 there were 8,420 conscripts, representing 3.3 per cent. of the total number of persons in employment. At the end of 1943 there were 22,820 conscripts, or 8.4 per cent. of the total number of persons in employment, classified by employment as follows :

Essential public services	1,649
Rubber	7,200
Essential foodstuffs and pyrethrum	9,096
Sisal	4,875
Total . . .	22,820

On 1 January 1945 the numbers of persons conscripted for the above four branches of employment were 535, 7,476, 6,429 and 11,816 respectively, the total number of conscripts being 26,256. At the same time, the numbers of voluntary workers employed in these four branches were 64,000, 13,700, 17,300 and 91,000 respectively.[1]

Addition to Paragraph 17.

A report to the I.L.O. on the application of the Forced Labour Convention (No. 29) for the period 1 July 1951-30 June 1952 states that, over the period in question, 4,102 men were requisitioned for porterage (representing a total of 10,656 man-days worked), 10,461 for minor public works (95,203 man-days) and 4,578 for work undertaken by the Native authorities (104,513 man-days). In this connection, the report comments—

The general increase this year in the figures shown in the Appendix, with the exception of man-days worked on minor public works, is attributable to the greater activities in rural areas following the implementation of development projects and increases in the revenue and expenditure budgets of Native authorities.

[1] United Kingdom, Colonial Office : *Labour Conditions in East Africa* (London H.M., Stationery Office, 1946), pp. 9-11.

UNITED STATES OF AMERICA

Summary of Allegations, of Replies to Allegations and of the Material Available to the Committee

I. Allegations

1. In the course of the debates in the Economic and Social Council, allegations were made concerning the following points:

(a) forced labour as the basis of capitalist economy, in particular in the United States;

(b) the curtailment of trade union rights by the Taft-Hartley Act;

(c) child labour;

(d) restriction of social security in the United States to unemployment and old age—large numbers of workers not covered by social insurance;

(e) existence of the principle of equal pay for equal work in nine States only—women not protected;

(f) racial discrimination in regard to employment and wages tantamount to forced labour;

(g) the President's Federal Loyalty Order and the activities of the Loyalty Boards tantamount to measures of political discrimination;

(h) exploitation of persons detained in mental clinics;

(i) exploitation of certain Indian tribes;

(j) arrest of Negroes in order to subject them to forced labour;

(k) imposition of forced labour on Mexican and other foreign immigrant workers;

(l) wartime exploitation of foreign workers and conscientious objectors;

(m) convict labour tantamount to forced labour;

(n) peonage in certain regions;

(o) application of vagrancy laws as an instrument of forced labour.

The main passages of the relevant allegations are reproduced below.

Forced Labour as the Basis of Capitalist Economy, in particular in the United States

2. This point was the subject of the following statements:

(1) The representative of the *U.S.S.R.*—

Neither the United States representative nor the consultant from the American Federation of Labor had so much as mentioned the real forced labour which existed in capitalist countries and which was the very basis of capitalist economy. . . . Workers

in the capitalist countries were not free: they were economically dependent upon capitalist employers who exploited them and who enjoyed the fruits of their labours. ... Real freedom of labour could not exist side by side with unemployment ... the latest official data showed that there were over three million unemployed in the United States....[1]

The example of the greatest capitalist country in the world, the United States of America, illustrated the complete dependence of the workers on the capitalists and the exploitation of which they were the victims under a régime of capitalist ownership, in which the work of a theoretically free worker actually became the forced labour of a galley slave.

... In the United States, unemployment existed in all branches of civilian production, and in many sectors the unemployed constituted a very high percentage of the population.

... fourteen million workers were without unemployment insurance.

Another means by which the American workers were enslaved resided in the fact that in very many cases they lived in housing estates belonging to the companies by which they were employed. He referred to several publications which proved that the workers in the coal mines and in the textile industry of the southern States ... lived in houses belonging to the firms for which they worked....[2]

(2) The representative of *Poland*—

... workers were subjected to a system of forced labour under the capitalist régimes. They were forced under threat of starvation to agree to work for the benefit of capitalists and could not freely choose their employment.[3]

Curtailment of Trade Union Rights by the Taft-Hartley Act

3. This point was the subject of the following statements:

(1) The representative of the *U.S.S.R.*—

... the right[s] of trade unions ... had been severely curtailed in that country by the passage of the Taft-Hartley Act.[4]

... in the United States there was the Taft-Hartley Act, which, according to the President of the American Federation of Labor, sanctioned the enslavement of the workers....

... [He] quoted several statements by trade union leaders and politicians in the United States protesting against the Taft-Hartley Act, one of the consequences of which might be that the workers would be compelled to do certain work for the benefit of private capitalists....

... workers ... were often in a state of complete subjection to their employers and in particular were compelled to renounce the exercise of their trade union rights.[5]

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned ... the labour exacted under judicial decisions prohibiting strikes.[6]

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[1] UNITED NATIONS, Economic and Social Council, 8th Session, 237th meeting: *Official Records*, pp. 105-106.

[2] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraphs 7, 9, 11, 13.

[3] *Ibid.*, 473rd meeting: *Official Records*, paragraph 10.

[4] *Idem*, 8th Session, 237th meeting: *Official Records*, pp. 106-107.

[5] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraphs 12-13.

[6] *Ibid.*, paragraph 17.

(2) The representative of *Poland*—

He ... recalled the existence in the United States of the Taft-Hartley Act, which had frequently, and in particular by President Truman himself, been called a law to enslave the workers.[1]

Child Labour

4. This point was the subject of the following statement:

The representative of the *U.S.S.R.*—

The American capitalists used the labour of children.... Thus in 1949 it had been observed that twelve-year old children worked for as much as twelve hours a day in the starch factories. It was, however, in agriculture particularly that child labour was employed. ... The wages paid to children were about one-eighth of the average wages of adult agricultural workers. In Texas, two-thirds of the white children and more than two-thirds of the Negro children were employed in agricultural labour. Some of these children were less than six years old.[2]

Restriction of Social Security in the United States to Unemployment and Old Age—Large Numbers of Workers not Covered by Social Insurance

5. This point was the subject of the following statement:

The representative of the *U.S.S.R.*—

Social security in the United States meant only unemployment and old-age insurance.... great numbers of ... workers ... were not covered by social insurance.[3]

Existence of the Principle of Equal Pay for Equal Work in Nine States only—Women not Protected

6. This point was the subject of the following statement:

The representative of the *U.S.S.R.*—

It could hardly be said that the principle of equal pay for equal work was being honoured in the United States. Laws implementing it existed in only nine of the 48 States; moreover, their provisions did not extend to some of the fields in which women were most generally employed.[3]

Racial Discrimination in regard to Employment and Wages Tantamount to Forced Labour

7. This point was the subject of the following statements:

(1) The representative of the *U.S.S.R.*—

Racial discrimination in the fields of employment and wages was widely practised in the United States. Fourteen million Negroes were virtually deprived of the opportunity to engage in any but the most menial labour. According to the *Negro Handbook, 1946-1947*, only 5 per cent. of their number were engaged in intellectual pursuits and only

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 475th meeting: *Official Records*, paragraph 23.
[2] *Ibid.*, 469th meeting: *Official Records*, paragraph 15.
[3] *Idem*, 8th Session, 237th meeting: *Official Records*, p. 107.

4 per cent. were skilled workers. As it was impossible to believe that all the rest had chosen manual labour of their own free will, they must have been forced to do so. It was, in fact, a clear example of forced labour at its worst.[1]

He ... described the forms of forced labour to which the Negroes in the United States were subjected, and the discrimination of which they were the victims. He referred to a number of cases which indicated that the Negro workers received wages very much below those paid to workers of other racial origins....[2]

(2) The representative of *Poland*—

Discrimination against the Negro in the field of employment in the United States was such that it created a specific form of forced labour....[3]

Forced labour in the regions of the United States with a large Negro population was also a well-known fact. There were thousands of cases in which farmers had carried Negroes off in order to make them work on estates where they were not able to see anyone....

Even in the capital of the United States certain jobs were reserved for Negroes....[4] ... the fact remained that thousands of Mexicans working in the United States were the victims of racial discrimination and received wages lower than those of American workers....

Returning to the question of coloured labour ... he quoted a work by an American writer, Franklin Frazer, who said that the white landlord was the absolute master....[5]

Contrary to what the United States representative had asserted, discrimination against coloured people and especially against Negroes in the United States did not constitute merely a not very important relic of the past. That discrimination was first and foremost a form of forced labour, as it amounted to the exclusion of Negroes from the higher types of employment and forcibly relegated them to more menial tasks. The exceptions, such as the case of Dr. Bunche, in no way proved any lessening of discrimination, which was, moreover, practised even against him and persons of his calibre.[6]

President's Federal Loyalty Order and Activities of the Loyalty Boards Tantamount to Measures of Political Discrimination

8. This point was the subject of the following statements :

(1) The representative of *Poland*—

The pressure exerted in labour relations as a result of the application of measures of political discrimination became obvious if one considered the activities of the Loyalty Boards and if reference was made to legislative texts which could easily be cited. As a result of the application of such methods, hundreds of American citizens, workers, employees and artistes, had found themselves forbidden to follow their profession and had had to seek other employment. Those penalties were often applied on mere suspicion....[7]

In a previous speech he had already mentioned a third kind of forced labour existing in the United States—that resulting from discrimination for political reasons. He had not questioned the United States Government's right to check the loyalty of its employees, but had merely examined certain consequences of the measures taken in that connection. The United States representative had admitted that many civil servants had been

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 237th meeting : *Official Records*, p. 107.
[2] *Idem*, 12th Session, 475th meeting : *Official Records*, paragraph 5.
[3] *Idem*, 8th Session, 244th meeting : *Official Records*, p. 171.
[4] *Idem*, 12th Session, 473rd meeting : *Official Records*, paragraphs 17-18.
[5] *Ibid.*, paragraphs 23-24.
[6] *Idem*, 12th Session, 475th meeting : *Official Records*, paragraph 22.
[7] *Ibid.*, 473rd meeting : *Official Records*, paragraph 16.

dismissed, but he had not mentioned the trade union leaders, film actors and workers who had been deprived of their employment for political reasons and who, as a result, had been obliged to find work which in most cases did not correspond to their training or abilities.[1]

(2) The representative of *Czechoslovakia*—

In the United States of America, many trade union leaders, clergymen, artists and professional men who had been blacklisted by the Committee on Un-American Activities for holding political views at variance with those of the Government had lost their positions. Similarly, President Truman's Federal Loyalty Order provided for the investigation of old federal employees and dismissal of all those found "disloyal"....[2]

Exploitation of Persons Detained in Mental Clinics

9. This point was the subject of the following statement:

The representative of the *U.S.S.R.*—

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned ... the exploitation of ... persons detained in mental clinics....[3]

Exploitation of Certain Indian Tribes

10. This point was the subject of the following statement:

The representative of the *U.S.S.R.*—

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned ... the exploitation of certain Indian tribes. ... Certain Indian tribes, particularly those inhabiting islands near Alaska, were ... subjected to shameless exploitation.[3]

Arrest of Negroes in order to Subject them to Forced Labour

11. This point was the subject of the following statement:

The representative of the *U.S.S.R.*—

... Prisons were one of the principal means by which Negroes were kept enslaved in the United States. Negroes were detained in large numbers and often without good reason for the purpose of doing forced labour which was of a markedly penal nature.[4]

Imposition of Forced Labour on Mexican and Other Foreign Immigrant Workers

12. This point was the subject of the following statements:

(1) The representative of *Poland*—

The situation of the Mexican workers constituted a separate aspect of the forced labour problem in the United States. ...

[1] UNITED NATIONS, Economic and Social Council, 12th Session, 475th meeting: *Official Records*, paragraph 24.
[2] *Ibid.*, 472nd meeting: *Official Records*, paragraph 22.
[3] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraph 17.
[4] *Ibid.*, 475th meeting: *Official Records*, paragraph 5.

Carey McWilliams, in his book *North from Mexico*, called attention to the fact that... what faced the Mexican in the United States was nothing other than a form of forced labour.[1]

... Mexicans who crossed the border into the United States of America were tied to the farms where they worked, because the penalty for breaking their contract was a fine so heavy that they could never afford to pay it. Were those Mexicans not doing a kind of forced labour ?[2]

[He] stated, in reply to the representative of Mexico, that he had never attacked that country's delegation. On the contrary, he had paid a tribute to the Mexican Government's efforts to ensure better working conditions for Mexican workers who went to the United States of America. It was nonetheless true that those workers were victims of discriminatory measures in the United States, although, of course, the Government of Mexico could not be blamed for that.[3]

(2) The representative of the *U.S.S.R.*—

Also to be noted in the United States was a shameless exploitation of foreign workers, both workers brought into the country under government-approved contracts and immigrants who crossed the Mexican frontier illegally. ... The average number of such clandestine immigrants was about 200,000 a year. According to a statement by Mr. Swanson, of the United States Information Service, the conditions in which those immigrants lived were worse than those of slaves. ... The United States immigration services encouraged the contraband admittance of cheap labour from Mexico.[4]

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned ... the exploitation of the labour of immigrants....[5]

Wartime Exploitation of Foreign Workers and Conscientious Objectors

13. This point was the subject of the following statement :

The representative of the *U.S.S.R.*—

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned ... the wartime exploitation of the labour of foreigners, citizens of Japanese origin and conscientious objectors....[5]

Convict Labour Tantamount to Forced Labour

14. This point was the subject of the following statements :

(1) The representative of the *U.S.S.R.*—

In the United States ... prisoners received almost no wages and performed forced labour. ... Mr. Tsarapkin [the U.S.S.R. representative] cited the case of the Negro Patterson, who had served 18 years in the prison of Montgomery, Alabama. In his letters, which had eventually been published in Canada, he had explained that he had been forced to work like a slave on a State farm. ... Moreover, the State placed convicts at the disposal of private enterprises ...

According to the *Statistical Yearbook* of the American National Prisoners Aid

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 244th meeting : *Official Records*, pp. 171-172.

[2] *Idem*, 9th Session, 321st meeting : *Official Records*, p. 552.

[3] *Idem*, 12th Session, 475th meeting : *Official Records*, paragraph 48.

[4] *Ibid.*, 469th meeting : *Official Records*, paragraph 16.

[5] *Ibid.*, paragraph 17.

Association, penitentiary institutions existed in the United States where children of from six to 13 years of age were forced to work.[1]

According to the 1947 edition of the United States Penal Code, the public prosecutor or district attorney had complete control of forced labour in United States prisons, over and above any court decision. In other words, prisoners were directed to compulsory labour not by court of law, but by a civil servant. That official could also determine the wages to be paid to and the type of labour to be carried out by prisoners.[2]

... He cited various documents showing both the important part played by forced prison labour in the United States, the exploitation of the prisoners and the terrible conditions in which they worked. He drew attention in particular to the Federal Prison Industry Corporation, its activities and large profits which were in marked contrast with the extremely small wages paid to the prisoners. He quoted several extracts from pamphlets published by the United States Labor Department on the prison labour in the United States.[3]

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned ... the exploitation of the labour of ... convicts.[4]

(2) The representative of *Poland*—

... [a] description of convict camps ... was contained in the book *Criminology* by an eminent American sociologist, Donald R. Taft ....[5]

In the United States of America there was another aspect of forced labour: prison labour. The statistics of 1923 showed that convict labour in 104 State prisons had brought in $75,622,983. (It would be possible to quote more recent figures which were significant, although incomplete ....)[6]

Peonage in Certain Regions

15. This point was the subject of the following statements:

(1) The representative of the *U.S.S.R.*—

... In South Carolina, 70 per cent. of the workers in the textile industry lived in houses belonging to the firm which employed them and which, by means of a credit system, kept them in a state of permanent servitude. The same was true of certain distilleries in the southern States.[7]

... he referred to several documents to show that peonage, or servitude for debt, was also a means of forced labour very widespread in the southern States of the United States of America.[8]

The League to Defend the Workers' Rights ... had recently published a report on legal and illegal methods of forced labour in the United States. Among other forms of forced labour ... it mentioned peonage ....[9]

(2) The representative of *Poland*—

According to the *New York Star* of 23 January 1949, a public inquiry into forced labour had revealed that 75,000 Americans lived in slavery or were engaged in forced labour .... [He] quoted an official American publication, *The Plantation South Today*,

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 238th meeting: *Official Records*, p. 108.
[2] *Idem*, 9th Session, 324th meeting: *Official Records*, p. 589.
[3] *Idem*, 12th Session, 475th meeting: *Official Records*, paragraph 5.
[4] *Ibid.*, 469th meeting: *Official Records*, paragraph 17.
[5] *Idem*, 8th Session, 244th meeting: *Official Records*, p. 174.
[6] *Idem*, 12th Session, 473rd meeting: *Official Records*, paragraph 20.
[7] *Idem*, 8th Session, 238th meeting: *Official Records*, p. 108.
[8] *Idem*, 12th Session, 469th meeting: *Official Records*, paragraph 14.
[9] *Idem*, paragraph 17.

as saying that there were more sharecroppers than any other type of plantation labour, and that their cash income was so low and their debts to the operators so high that they were virtually tied to the land.[1]

... 76,000 Americans lived in peonage. An article in the *New York Times* of 26 February 1949 gave an account of the deplorable forced labour conditions in turpentine camps in Florida, where thousands of Negroes and white persons were recruited on the promise of good wages ... [and where] any worker trying to escape was shot.[2]

It had recently been reported that in the United States of America there were ... 76,000 persons subjected to peonage ... in addition, many people were held prisoner in the turpentine camps. ... Were not the people in those camps performing a kind of forced labour ?[3]

It would be possible to quote the stories of the Negroes who had managed to escape from their place of work where they had been kept in peonage or even in slavery on farms in Florida or Pennsylvania.[4]

Application of Vagrancy Laws as an Instrument of Forced Labour

16. This point was the subject of the following statement :

The representative of *Poland*—

In some parts of the United States unemployed workers had been arrested under vagrancy laws, put in chains, and forced to work either for a county or for private planters.[5]

Further Allegations

17. Further allegations were submitted by a private individual in a memorandum dated 15 September 1952 under the title *Forced Labour in the United States of America*. The memorandum was accompanied by annexes containing six interviews with private individuals, the testimony of a " crew leader " before the President's Commission on Migratory Labor, and other individual testimonies. The memorandum refers, *inter alia*, to the following points, which were repeated by the individual in question in an oral statement made during the Third Session :

(a) migratory agricultural workers are living under poor conditions and are little more than nomadic slaves ;

(b) physical and psychological coercion is often employed by farmers with the tolerance of the authorities to prevent these workers from moving or to compel them to move from the farm according to the farmer's interests ;

(c) the importation of foreign workers, particularly Mexicans, has resulted in forms of forced labour ;

(d) peonage or debt bondage, by means of the " commissary system ", especially but not exclusively in turpentine and lumbering camps, result in involuntary servitude or forced labour ;

(e) among the chief instruments whereby Negroes are compelled to do forced labour are the vagrancy laws which exist in all of the 48 States ;

(f) the war programme of the United States has made it possible for employer interests to exploit the Selective Service Act (compulsory military draft) to force

[1] UNITED NATIONS, Economic and Social Council, 8th Session, 244th meeting : *Official Records*, pp. 170-171.
[2] *Ibid.*, 262nd meeting : *Official Records*, p. 456.
[3] *Idem*, 9th Session, 321st meeting : *Official Records*, p. 552.
[4] *Idem*, 12th Session, 473rd meeting : *Official Records*, paragraph 17.
[5] *Idem*, 8th Session, 244th meeting : *Official Records*, p. 171.

Negro workers into involuntary servitude. By this means, Negro workers who are liable to military conscription are given to understand by employers that unless they accept certain employment, however underpaid, they are likely to be called to the colours. In this scheme, employers have had widespread and zealous co-operation from governmental officials and agencies.

II. Replies to Allegations and to the Committee's Questionnaire

18. Referring to the allegations concerning the President's Federal Loyalty Order and the activities of the Loyalty Boards, the representative of the *United States* said—

The United States had had no purges, but it had a clear duty to protect itself and its citizens against the highly developed communist system of working from within in its efforts to overthrow governments. Moreover, it should be noted that out of a total of two million United States civil servants, less than 300 had been dismissed in the course of the loyalty programme.[1]

19. Referring to the allegations concerning Mexican migrant workers, the representative of *Mexico* said—

During the Second World War, thousands of Mexican workers had gone to the United States to contribute to the war effort and hasten the victory. Those workers had gone to the United States of their own free will and had signed contracts with full knowledge of the facts and without constraint. Moreover, agreements had been concluded between the two countries for the protection of the Mexican workers hired in the United States, in order to ensure that they would receive holidays, adequate housing and medical care in case of illness or industrial accidents.[2]

The Mexican delegation categorically repudiated the Polish representative's statement that Mexican workers in the United States were subjected to a form of forced labour. The Mexican workers in the United States were quite free to accept their contracts or not. They received the pay agreed upon and were repatriated when they so desired at the expense of their employers. When cases of discrimination, for example in working conditions, pay or accommodation were noted, the two Governments concerned took the necessary steps to deal with the situation. The working conditions of Mexican workers in the United States were in general quite satisfactory as a result of constant improvement.[3]

20. When heard by the Committee, the representative of the *International Confederation of Free Trade Unions*, speaking as a citizen of the United States, said—

Statements have been made that the peonage system has prevailed in some of our southern States. We question that seriously ... constitutionally it is not possible to have peonage labor. It might be practised in isolated instances but, like crime, it cannot immediately be prevented. ... If it exists at all, and to the extent to which it exists, it is not a system permitted or countenanced by the Government. It is an infraction of constitutional law and rights by certain private citizens. ... If such a practice prevails in any part of the United States, it is in violation of both the Constitution, the Bill of Rights and of the Constitutions of various States.

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[1] United Nations, Economic and Social Council, 12th Session, 474th meeting: *Official Records*, paragraph 63.
[2] *Ibid.*, 469th meeting: *Official Records*, paragraph 53.
[3] *Ibid.*, 475th meeting: *Official Records*, paragraph 34.

21. The United States, in its reply to the Committee's questionnaire, stated, *inter alia*, that—

... the United States ... Constitution and laws contain effective safeguards against the existence of such forced labour. The United States, therefore, has no penal or administrative laws, regulations, or administrative rules or practices pertinent to the Committee's inquiries.

In respect to United States laws which preclude forced labour for political views, reference is made to the following :

Article XIII of the United States Constitution reads—

Section 1 : Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2 : Congress shall have power to enforce this Article by appropriate legislation.

The United States Congress has enacted legislation to enforce these provisions of our Constitution but even without such legislation, any action by the Federal Government, the several States or the territories and possessions of the United States which would contravene this Article is void. A prohibition against involuntary servitude is part of the laws promulgated for the Trust Territory of the Pacific Islands.

The Fifth and Fourteenth Amendments to the United States Constitution guarantee that no person shall be deprived of life, liberty or property without due process of law. The First Amendment demands that " Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof ; or abridging the freedom of speech, or of the press ; or the right of the people to assemble, and to petition the Government for a redress of grievances ".

The following references to decisions of the United States Supreme Court regarding certain of the above-mentioned constitutional guarantees seem appropriate :

In *Board of Education* v. *Barnetts*, 319 U.S. 624, 642 (1943) the Court, holding as violative of the First and Fourteenth Amendments the compulsory flag salute in public schools, which resulted in expulsion of children who refused to comply and subjected them and their parents to punishment for " unlawful " absence, said : " If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein ".

In *American Communications Ass'n* v. *Douds*, 339 U.S. 382, 412 (1950), the Court said : " That Amendment [the First] requires that one be permitted to believe what he will. ... It does not require that he be permitted to be the keeper of the arsenal." Here the Court sustained the power of the Congress to discourage those who believe in overthrow of the government by force and violence from maintaining or attaining special prerogatives, namely, positions as union leaders, but made it quite clear that it is quite different from punishing or forbidding the holding of beliefs or membership in a political party. 339 U.S. 406-412. Likewise in *Dennis* v. *United States* 341 U.S. 494 (1951), upholding convictions for conspiring to organise a group which teaches and advocates violent overthrow of the government and conspiring to teach and advocate the duty and necessity of overthrow of the government by force and violence, the important and careful distinction is made between this kind of activity and " the free discussion of political theories " and " the traditional rights of Americans to discuss and evaluate ideas without fear of governmental sanction ". 341 U.S. 502-503.

Similarly, our laws and practices do not embrace any such concept as forced labour for carrying out the economic plans of the State. This is true not only in the cases of persons not charged with crime, but is specifically written into the laws governing prison industries, which permit prison industries to produce commodities for consumption in the prisons themselves or for sale to departments of the government, but not for sale to the public in competition with private enterprise or free labour. 18 U.S.C. 4122.

III. Material Available to the Committee

22. The Committee has assembled a certain amount of documentation relating to a number of the above-mentioned allegations. The following paragraphs contain a summary of this documentary material.

Curtailment of Trade Union Rights by the Taft-Hartley Act

23. The Taft-Hartley Act, the title of which is Labor Management Relations Act, 1947, deals, *inter alia*, with the prevention of unfair labour practices, conciliation of labour disputes in industries, national emergencies and suits by and against labour organisations.

The Act provides that in an emergency situation the right to strike as well as the lockout may be submitted to certain restrictions.

President's Federal Loyalty Order and Activities of the Loyalty Boards Tantamount to Measures of Political Discrimination

24. Executive Order 9835 to which the allegation refers, contains provisions relating to the investigation of applicants for public offices, the investigation of public employees, the responsibilities of Civil Service Commissions, security measures and other procedural provisions.

Exploitation of Persons Detained in Mental Clinics

25. A report on this question was submitted to the *Ad Hoc* Committee on Slavery of the Economic and Social Council by the National Secretary of the Workers' Defense League, on behalf of its Commission of Inquiry into Forced Labour. The report makes the charge that mental hospital cases are obliged to work because appropriations for hospitals are insufficient to allow for the payment of employees to do, among other things, laundry work, cooking and maintenance work.

Exploitation of Certain Indian Tribes

26. The representative of the U.S.S.R. referred to the report on legal and illegal forms of forced labour in the United States, presented to the *Ad Hoc* Committee on Slavery of the Economic and Social Council and prepared by the National Secretary of the Workers' Defense League, for its Commission of Inquiry into Forced Labour.

27. The above-mentioned report alleges that the Pribiloff Indians on the Islands of St. Paul and St. George off the Coast of Alaska receive one dollar per seal skin, the skins being delivered to the Fouke Fur Company of St. Louis, Missouri under an exclusive contract with the Department of the Interior ; the company itself sells these skins for a much higher price. The Indians in question are said to be under the supervision of the Fish and Wild Life Service and it is alleged that they have no other livelihood than the sale of these skins. It is further alleged that the Indians have difficulty in leaving the islands where they live, and that in the islands themselves they are forced to work for the above-mentioned company by the Government of the United States.

Imposition of Forced Labour on Mexican and Other Foreign Immigrant Workers

28. Article XIII of the United States Constitution prohibits slavery and involuntary servitude and directs Congress to draft appropriate legislation for the enforcement of this provision.

29. Title 18 (Crimes and Criminal Procedure) of the United States Code as enacted on 25 June 1948 in its paragraph 1581 prohibits and penalises any action to hold or return any person to a condition of peonage, or to arrest any person with the intent of placing him in or returning him to a condition of peonage, or to obstruct or to attempt to obstruct or in any way to interfere with or to prevent the enforcement of this rule. Paragraph 1582 of the Code punishes any person who builds or fits out, equips, loads or otherwise prepares any vessel for the purpose of procuring any person from any foreign country to be transported or held or sold or otherwise disposed of as a slave ; and paragraph 1583 punishes the enticement or inducement of any person into slavery. Paragraph 1584 punishes any person who knowingly and wilfully holds to involuntary servitude or sells into such a condition any other person.

Mexican Workers.

30. The Agreement between the Governments of the United States and Mexico concerning Migrant Labor, 1951 (Public Law 78, 82nd Congress), and amended June 1952 was examined in connection with this question. Some relevant provisions are summarised below.

31. The introduction to this Agreement states—

> The Government of the United States of America and the Government of Mexico desiring that employment of Mexican agricultural workers who may be needed in the United States shall be carried out under conditions consistent with the interest of both countries, and seeking to establish an orderly programme for the employment of such workers that will be in harmony with the spirit of understanding and cooperation that characterises the relations between them....

32. Article 2 of the Agreement excludes private negotiations relating to any aspects of the programme which is the subject of the Agreement and Article 3 contains the obligation accepted by the United States Government to advise the Mexican Government in advance of the date on which it desires to begin recruiting operations. The notice will also contain information with respect to the number of Mexican workers required. The employers who are scheduled for contracting at each recruiting centre are designated by the United States Government while, according to Article 5, it is the responsibility of the Mexican Government to assemble prospective workers at migratory stations.

33. As for transportation between migratory stations and reception centres, Article 6 of the Agreement lays the obligation to pay for such transport on the United States Government and this Government also provides at its own expense subsistence for the recruited workers while awaiting transportation from the Mexican migratory stations.

34. Article 7 specifies those employers who are considered ineligible to contract and lays down that the Secretary for Foreign Relations of Mexico is to furnish the Secretary of Labor with the list of such employers. Furthermore, the Secretary of Labor may, in certain circumstances, refuse to issue certification to an employer

and revoke one already issued ; in particular, such refusal is mandatory when the employer has failed to meet his obligations under a previous contract entered into pursuant to the International Executive Agreement of 1 August 1949, or if the employer has employed Mexican nationals who have entered the United States illegally, or if the employer endeavours to contract Mexican workers for another employer who is not himself eligible to contract Mexican workers, or if the Mexican worker is to be employed on a farm or other establishment operated by ineligible employers, or if the Secretary of Labor finds that housing, sanitary facilities or drinking water are inadequate, in accordance with the terms of the Agreement.

35. Article 8 contains provisions prohibiting discrimination against Mexican workers ; thus, for instance, Mexican workers shall not be assigned to work in localities in which Mexicans are discriminated against because of their nationality or ancestry, and the Mexican Ministry for Foreign Relations undertakes to furnish the Secretary of Labor with a list of communities in which it considers that discrimination against Mexicans exists. If the Secretary of Labor does not concur with this list, the appropriate Mexican consul may request a statement signed by the executive officer or other authorised officers of the community in which the Mexican workers are to be employed, pledging for the community the avoidance of discriminatory acts against Mexicans and the prompt investigation of any report by the Mexican consul concerning the existence of discrimination contrary to the above-mentioned pledge. In cases where, notwithstanding such pledges, the existence of discrimination is reported, a joint enquiry will be made by the Mexican consul concerned and a representative of the Secretary of Labor.

36. Article 9 of the Agreement states that Mexican workers shall not be employed where their employment would adversely affect conditions of domestic agricultural workers in the United States.

37. The employment of Mexican workers and their work contracts are governed according to Article 11 of the Agreement, by the terms of the Agreement itself.

38. Article 13 concerns the work contract, which must be entered into between the employer and the worker under the supervision of a representative of each of the two Governments ; the contract must be prepared in the Spanish and English languages. It must have a minimum duration of six weeks in accordance with Article 14 and it can be extended for not less than a fortnight. The maximum duration of such contracts or of any extension of them is fixed at six months.

39. Mexican workers must be paid at the same rates as domestic agricultural workers for similar work and the Mexican consul has certain powers of control together with the representative of the Secretary of Labor, with regard to the enforcement of this provision. These powers of control are also exercised to ensure that the Mexican workers profit by any increases in the prevailing wage rates in the region concerned (Article 15).

40. The employer must also give the worker a guarantee that he shall have the opportunity to work for at least three-fourths of the workdays of the total period for which he is contracted and the employer must at his expense provide the Mexican worker with transportation and subsistence from the reception centre to the place of employment and, at the end of the contract, from the place of employment back to the reception centre (Articles 16 and 17).

41. Articles 18 and 19 contain provisions concerning the maintenance of records in regard to earnings and hours of work of Mexican workers and concerning protection against occupational injuries and diseases.

42. Mexican workers are entited to elect their own representatives whom the employer must recognise as their spokesmen (Article 21).

43. Article 22 prohibits the employment of Mexican workers as strike breakers. In the event of a strike or lockout on the farm or in the establishment in which Mexican workers are employed which seriously affects the operations in which they are engaged, the Secretary of Labor must make efforts to transport the workers to other agricultural employment.

44. Article 23 enables the Secretary of Labor and officials of the United States Department of Justice to gain access to the place of employment of Mexican workers for the purpose of inspection and the Mexican consul shall also have access to this place of employment, his visits to be co-ordinated with those of the appropriate representatives of the Secretary of Labor. Should an employer refuse access to these officials the permit to employ Mexican workers may be withdrawn.

45. Contracts may not be terminated prior to their expiration except with the agreement of the worker concerned, and if the services of these workers are no longer required for reasons beyond the control of the employer, the latter must advise the appropriate representative of the Secretary of Labor who will cause an investigation to be made and, if he finds that the Mexican worker is no longer needed, will notify the Mexican consul. If necessary a joint investigation of the Mexican consul and the representatives of the Secretary of Labor will be held (Articles 24 and 25).

46. Article 27 deals with the transfer of Mexican workers which can take place only under certain conditions, *inter alia*, if the worker expresses his consent, if there has been prior certification of the Secretary of Labor and if the competent Mexican consul has been duly advised of the intention of transfer. The transfer cannot take place if the Mexican Ministry for Foreign Relations raises objections based on the provisions of Article 8, which prohibits any discrimination against Mexican workers. The Article contains further guarantees concerning the contract of the Mexican worker in case of his transfer.

47. Further, pursuant to Article 28, the Mexican consulate and the representative of the Secretary of Labor shall be given the opportunity to ascertain that the workers' wages have been paid in full. Article 30 provides the enforcement procedure : The Mexican worker may complain either directly or through the appropriate Mexican Consul to the representative of the Secretary of Labor ; the Mexican consul is entitled to require a joint investigation as to the alleged violation ; if the violating party is an employer, the Secretary of Labor may, or, on request of the Mexican consul, shall terminate the work contract and the employer shall pay all of his obligations thereunder ; if the violating party is a Mexican worker, who refuses to take corrective action, the employer may terminate the work contract and, without cost to the Mexican worker, return him to the appropriate reception centre ; those terminations are subject to the right of appeal before the Secretary of Labor and the representative of the Mexican Government in Washington.

48. In Article 32 the Government of the United States guarantees the performance by the employers of the provisions of the Agreement and work contracts relating to the payment of wages and the furnishing of transportation. The Government of the United States will pay any amount found to be due to the worker from a defaulting employer within 20 days of the final determination of the employer's indebtedness.

49. In Article 35 the Government of the United States of America undertakes " to exercise special vigilance and its moral influence with State and local authorities to the end that Mexican workers may enjoy impartially and expeditiously the rights which the laws of the United States grant to them ".

50. Article 36 prohibits " private employment or labour contracting agencies operating for profit " to participate in the contracting of Mexican workers.

51. The provisions of this Agreement, however, apply only to Mexican workers legally entering the United States. The numerous workers who have entered illegally and who are known as " wetbacks " are protected against exploitation by the laws in force in the United States prohibiting enslavement, servitude, peonage and other forms of subjection.

52. As far as they are concerned, the Governments of the United States and Mexico concluded agreements in 1947 and in August 1949, aiming at legalising the position of workers who had crossed the border illegally before the latter date.

53. The Report of the President's Commission on Migratory Labor, 1951[1], was examined by the Committee in connection with the question of Mexican workers who entered the United States illegally after August 1949.

54. The President's Commission on Migratory Labor was created on 3 June 1950 by an Executive Order directing the Commission to investigate the following:

(a) social, economic, health, and educational conditions among migratory workers ;

(b) problems created by the migration of workers into the United States for temporary employment ;

(c) responsibilities assumed by Federal, State, and local authorities for alleviating conditions among migratory workers ;

(d) agricultural labour needs, sufficiency of domestic supplies, extent to which foreign workers may be required ;

(e) problems created by illegal entry of foreign workers and means of strengthening law enforcement to eliminate such illegal migration.

55. Pertinent aspects of the report of this Commission, issued on 26 March 1951, are summarised below.

56. Speaking of the contracting of Mexican labourers, the Commission's report relates how numbers of them are brought into the United States by organised smugglers to whom they have to pay comparatively high amounts for their services. These smugglers also furnish transportation from the frontier to the farm where these workers are very often " sold " from one smuggler to the next.

57. The report states that once the worker is inside the United States and on the farm numerous devices are employed to keep him on the job. " Basic to all these devices is the fact that the ' wetback ' is a person of legal disability who is in jeopardy of immediate deportation if caught. He is told that if he leaves the farm he will be reported to the Immigration Service. To assure that he will stay until his services are no longer needed, his pay, or some portion thereof, frequently is held back. Sometimes, he is deliberately kept indebted to the farmer's store or commissary until the end of the season, at which time he may be given enough money to buy shoes or clothing and encouraged to return the following season.

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[1] *Migratory Labor in American Agriculture, Report of the President's Commission on Migratory Labor 1951* (Washington, D.C.).

58. The Commission affirms that there exists a certain complicity of the local authorities with the farmers inasmuch as these authorities appear to have a tendency to close their eyes to Mexicans illegally entering the country as long as farmers need them, but tend to apply the regulations with greater severity when this need decreases.

59. " A wetback is in no position when offered work to ask whether there is satisfactory housing or indeed whether there is any housing at all ", says the Commission's report. The report also says that " the wetback is a fugitive and it is as a fugitive that he lives. Under the constant threat of apprehension and deportation, he cannot protest or appeal no matter how unjustly he is treated. "

60. The Soviet representative in the Economic and Social Council referred to an alleged report by " Mr. Swanson of the U.S. Information Service ". In fact Mr. Swanson's alleged statement appears in the report on legal and illegal forms of forced labour in the United States presented to the *Ad Hoc* Committee on Slavery by the National Secretary of the Workers' Defense League for the Commission of Inquiry into Forced Labour, an affiliate of the International League for the Rights of Man. The relevant parts of this report are summarised below.

61. According to this report, the district director of El Paso is of the opinion that if he wished to apply the immigration laws strictly during the period of cotton-chopping or cotton-picking, the farmers would send a complaint to the Secretary of Labor and the service would be prevented from applying the laws too strictly. Another immigration and naturalisation officer is alleged to mention so-called pressure groups in Washington, which aim at preventing interference of the immigration services with illegal Mexican workers. Thus, for instance, the immigration officer for the Northwest district is alleged to have explained at the Portland hearing of the Commission that " in 1949 representatives of the Federal Employment Service asked us not to send our inspectors into the field to apprehend ' wet ' Mexicans for the purpose of deporting them, until after the emergency of harvesting the crops had been met ".

Other Alien Workers.

62. The report of the President's Commission on Migratory Labor deals also with certain categories of non-Mexican foreign workers imported into the United States. It is claimed that from 1943 to the end of 1947, 50,598 Jamaicans, 18,423 Canadians, 15,241 Bahamians and small numbers from Newfoundland, British Honduras and Barbados came to the United States.

63. No agreement has been concluded between the governments concerned and the Government of the United States with regard to these workers. The conditions under which they work are determined by private agreements concluded between them and their employers in accordance with the relevant provisions of the United States Immigration Law. Generally, it is explained, the work contracts of Bahamian or Jamaican workers contain no procedure for handling complaints. However, each government maintains agents who supervise the performance of such contracts ; the rights and responsibilities of these agents are generally not clearly defined. Usually the agent investigates complaints and decides for or against the worker, but the employer also appears to have a share in the proceedings and in the final decision.

64. Bahamian and Jamaican workers may turn to agents of their respective governments who are maintained for the purpose of administering their contracts

and adjusting complaints arising under them. The Puerto Rican contracts are supervised by the Insular Department of Labor, and the Puerto Rican Commissioner of Labor may represent the worker " for all purposes arising out of or in connection with this agreement ", *i.e.*, the contract, if the worker so desires.

Domestic Migratory Labour.

65. The Report of the President's Commission on Migratory Labor also deals with the fate of domestic migratory farm labourers, and it claims that the main reason for migrancy is that " many people find it impossible to make a living in a single location and hence have had to become migratory ". Among these domestic migratory workers the report cites the so-called " Texas Mexicans " ; the migrancy of this group is mainly due to the pressure exercised on the labour market by foreign workers immigrating illegally into the United States. These American migratory workers are not in a position to resort to collective bargaining, and employers are said to refuse them, as a rule, the guarantees which they are obliged to extend to alien workers whom they import legally. The report states that their situation is only more favourable than that of the illegal Mexican workers in that they cannot be deported, since they are American citizens.

Wartime Exploitation of Foreign Workers and Conscientious Objectors

66. This allegation was based on the report on legal and illegal forms of forced labour in the United States, already mentioned.[1]

67. The report, speaking of the fate of Japanese and United States citizens of Japanese descent during the war alleges that these persons were sent into concentration camps and compelled to work on farms for a minimum remuneration.

68. The report also alleges that conscientious objectors were assigned to perform work of " national importance " without pay, the worker being supplied with food and lodging. If the worker failed to perform his assigned task, he faced criminal prosecution and, upon conviction, transfer to a federal prison.

Legislation on Enemy Aliens.

69. Title 50 (War and National Defense) of the United States Code includes provisions concerning restraint, regulation and removal of aliens from the United States. These provisions stipulate, among other things, that in case of war between the United States and any foreign nation or government, or in case of invasion, the President of the United States may make a public proclamation ordering that all natives, citizens, denizens or subjects of the hostile nation or government who are 14 years of age and upwards and who are not naturalised American citizens shall be liable to be " apprehended, restrained, secured and removed as alien enemies ".

70. After such a proclamation has been made, courts of the United States having criminal jurisdiction are authorised, upon a complaint against any enemy alien resident and at large within their jurisdiction, to cause such alien to be duly apprehended and to be conveyed before a court, judge or justice. The alien may be ordered to leave the territory of the United States or to give guarantees for his good behaviour, or he may be otherwise restrained.

[1] See above, paragraph 60.

Legislation concerning Conscientious Objectors.

71. Appendix to Title 50 (War and National Defense) of the United States Code contains provisions (Section 456) relating to " Deferments and exemptions from training and service ". This Section exempts from combatant training and service in the armed forces of the United States any person " who, by reason of religious training and belief is conscientiously opposed to participation in war in any form ". The Section then defines what is meant by religious training and belief, and excludes from this " essentially political, sociological or philosophical views, or a merely personal moral code ". Persons inducted into the armed forces under the title of conscientious objectors shall be assigned to non-combatant duties as defined by the President, or if they are conscientiously opposed even to participation in such services they may be ordered to perform for a period equal to the period prescribed in Section 4 *(b)* " such civilian work contributing to the maintenance of the national health, safety or interests as the local board may deem appropriate ".

72. The Section also gives detailed indications concerning the procedure to be applied for ascertaining whether any person is a conscientious objector.

Convict Labour Tantamount to Forced Labour

73. In connection with this allegation, the Committee had before it *Title 18 (Crimes and Criminal Procedure) of the United States Code* as enacted on 25 June 1948, paragraphs 436, 4001 to 4003, 4007, 4121 to 4128 and the United States Department of Labor publication, *Prison Labor in the United States, 1940.*[1]

Peonage in Certain Regions

74. In the Economic and Social Council it was alleged that in South Carolina 70 per cent. of the workers in the textile industry live in houses belonging to the firm which employs them and which keeps them, by means of a credit system, in a state of permanent servitude.

75. The allegation referred to an article in the *New York Star* of 23 January 1949, a report in the *New York Times* of 26 February 1949, the report by the Commission of Inquiry into Forced Labour of the Workers' Defense League on legal and illegal forms of forced labour in the United States, and a publication by W. C. Holley, E. Winston and T. J. Woofter.[2] The memorandum by a private individual[3] also refers to this question. It is alleged that in certain regions of the United States such as Florida and Georgia, for instance, sharecroppers and other agricultural workers are cunningly reduced to a state of indebtedness by plantation owners by means of credit grants for fertilisers and other goods and by forcing them to buy through the plantation's commissary. In many cases, it is alleged, the owner will tell the worker that his debts exceed the proceeds of his work and that he has to remain on the plantation the following year to work off his debt. If the sharecropper attempts to leave he is, according to these reports, detained by force or arrested for fraud. The reports assert that State legislature and Federal Courts avoid the enforcement of the constitutional provisions and relevant legislation prohibiting peonage.

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[1] UNITED STATES DEPARTMENT OF LABOR, Bureau of Labor Statistics, Bulletin No. 698 : *Prison Labor in the United States, 1940* (Washington, 1941).

[2] W. C. HOLLEY, E. WINSTON and T. J. WOOFTER : *The Plantation South 1934-1937*, Research Monograph XXII (Washington, Government Printing Office, 1940), 124 pp.

[3] See above, paragraph 17.

Application of Vagrancy Laws as an Instrument of Forced Labour

76. Offences which may be classified as vagrancy are not defined by Federal law but by State law. Consequently, there exist in the United States 48 vagrancy laws which are included in the Penal or Criminal Code of each of the individual States. To this must be added the special vagrancy law of the District of Columbia. Since there exists a substantial similarity in the rules governing this matter in all States, it may be sufficient to summarise the various rules extracted from legal works of wide repute. [1]

77. State legislatures and municipal governing bodies, acting under delegated authority, may within certain limitations imposed by the organic law of the State, define vagrancy and impose punishment for the offence of vagrancy. The validity of such statutes has been upheld against objections that they were in violation of the State or Federal Constitutions. Statutes which have been upheld define as vagrants, *inter alia*, able-bodied persons who habitually loaf, loiter and idle in public places for the larger portion of their time without regular employment, without visible means of support, persons known to be pickpockets, thieves or burglars, persons who may be found loitering around houses of ill fame, gambling houses or places where liquor is sold to drink, persons tramping or wandering around from place to place without visible means of support, " confidence operators ", common prostitutes, persons pretending to tell fortunes, professional gamblers, persons soliciting business for professional gamblers, male persons habitually associating with prostitutes, and persons engaged in any unlawful calling. Nevertheless not all of the vagrancy statutes have been upheld. " The legislative power ", it has been said, " must be confined within reasonable bounds ", and it cannot denounce mere inaction as a crime without some qualification. Thus, for instance, the statute providing that " anyone convicted of vagrancy, although not accused or convicted of any crime, may be hired out for a designated time to the highest bidder ", has been held unconstitutional; the same applies to a statute relating to any person who is a male person able to perform manual labour and has not made reasonable effort to procure employment or has refused to labour at reasonable prices, to a statute making punishable as vagrants all persons between 16 and 60 years of age who fail or refuse to work 36 hours a week in some lawful occupation or business, and to a statute providing that any person who habitually loafs, loiters or idles on a street or highway is guilty of a misdemeanour.

78. In prosecutions for vagrancy the usual rules governing indictment for crime prevail. General principles govern the admissibility of evidence in prosecution for vagrancy; in order to convict any person of vagrancy it must be proved that he comes squarely within the statute defining a vagrant. As in prosecutions for other offences, the burden of the proof is on the State; trial by jury is not held to be constitutionally required for vagrancy, since the legislature has power to provide for summary proceedings without a jury for petty offences.

79. Punishment provided by statutes concerning vagrancy is generally a fine or a gaol sentence with or without hard labour, usually up to six months, or one year, or three years, according to the laws of the different States.

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[1] *American Jurisprudence*, edited by the Bancroft-Whitney Company, San Francisco (Rochester, The Lawyers Cooperative Publishing Company, 1946), Vol. 55 (Vagrancy); *Corpus Juris*, edited by W. C. and D. J. Kiser (New York, The American Law Book Company, 1934), Vol. LXVI (Vagrancy); *American Law Reports*, edited by B. A. Rich and M. B. Wailes (Rochester, The Lawyers Cooperative Publishing Company, 1921), Vol. XIV.

Comments and Observations of the Government of the United States of America [1]

In interpreting its terms of reference, the Committee established a working definition of systems of forced labour at its First Session (paragraph 11, E/2153, E/AC.36/10, 30 October 1951) and reaffirmed this definition at its Third Session (paragraph 13, E/AC.36/L.3, 22 November 1952). The Committee determined that systems of forced labour took two forms. Both these forms of labour were prescribed as essential either by process of law or by administrative measures on the part of governments. The first form is forced labour exacted during the detention, for the purpose of political indoctrination, of persons whose political opinions differed from the ideology of the State. The second form of forced labour is the involuntary work exacted to fulfil the economic plans of the State, the work being of such a nature as to be of material economic assistance to the completion of these economic plans.

The United States wishes to reiterate that, as pointed out in its reply to the Committee's questionnaire, its Constitution and laws prohibit such systems of forced labour and, thus, there cannot be laws or administrative measures prescribing such systems. Further, the laws of the United States make such practices on the part of individuals crimes punishable by fine or imprisonment or both. Not only is forced labour, whether by the State or an individual, legally impossible ; it is repugnant to the conscience and ideals of the American people. In short, there is no forced labour in the United States.

In any society, there are pathological persons who, contrary to law, will attempt to suppress the liberty and freedom of other individuals. If such cases are brought to the attention of the federal authorities, they are thoroughly investigated, and when individual cases of involuntary servitude or peonage, upon investigation, have been found to exist, the offenders have been indicated and prosecuted. (See BRODIE : *The Federally Secured Right to be Free from Bondage. Georgetown Law Journal* 367 (1952).) [2]

None of the allegations presented against the United States charge the existence of a system of forced labour as defined by the Committee, nor do all the allegations read together establish such a system. Accordingly, we believe that the charges warrant dismissal on their face.

Because of the importance of the work of the Committee, the United States desire to co-operate fully with its requests, and the necessity of keeping the records accurate, however, the United States is presenting comments and observations on the specific points made in the allegations, even though forced labour is not alleged. Some of these allegations are treated in detail ; others, notably the allegations regarding equal pay and social security, are so far afield as to warrant little comment.

Many of the allegations made against the United States are repetitions. Most of the allegations are only vague generalisations unsupported by any specific factual evidence. When any specific facts are mentioned or authorities cited, so little information is given that it has been impossible, in all but a very few instances, to learn of the supposed occurrence or find the statements mentioned, and the conclusions drawn from the alleged facts are at variance with the truth.

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[1] Transmitted by the United States Mission to the United Nations under covering letter dated 23 Mar. 1953.

[2] Copies were transmitted with this document.

Forced Labour as the Basis of Capitalist Economy, in particular in the United States

This charge that forced labour is the very basis of capitalist economy is based on the blind dogma that workers employed by capitalist employers are exploited.

Workers in the United States are not forced either by law or by custom to work for any particular employer or in any particular place. They shift at will from work in agriculture to work in manufacturing, in trade, or in some other industry, and from job to job within given industries. They are not only free to leave their jobs to take other work which appears more attractive to them, but some of them do so every month. In 1952 the proportion of those working in manufacturing who voluntarily quit their jobs varied from 1.7 per cent. in December to 3.5 per cent. in September when many high school and college students who had been working during the summer months quit their jobs to return to their studies. Workers not only act as individuals to improve their status, by leaving one job for another when they see an opportunity for improving working conditions; they also act in groups to achieve such improvements, that is, they form trade unions and, when they cannot settle disputes with management otherwise, withhold their labour by striking. The combination of trade union activities and increases in productivity due to technological developments has resulted in raising average hourly earnings (in constant purchasing power) of workers in manufacturing by more than 40 per cent. since 1939.

Curtailment of Trade Union Rights by the Taft-Hartley Act

A discussion of the evolution of the law and practice of labour relations in the United States is to be found in the United States section of the *United Nations Yearbook on Human Rights, 1947*. A full text of the Labor Management Relations Act of 1947 is also reprinted there.

In the belief that peaceful and harmonious labour relations are more easily obtainable through the collective bargaining procedure and that such procedure will not work unless labour and management are on a parity, the United States Congress first enacted the National Labor Relations Act (Wagner Act) which guaranteed to working men, covered by its provisions, the right to self-organisation, concerted activity and collective bargaining and required of management that it bargain collectively in good faith. The size, importance, and economic power of labour unions increased tremendously under the Wagner Act and trade union membership grew under the Labor Management Relations Act of 1947 from 14,500,000 in 1946 to between 16,000,000 and 17,500,000 in 1952.

In 1947 Congress concluded that certain practices by the parties to industrial disputes were detrimental to the national welfare and impaired harmonious industrial relations. Procedures to be instituted by the President upon his finding that a threatened or actual strike or lockout would jeopardise the national health, safety or welfare, were established to investigate the facts of such an industrial dispute and delay the strike or lockout for 80 days by use of the injunction. Certain types of concerted activity not directed against the immediate parties to the dispute were made subject to injunction.

It was charged that forced labour was exacted by the use of injunctions prohibiting strikes.

There is no labour exacted by a judicial decision prohibiting a strike. No person is compelled to work involuntarily. The injunction may be issued to prevent

a concerted action which, in accordance with standards established by law, is found to be detrimental to the public welfare, and does not prevent an individual from quitting his job and seeking other employment.

Child Labour

The Soviet representative charges that children worked in the " starch factories " and agriculture, specifically in Texas.

The detrimental aspects of child labour on the child himself and upon the economy as a whole have long been recognised and remedial action has been taken by both Federal and State Governments in the United States. United States laws, both Federal and State, prohibit child labour.

The Sugar Act prohibits the employment of children under 14, unless in the immediate family of the legal owner (7 U.S.C. 1132 *(a)*).

The Public Contracts Act prohibits the employment of any male under 16 or female under 18 for work under a Government purchase contract for materials of the value in excess of $10,000 (41 U.S.C. 35 *(d)*).

The most comprehensive and important federal prohibition of child labour is found in the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 *et seq.*).[1] The Act prohibits under penalty of fine or imprisonment or both, the " shipment in commerce of any goods produced in an establishment in the United States in or about which within thirty days prior to the removal of such goods therefrom any oppressive child labour has been employed". The Act further provides in Section 12 *(c)* : " No employer shall employ any oppressive child labour in commerce or in the production of goods for commerce". The latter section was inserted in 1949 to strengthen the child labour provisions of the Act. " Oppressive child labour " is defined by Section 3 *(e)* of the Act to be : (1) the employment of any child under the age of 16 (except by his parents or guardian in an occupation other than manufacturing, mining, or any occupation found by the Secretary of Labor to be hazardous or detrimental to the health or well-being of the child) ; (2) employment of any person between the ages of 16 and 18 in an occupation found by the Secretary of Labor to be hazardous or detrimental to the health or well-being of a person of that age. The Secretary is also given the authority to provide for the employment of children between the " ages of 14 and 16 in occupations other than manufacturing and mining to the extent such employment is confined to periods which will not interfere with their schooling and to conditions which are not detrimental to their health and well-being ". Child labour is thus prohibited during normal school hours and all States have compulsory school attendance for children from five or six to 16 or 18 years of age.

The allegation concerning the " starch industry " cites no evidence in support. Any such violations would have been corrected by inspection and enforcement of the laws. The Wage and Hour and Public Contracts Divisions of the United States Department of Labor are responsible for the enforcement of the Fair Labor Standards Act, and their annual reports give a detailed account of the vigorous enforcement, by the Federal Government, of the child labour provisions of this Act.[2]

The two-thirds figure quoted by the Soviet representative to show employment of children in agriculture may have been based upon a 1941 Department of Labor

[1] Copies of the Act, as amended, and of *Interpretative Bulletin* No. 450, Child Labor, explaining the pertinent provisions of the Act, were transmitted with this document.

[2] The annual reports for the years 1948 to 1952 were transmitted with this document.

Survey which covered only children of agricultural labourers in one Texas county, Hidalgo in the Rio Grande Valley. Among the 342 families interviewed, all of which were white and engaged in agriculture for their living, 64 per cent. of the children six through 15 years of age worked in agriculture at some time during the year.

A fuller review of statistics bearing on the problem shows the facts to be substantially at variance with the Soviet presentation. In August 1951, a month of school vacation, a period when the Fair Labor Standards Act does not apply to work in agriculture, approximately 500,000 children under 16 years of age were employed in agriculture. These 500,000 children were approximately 2 per cent. of the 25,000,000 children in the United States between the ages of five and 16. The 1940 census, the most comprehensive statistical data available, shows that 4 per cent. of the 255,000 Texas children 14 and 15 years of age were devoting some time to employment in agriculture during the end of March 1940. There are no figures available for those under 14. However, school attendance in Texas is by law compulsory for all children between the ages of seven and 16 ; accordingly, any work of young children would have occurred outside school hours.

Wages for the kinds of agricultural work for which children are employed are usually paid on a piece rate basis, *i.e.*, basket, or pound, and children are usually paid at the same piece rate as adults. Since children produce less and usually work fewer hours or only after school hours, they earn less than adults working full time. The only statistics available show that children 14 and 15 earn, on the average, $3.40 per day, slightly more than half the $6.40 earned by adults in the age group 20 through 34, the adult age group with the highest earnings.

Restriction of Social Security in the United States to Unemployment and Old Age—Large Numbers of Workers not Covered by Social Insurance

The United States Government does not believe that the technical coverage of its social security laws, an extremely detailed matter on which there is a great mass of public information, would be of value to the Committee.

Existence of the Principle of Equal Pay for Equal Work in Nine States only—Women not Protected

The exact nature of this particular charge is unclear. However, the principle of equal pay for equal work for women is not related to a system of forced labour and no charge is made that the United States advocates or has laws requiring unequal pay.[1]

Equal pay is a principle more basically established by collective bargaining than by legislation in the United States. Equal pay laws exist in 13 States rather than in nine States, as the allegation states.

Racial Discrimination in regard to Employment and Wages Tantamount to Forced Labour

It was alleged that racial discrimination in the fields of employment and wages deprives virtually a million Negroes of the right to choose their work.

[1] Copies of *Status of Women in the United States, 1952*, a report prepared by the Women's Bureau of the United States Department of Labor, were transmitted with this document.

While discriminatory hiring policies practised by private individuals are to be condemned, such activity is not the equivalent to forced labour and certainly is not within the definition of that term established by the Committee.

Affirmative action has been taken by 11 of the several States (Colorado, Connecticut, Indiana, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, Washington and Wisconsin) to prohibit employers from discriminating in hiring because of colour, race, creed or national ancestry.

The Federal Government has by Executive Order also taken affirmative action to prohibit discrimination in hiring based upon colour, race, or creed in the Federal establishment, civil and military.

Similar provisions, by Executive Order, must be written into federal contracts.

The position of the Negro in the United States—economically, socially and politically—has improved to such an extent that the most widely circulated Negro periodical in the United States has recognised that " there are millions who would gladly change places with the American Negro. Around the globe there are countless persons who are fighting and dying to win a measure of the American Negro's living standards, his civil rights, his everyday enjoyment of living." It stated that much remains to be done to give the Negro his just due in the American way of life, but that, as Negroes, " our blessings far outweigh any hardships and the future is bright with hope for a truly democratic America ".[1]

President's Federal Loyalty Order and Activities of the Loyalty Boards Tantamount to Measures of Political Discrimination

The Federal Loyalty programme established by Executive Order 9835 relates only to employees of the Federal establishment. The maintenance of the security of the Government against the infiltration of disloyal or subversive individuals by the simple expedient of not hiring or terminating the employ of such individuals is obviously not forced labor of any nature and stands in marked contrast to the type of forced labour defined by the Committee which has as its goal the political " indoctrination " of those who differ from the ideology of the State.

Exploitation of Persons detained in Mental Clinics

This allegation is completely false in its conclusions, and is " admittedly fragmentary " in its evidence. The " evidence " that is presented does not support the conclusions attempted to be drawn.

The subject report makes clear that " required labour " is the work done by patients in the course of occupational therapy, a medical technique recognised and valued throughout the world and practised in public and private mental institutions alike. That mental hospital patients engage in work of various kinds—from weaving to farming and from sculpturing to laundering—is of course true. Participation in activities such as these is a valuable component in the improvement and recovery of many patients. Failure to provide such therapy in a great number of cases would result in the degeneration and progressive withdrawal of the patient. Such activity is also an important training ground for the patient's adjustment to the community upon his discharge, not only teaching vocational training and rehabilitation, but how to live and work with others.

Undoubtedly some, but by no means all, of the patient's activities contribute

[1] *Ebony*, Sept. 1947. Copies of a survey, *Negroes in the United States. Their Employment and Economic Status*, prepared by the United States Department of Labor, were transmitted with this document.

to the operation of the hospital. This, however, does not mean that such activities are compulsory or that mental patients are compelled to perform any work or are ill-treated or punished for their failure or refusal to perform any work, and no such allegation can be supported by fact. Further, a mental patient is protected from forced labour, as any other citizen not convicted of a crime, by the Constitution and laws of the United States. It is a crime in the United States to force a mental patient by punishment, ill-treatment or threats of either to perform any work.

The very subject matter of this allegation makes it ridiculous to suppose that a system of forced labour as defined by the Committee would or could be instituted and the allegation does not charge that any such system exists, nor does it present any evidence to support the innuendoes contained in the warped statement.

Exploitation of Certain Indian Tribes

The allegation charges ill-treatment of the Aleut Indians on the Islands of St. George and St. Paul and attempts to imply (by the use of plurals) that other tribes are ill-treated. No evidence is cited and no specific charges are made regarding other tribes.

The Islands of St. George and St. Paul, the Pribilofs, lie on the Bering Sea approximately 320 miles west of the Alaska mainland and 220 miles north of the nearest islands in the Aleutian chain, at 170°W and between 56° and 57°N. They are inhabited by about 535 Aleut Natives for the most part descendants of Aleutian Island Natives originally transported to the Pribilof Islands by the Russians during Russian ownership to exploit the fur-seal herd. The fur-seal industry and incidental foxing operations provide their sole sources of livelihood.

During the months of May through November of each year over 3,000,000 fur seals congregate on these Islands to breed. The Islands, since 1869, have been a special Government reservation set aside for the protection of the Alaska fur-seal herd. The killing of fur seals in the waters of the Northern Pacific Ocean, including the Bering Sea, and the adjacent land under the jurisdiction of the United States is regulated by statute implementing the Provisional Fur-Seal Agreement of 1942 between Canada and the United States. (Fur-Seal Act 2/26/44. 58 Stat. 100, 61 Stat. 449, 16 U.S.C. 631*(a)*-631*(q)*).

Under the provisions of this Act, the Department of the Interior, through the Fish and Wildlife Service has jurisdiction over the Pribilof Islands and is responsible for the management of the Alaska fur-seal herd and for the welfare of the Natives. Section 7 of the Act and earlier statutes provides that—

> Whenever seals are killed and sealskins taken on any of the Pribilof Islands, the Native inhabitants of the islands shall be employed in such killing and in curing the skins taken, and shall receive for their labour fair compensation to be fixed from time to time by the Secretary, who shall have the authority to prescribe the manner in which such compensation shall be paid to the natives or expended or otherwise used on their behalf and for their benefit (16 U.S.C. 631*(g)*).

and further authorises the Secretary of the Interior—

> . . . to furnish food, shelter, fuel, clothing, and other necessities of life to the Native inhabitants of the Pribilof Islands, and to provide for their comfort, maintenance, education, and protection (16 U.S.C. 631*(h)*).

The purpose of this legislation and the reason for the programme is not the exploitation of the Pribilof Indians, but rather their care and protection. Because their existence is solely dependent upon their sealing operations, the Pribilofs have

a priority in such operations. Since the proper conservation of the fur-seal herd requires regulation of sealing operations by the Government, the Pribilofs opportunity to conduct such operations and thus earn their living are, obviously, subject to many factors which neither the Government nor the Pribilofs can control. In these circumstances, the Government has found it necessary to supply them with the staples of life and the opportunities for earning a cash income. To supply the Pribilof Indians with the staples of life cannot be said to be " forced labour " in any sense of the word. This practiee has been criticised, however, and recommendations made to eliminate the supplying of staples in favour of cash incomes exclusively. As indicated in the document *Annual Cash Compensation Plan for the Resident Aleut Workmen of the Pribilof Islands*[1], and amendments, the practice of providing staples in kind is being gradually discontinued in favour of cash payments allowing the Aleuts to purchase as they wish.

When the story of the allegations concerning the Pribilof Islands was carried in the newspapers, the Secretary of the Interior appointed a survey group of two special consultants, the Director of the Fish and Wildlife Service, and the Commissioner of Indian Affairs to make a factual study of conditions and problems of the Pribilof Islands and other Native communities in the Bering Sea. The survey mission found " absolutely no basis for the charge that the Native Aleuts of the Pribilof Islands are held in ' slavery, ' ' bondage, ' or ' peonage ' ".[2]

Arrest of Negroes in order to Subject them to Forced Labour

The statement made by the U.S.S.R. representative presents no evidence of such practices. Without some specific factual statement, there is no situation presented by this charge on which comment seems necessary. It might be reiterated that the Constitution of the United States prohibits involuntary servitude except as punishment for a crime of which the person has been duly convicted and that such a conviction could only follow a trial in which all the protections and opportunity for defence required by the Constitution and law of the State and the Constitution and laws of the United States have been accorded the accused.

Imposition of Forced Labour on Mexican and Other Foreign Immigrant Workers

The problem of Mexican migrant labour in the United States is recognised as serious, and attempts have been and are still being made to solve it. Those Mexicans who enter legally under contract are protected by the terms of the Agreement with Mexico of 1951 as amended in June 1952.[3] It should be noted that there is no fine laid upon the Mexican employee if he breaks his contract. He is merely subject to being returned to Mexico and he is not entitled to the guarantee that he will have the opportunity to work for at least three-fourths of the total work days of his contract (Articles 30, 16).

If all these Mexicans entered under the Agreement and were protected by its terms most of the difficulties would be ameliorated.

The illegal entrant, the " wetback ", however, still presents major difficulties. *Migratory Labor in American Agriculture*[4], indicates the nature and scope of the problem.

[1] A copy of the plan was transmitted with this document.
[2] A copy of the mission's report was transmitted with this document.
[3] A copy of the Agreement was transmitted with this document.
[4] A copy was transmitted with this document.

Article 38 of the new Agreement obligates both Governments "to take all possible measures for the elimination of such illegal traffic and entry across the International Boundary". The apprehension and return of wetbacks has been intensified. During the year ending 30 June 1952, 531,000 were returned to Mexico and during the six months from 30 June 1952 to 1 January 1953, a total of 344,000 was returned.

Section 540 of Title 7 U.S.C., part of the 1951 amendments to the Agricultural Act of 1949 passed to implement the 1951 Agreement, provides that—

> ...no worker shall be made available under this title to, nor shall any workers made available under this title be permitted to remain in the employ of, any employer who has in his employ any Mexican alien when such employer knows or has reasonable grounds to believe or suspect or by reasonable inquiry could have ascertained that such Mexican alien is not lawfully within the United States.

The illegal entry of Mexicans, however, is neither inspired by the United States Government nor are the wetbacks forced to work involuntarily. Their initial illegal entry was voluntary; they voluntarily took their jobs, they remain at the jobs unless the legality of their entry is challenged. When wetbacks are apprehended and deported they all too often recross the border in search of another job under the same conditions.

The evils inherent in the use of labourers illegally in a country are obvious and the United States and Mexico did not and are not encouraging such practices, but rather are making intensive efforts to remedy the situation. While recognising its evils, the United States declares positively that the wetback problem is not a system of forced labour in any sense of the term nor, in particular, within the definition established by the Committee.

Wartime Exploitation of Foreign Workers and Conscientious Objectors

During World War II a limited number of farm workers from Mexico, Canada and the islands of the British West Indies were brought into the United States under contracts negotiated pursuant to arrangements with the interested governments. The Report of the President's Commission on Migratory Labor reviews this programme in the second and third chapters. The programme was necessitated by the war-created labour shortage and heavy demand of this country and its allies for food and other agricultural products during the war. The workers voluntarily contracted to do the work and work was voluntarily given.

The wartime removal of Japanese and citizens of Japanese origin from the West Coast was an emergency measure instituted after the attack upon Pearl Harbour when the threat of a Japanese attack upon the West Coast was likely.

The Secretary of War and any Military Commander designated by the Secretary were given power, by Executive Order 9066, based upon authority granted to the President by Act of Congress and which later was confirmed and ratified by another Act, to prescribe military areas in such places and of such extent as deemed appropriate and to exclude any or all persons, and the right of any person to enter, leave or remain was subject to any restrictions deemed necessary in the discretion of the Secretary or Military Commander.

During the early months of active American participation in World War II the Military Commander of the Western Defense Command felt the Pacific Coast to be particularly subject to attack or attempted invasion and thus subject to acts of sabotage and espionage which required military measures to safeguard against such enemy operations.

There existed at that time an unascertained number of enemy Japanese aliens and citizens of Japanese birth or extraction who were disloyal to the United States and maintained loyalty to the Japanese Emperor, and the military authorities did not believe that it was possible to effectuate immediate separation of the loyal and disloyal groups but did believe it was urgent that the danger of sabotage and espionage be dealt with immediately.

This action was held constitutional by the United States Supreme Court in *Korematsu* v. *United States*, 323 U.S. 214 (1944), but the subsequent detention of loyal Japanese, after their removal from the established military areas, was held, by the same Court, to be unauthorised by the Executive Order and the Act of Congress, and a writ of *habeas corpus* issued to discharge the person in Ex Parte *Endo*, 323 U. S. 283 (1944).

The Selective Training and Service Act of 1940 (54 Stat. 885, 50 U.S.C. App. §§ 301-310, as amended 55 Stat. 620, 50 U.S.C. App. §§ 350-362), provided for the registration, with certain exceptions such as those in the armed forces and foreign diplomatic personnel, of every male, citizen or resident, between the ages of 19 and 65 and the induction, with certain exceptions, of those between 19 and 45 into the armed forces of the United States for training and service. The Act provided, however, that any person " who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form " did not have to subject himself to combatant training and discipline and, if he were inducted, he was to be assigned to non-combatant service as defined by the President. If the person were " found to be conscientiously opposed to participation in such non-combatant service " he was " in lieu of such induction " to " be assigned to work of national importance under civilian direction ".

With this exemption the United States thus respected the religious beliefs of a small minority of her citizens and did not require that they choose between prison and acts which their consciences prohibited. However, they cannot claim immunity from fulfilling, in some manner in time of war, their special obligations as citizens incurred to a society which maintains a Government protecting their lives, property and right to freedom of speech and thought. Conditions of work to which the conscientious objector was subject were not as pleasant or as lucrative as he might have been able to obtain in the civilian life of the country, but neither were the conditions under which the men who served with the armed forces, and the conscientious objector was spared the horror of combat, and, by the sacrifices of the men in the armed forces, was saved from being crushed under the heel of what otherwise might have been a conquering dictatorial régime.

While the conscientious objector was required to perform certain labour of national importance of a civilian nature, he was the only person so required and it was because the Congress felt that he should not escape some of the service and sacrifices that his fellow citizens of draft age were required to give and endure to win the war.

Convict Labour Tantamount to Forced Labour

That convict labour be classified as forced labour as defined by the Committee, it is necessary to show that it is exacted to correct the political opinions of those who differed from the ideology of the State or to substantially fulfil the economic plans of the State. In none of the statements which are found under this heading are such allegations made nor are any facts presented to indicate that either of these situations exists. Nor do they exist.

The necessity for providing work not only for rehabilitation of the prisoner, but merely to provide activities to keep the prisoner from degenerating physically,

mentally and morally, is well enough established in modern penology as to need no citation to authority. However, Donald R. Taft in his book *Criminology*, cited by the Polish representative, says on page 462 of the 1950 edition—

It is universally recognised that prisoners should work. No one approves the mass idleness which is prevalent in many prisons today, or the overmanning of industries and the slovenly make-work policies which so often characterise prisons. Idleness demonstrably contributes to the causation of crime, and logically it should confirm criminal habits if continued after incarceration. Idleness has prevailed in most institutions where serious riots have taken place. It seriously complicates prison discipline, unnecessarily increases the taxpayers' burden, makes inmates dependent, and confirms in criminals the belief, all too prevalent, that the State is not worthy of respect because it is concerned merely to put them away without serious effort to rehabilitate. Prisoners typically lack " habits of industry ", are predominately without vocational training and, apart from their crimes, have often been content to live upon the work of others. A few of them have never known the satisfaction that comes from pulling their weight in the boat and have rarely received social recognition and developed self-respect as productive members of the body politic. Criminals as a class need to have their self-respect restored. Prisoners need work.

The last report of the Department of Labor's Bureau of Labor Statistics (*Prison Labor in the United States, 1940*, Bulletin No. 698)[1] presents in detailed form a complete picture of the types and of the economics of prison labour in the United States.

The description of convict camps by Donald R. Taft in his *Criminology* is to be found in Chapter 27, " Prison Labor ", Section 8, " Public Works and Ways Systems ". After explaining the operation of this system in the same terms as used on page 4 of *Prison Labor in the United States, 1940*, he states—

Road-camp work varies all the way from the notorious chain-gangs *of the recent past* in the South to well-organised camps for road construction in California. North Carolina was recently reported as having some eighty such road camps. (Italics added.)

Some of the worst examples of the abuses of the lease system were found in the chain-gang camps maintained by lessees in the South.... The chain-gang is a dying institution, and its death is to be welcomed.

[The lease system, it should be noted, had disappeared by 1923. *Prison Labor in the United States, 1940*, page 4].

The statement by the representative of the U.S.S.R. concerning the administration of the federal prisons has no basis in fact. The " public prosecutor or district attorney " not only does not have " complete control " of labour in any federal prison, he has no authority or control at all. The responsibility for the operation of the federal prison system and the care and custody of federal prisoners did and still rests with the Attorney General, the Cabinet officer in charge of the Department of Justice. Specifically, the Code provision is—

...the control and management of federal penal and correctional institutions, except military or naval institutions, shall be vested in the Attorney General, who shall promulgate rules for the government thereof, and appoint all necessary officers and employees in accordance with the civil service laws, the Classification Act, as amended, and the applicable regulations.

The Attorney General may establish and conduct industries, farms, and other activities and classify inmates, and provide for their proper government, discipline, treatment, care, rehabilitation and reformation (18 U.S.C. § 4001 (1908)).

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[1] A copy of the report was transmitted with this document.

In the Department of Justice there has been established a Bureau of Prisons in charge of a Director appointed and serving directly under the Attorney General.

The Bureau of Prisons, under the direction of the Attorney General, shall—

(1) have charge of the management and regulation of all Federal penal and correctional institutions ;

(2) provide suitable quarters and provide for the safekeeping, care and subsistence of all persons charged with or convicted of offences against the United States, or held as witnesses or otherwise ;

(3) provide for the protection, instruction and discipline of all persons charged with or convicted of offences against the United States.

This Section shall not apply to military or naval, penal or correctional institutions or the persons confined therein (18 U.S.C. § 4042 (1948)).

[Citations are to the Criminal Code of 1948 which codified existing law. There are no substantive changes made in the above sections.]

Federal Prison Industries is a Government corporation administered by six directors, appointed by the President and serving without pay (18 U.S.C. § 4121). Its function is to—

...determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments and agencies of the United States, but not for sale to the public in competition with private enterprise (18 U.S.C. § 4122).

The several Federal departments and agencies and all other governmental institutions of the United States shall purchase, at not to exceed current market prices, such products of the industries authorised by this chapter as meet the requirements and may be available (18 U.S.C. § 4124).

The yearly operations of both the Bureau of Prisons and Federal Prison Industries are made public in annual reports [1] which are the best answer to factual inaccuracies. It should also be noted the *Report on Legal and Illegal Forms of Forced Labor in the United States*, mentioned in the allegation, itself contradicts the U.S.S.R. statement concerning forced labour in federal prisons.

With respect to the further charges on convict labour in this report, to which the U.S.S.R. representative alludes, after stating that " federal prisons do not exploit the labour of prisoners " it alleges that forced labour does exist in the penal institutions of some of the several States. Three States are cited, Arkansas, Texas and Mississippi.

It had been the practice in Arkansas, until 1913 when it was abolished by statute, to lease prisoners to farmers, contractors and manufacturers. In 1925 the authority to hire out convicts to work on the public roads or to do any other useful agricultural work was revived, provided that the convicts so employed are at all times under the management and custody of the regular penitentiary superintendent and wardens, humanely treated and worked only a reasonable number of hours each day (Ark. Stat. Anno., §§ 46-299, 330). Actually convicts are hired out only to other State agencies for performance of public activities and the agreement under which this had been done needed the approval and consent of the Governor of the State and the terms and conditions approved by the Attorney General. The figures in *Prison Labor in the United States, 1940*, show that no convicts were leased or their work contracted.

The United States has no information concerning the alleged practice in Texas

[1] Copies of some of these reports were transmitted with this document.

of encouraging male prisoners to consort with female prisoners and then upon termination of the original sentence, to convict them of fornication. The allegation does not mention any specific instance which can be investigated. However, it seems highly improbable that such activity could occur since, by Texas law, female prisoners must be kept separate from male prisoners, and where practicable in institutions. In practice, female prisoners and male prisoners are confined in separate institutions (Vernon's Texas Civil Stat. Art. 6166*(u)*).

The allegations concerning Mississippi are the same as those presented in relation to the arrest of Negroes [1] and the observations there made [2] are applicable here. It is impossible to give a more specific answer to this allegation, as no specific instances have been mentioned nor any proof whatsoever cited that such practices exist.

Alabama does not place prisoners at the disposal of private enterprises. While this practice was abandoned at least as early as 1923 (*Prison Labor in the United States, 1940*, page 4), it was prohibited by statute in 1927. Article 5, Chapter 2 of the Alabama Code deals with the hiring of prisoners. Sections 92 and 100 of this Article read—

Hiring convicts prohibited. It shall be unlawful to hire or lease for any purpose any convict, State or county, except as otherwise provided in this Article.

Counties may work convicts under present laws: no hiring or work in coal mines. Nothing in this Article shall prevent any county or counties of this State from keeping or working its or their county convicts according to the law as it now exists or hereafter be enacted but no county convict shall be worked in any coal mines or worked under lease to any person, firm or corporation.

The remaining Sections of this Article provide only for State use in public works and ways.

The United States has no information concerning the allegation referring to one Patterson and the letters which he supposedly wrote describing his incarceration. The cliché " forced to work like a slave ", however, is a common expression indicating hard work and nothing more.

Peonage in Certain Regions

As the Committee knows from Title 18 of the United States Code [3], " whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage " is guilty of a crime for which he may be fined $5,000 and imprisoned for five years (18 U.S.C. Supp. V § 1581). This and the other statutory laws prohibiting involuntary servitude and its enforcement are explained and outlined in Brodie's *The Federally-Secured Right to be Free from Bondage*, previously mentioned.[4] As stated on page 375—

The primary objective of the Civil Rights Section, the Federal Bureau of Investigation, and the Department of Justice as a whole in the work relating to peonage, slavery and involuntary servitude is the abolition of bondage—illegal forced labour—and the punishment of those who seek to compel others to work against their will.

Any instances of peonage committed by individuals, past or present, are a clear violation of the laws of the United States, and when discovered, are investigated and prosecuted. The article by Mr. Brodie, on pages 372, 373 and 374, sets forth the operation of the Civil Rights Section and the volume of complaints, investigations

[1] See above, p. 590.
[2] See above, p. 611.
[3] A copy was transmitted with this document.
[4] See above, p. 605.

and prosecutions. However, such instances do not by any stretch of the imagination form a system of forced labour as defined by the Committee, nor do they support the extravagant charges that 76,000 persons are now living in peonage. The disingenuousness of those charges is seen in the distortion of the authorities cited in support. The news story in the *New York Star* (23 January 1949, page 2, column 2) was reporting a publicity story released by an assistant to the Commission of Inquiry into Forced Labor. This release dealt with what this assistant expected witnesses to tell the Commission at its hearings which were to be held over a month later. The story carries a " shocker " headline, " 75,000 U.S. ' Slaves ' revealed by Inquiry " designed to catch the readers' attention, and the opening sentence of the story states, " more than 75,000 persons live in a state of peonage, slavery or forced labor in the United States today ". No factual situations are given and no reference to authority other than unnamed " witness " is made. The public hearings were held on 24, 25, and 26 February 1949, and the article cited from the *New York Times* (26 February 1949, page 3, column 5) is not the result of an investigation by that newspaper but only a report of the testimony of the witnesses. The 24th and 26th were devoted to hearing the stories of refugees from the U.S.S.R. and satellite countries describing the Soviet systems of forced labour, deportation of whole populations, etc.

The hearings on the 25th were devoted mainly to allegations of " forced labour " in the United States. As reported by the *New York Times*, one witness does charge that involuntary servitude existed in one turpentine camp, and Rowland Watts, author of the *Report on Legal and Illegal Forms of Forced Labor in the United States*, estimated that 20,000 families in the South were in peonage, though he admitted that the United States Government investigated charges and prosecuted offenders.

It would appear, however, that the *Commission of Inquiry into Forced Labor* was not impressed by the extravagant claims of Mr. Watts and questioned the veracity of such broad charges. Dr. Harry A. Gideonse, President of Brooklyn College and chairman of the Commission stated, as reported by the *New York Times*, 27 February 1949, page 12, column 2—

> The greatest good coming out of the investigation will be that we here in America will rediscover what we have taken for granted : a worker's freedom of movement, freedom to choose his own work and the importance of decentralized control of employment.

This edition of the *New York Times* also carried another story reporting comments on the charges made by the Rev. Hacker as follows :

> Charges Denied in Florida
>
> Gainsville, Fla., Feb. 26 (AP) — Two Alachua County law enforcement officers denied today charges made in New York by the Rev. C. Leroy Hacker, that peonage existed in the county's turpentine industry. Sheriff Frank Sexton said, " Nothing like this is in existence in Alachua County ", and Police Chief R. G. Feigler of Gainsville declared the story to be " without foundation in fact whatsoever ". Charles Chestnut, Negro undertaker and prominent in Negro civic work here, said he had " never heard of a situation of this kind " among Negroes in the county.

The citation to the *Plantation South Today* does not charge any form of forced labour as defined by the Committee, but the reference should be explained. The publication is one of a series or research monographs prepared by the Division of Social Research of the Works Progress Administration as studies of the conditions in various sections of the economy in 1930-1934. It was prepared in 1935 and printed in 1936. The economy of the entire country was depressed and that of the agricul-

tural South was especially affected. The fall of farm prices had left nearly all of the nation's farmers in debt. Measures taken by the Federal Government to support farm prices, to provide credit to farmers at low interest rates, to assist them to diversify their crops and to improve their soils have resulted in a great increase in agricultural income, and a dramatic increase in the level of living of the farm population of the South. (See publication of the U.S. Department of Agriculture, *Farm-Operator Family Level of Living Indexes.*)[1]

The publication, *Plantation South Today*, however, does not make any allusions to peonage or forced labour and does not imply that such conditions exist. In fact one of the elements which complicated effective utilisation, conservation and recovery of productive farm land was the high rate of mobility. As the publication states on page 107—

> The tenure system in the cotton South is characterised by a high rate of mobility among farmers, especially croppers. Every year thousands of cotton tenant farmers place their household goods and other belongings in wagons and trucks and move on to other quarters.

While the effects of such movements are considered detrimental to good agricultural operations, they are certainly not an incident of any system of peonage or forced labour.

Reference has been made to the use of company-owned houses or commissaries as audit instruments to keep employees in a state of involuntary servitude. The existence of company-owned houses or commissaries for employees does not, *per se*, indicate any type of forced labour, nor even of credit extended to the employee. However, if they are used to keep employees in a condition of peonage or involuntary servitude, the practice is illegal and a criminal offence.

If an employer furnishes board, lodging, or other facilities to a worker covered by the Fair Labor Standards Act in addition to his stipulated wage or makes deductions from a stipulated wage for those items, the worker is protected by Section 3 *(m)* of that Act. The employer can only charge a reasonable price, which is interpreted to mean that neither the employer nor any affiliated person can make a profit on the transactions.[2]

Application of Vagrancy Laws as an Instrument of Forced Labour

The Committee has before it information regarding the law of vagrancy in the several States. This information indicates the nature of the offence and points out that the law of vagrancy may not be used to require a person to work. If the vagrancy statutes are used in isolated instances by individuals to infringe the freedom guaranteed by the Constitution and laws of the United States, such practices are illegal and crimes.

The other aspects of this charge have been commented upon in previous paragraphs.

Allegations made by Mr. Stetson Kennedy

With the exception of paragraph *(f)*, the allegations concerning migratory labour, Mexican immigrants, peonage, and vagrancy appear to be merely repetitive

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[1] A copy was transmitted with this document.

[2] Copies of Interpretative Bulletins, *General Statement as to the Methods of Payment under the Fair Labor Standards Act and the Application of Section 3* (m) *thereto and Regulations Determining the Reasonable Cost of Board, Lodging and Other Facilities* were enclosed.

of charges made in the preceding allegations. All of Mr. Kennedy's allegations are general charges and do not appear to be supported by any proof.

The Selective Service and Training Act of 1940, as amended, (50 U.S.C. App. § 305) provided for the deferment of certain individuals because their specific occupational status was considered essential. The United States does not know of any instance in which this provision was illegally used by collusion between employers and government officials or agencies. Had such practices been discovered by federal authorities, the offenders would have been prosecuted. The Act provided for imprisonment up to five years or a fine of $10,000 or both as punishment for any person who knowingly failed or neglected to perform his duties under the Act (50 U.S.C. App. § 311).

ADDENDUM

The *Ad Hoc* Committee on Forced Labour has received the following communication, dated 19 May 1953, from the Belgian Permanent Delegation to the European Office of the United Nations:

The Belgian Permanent Delegation to the European Office of the United Nations has the honour to refer to the Note of 4 May 1953 which the Belgian Permanent Delegation to the United Nations addressed to the Chairman of the *Ad Hoc* Committee on Forced Labour, reference No. D.235 and S.792.

The Permanent Delegation has been instructed by the Belgian Government to confirm the statement of principle set forth in the said Note as to the competence of the *Ad Hoc* Committee.

Nevertheless, out of consideration for the *Ad Hoc* Committee, the Belgian Government has instructed the Permanent Delegation to communicate the following items of information to the Committee concerning the communications addressed to the Committee and the documentation put at its disposal.

I. The criticisms made by the representatives of Poland, the U.S.S.R., the Byelorussian S.S.R. and the World Federation of Trade Unions are not supported by any proof.

II. As regards the Belgian Congo:

(a) Workers in the mines are not liable to forced labour.

(b) On the subject of compulsory cultivation, it should be emphasised that Belgium ratified the International Forced Labour Convention with the reservation that such work is only imposable in exceptional cases determined by the Administration for public purposes such as food growing or agricultural training courses.

Belgium has faithfully fulfilled her undertakings and reported each year on their implementation.

III. As regards Ruanda-Urundi:

(a) Unpaid services for local chiefs.

A small monetary levy has taken the place of all labour contributions under the old tribal system.

The punishment of abuses is sanctioned by law.

(b) Compulsory labour for indigenous districts.

This subject comes within the scope of the Forced Labour Convention, ratified by Belgium (Article 10).

(c) Compulsory labour for failure to pay taxes.

This subject, like the preceding one, comes within the scope of the Forced Labour Convention, ratified by Belgium (Article 10).