YEARBOOK
ON
HUMAN RIGHTS
FOR 1951

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INTRODUCTION

This is the sixth edition of the *Yearbook on Human Rights*. The innovations that were introduced into the fifth *Yearbook* on the basis of certain decisions taken by the Economic and Social Council at its eleventh session have been retained in the present volume. Each year has witnessed increasingly generous co-operation from government-appointed correspondents and from government agencies. The result has been the representation of a greater number of States in the *Yearbook* and its enhanced value as a work of scholarly reference.

The organization of material into four parts adds to the usefulness of the *Yearbook* for administrators, students, educators, and editors who desire to follow the development of national and international action in the field of human rights. The four parts are arranged as follows:

I. States (National Laws and Decisions of National Courts);

II. Laws and Other Texts on Human Rights in Trust and Non-Self-Governing Territories;

III. International Treaties and Agreements, and Texts adopted by Specialized Agencies and other Intergovernmental Organizations;

IV. A. The United Nations and Human Rights;

B. Judgments and Advisory Opinions of the International Court of Justice.

In Part I are to be found the human rights provisions of eleven newly enacted constitutions and constitutional amendments; 339 texts or summaries of statutory provisions, regulations, ordinances, etc., dealing with human rights; and the summaries of ninety-three decisions of national courts. This listing does not include several hundred laws adopted by state legislatures which were summarized or cited in the contribution of the United States of America. Nor does it include certain provincial legislation referred to in the Canadian contribution, or the background material and informational reports included in the contributions of the USSR, the United States of America and certain other Member States.

The connotation of the term "human rights" and its use in the *Yearbook* have been determined in accordance with the contents and scope of the Universal Declaration of Human Rights, adopted and proclaimed by the General Assembly of the United Nations on 10 December 1948. The texts quoted or summarized, therefore, refer to economic, social and cultural rights as well as civil and political rights. In the former category are to be found 173 texts; in the latter, 166 texts.

Part I also contains the summaries of court decisions constituting important developments in the field of human rights in seventeen States—of which sixteen are Member States. All texts refer to the year 1951, with the exception of certain texts which, for purely technical reasons, could not be included in the *Yearbook on Human Rights for 1950*.

Part II contains fifteen texts of laws and notes referring to human rights in Trust Territories and twenty-one texts referring to human rights in Non-Self-Governing Territories.

Part III consists of three sections—(*a*) agreements concluded by specialized agencies and intergovernmental organizations; (*b*) regional and other multilateral treaties and agreements; and (*c*) bilateral treaties and agreements, all of which have a direct bearing on human rights. In the preparation of this part of the *Yearbook*, the most wholehearted co-operation was received from the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization of the United Nations, and the World Health Organization. Reports on the Geneva Conventions of 1949 and on the work of the Council of Europe and the Pan-American Union have become an important annual feature. It may also be noted that the present volume includes the preamble to the treaty of peace with Japan, in which reference is made to the promotion of human rights, as well as the conclusions adopted by the African Labour Conference of 1950 and conventions on social security concluded in 1951 between the Scandinavian countries.

The scheme of organization of Part IV, which is devoted to the activities of various United Nations bodies in the field of human rights, closely resembles that followed in the last two *Yearbooks*. The opening chapter dealing with the Universal Declaration of Human Rights is followed by a detailed account of the work of the Commission on Human Rights, the Economic and Social Council and the General Assembly in the preparation of the draft Covenants on Human Rights. Moreover, there are also included full descriptions of all significant

decisions taken by the United Nations bodies in the year 1951 concerning freedom of information, the status of women, the prevention of discrimination and protection of minorities, procedures for dealing with communications concerning human rights, trade union rights (freedom of association), forced labour, slavery, refugees and stateless persons, the problem of prisoners of the Second World War, the promotion of human rights in Trust and Non-Self-Governing Territories, and certain other specific questions. In the final section, the judgment of the International Court of Justice of 13 June 1951 in the Colombian–Peruvian asylum case is summarized.

Altogether, seventy-seven sovereign States are represented in this *Yearbook*: of these, fifty-six are Member States and twenty-one are non-members of the United Nations. Five Trust Territories are represented by texts; four others by notes referring to texts published in the part of the *Yearbook* on Non-Self-Governing Territories which apply also to certain Trust Territories. Seven Member States which are responsible for the administration of certain Non-Self-Governing Territories have contributed texts applicable to such territories.

The *Yearbook* also includes an Index of Constitutional Provisions; an Index of Laws, Decrees and Regulations; and a Table of Cases.

The *Yearbook on Human Rights* is the product of a co-operative effort in which many persons and agencies in many countries take part. Contributions are made by government-appointed correspondents as well as government agencies and officials of governments, specialized agencies and other inter-governmental organizations. The names of official correspondents have been mentioned in the footnotes. To them and to all others who, through their helpful contributions, have made this *Yearbook* possible, the Secretary-General of the United Nations wishes to express his sincere gratitude.

PART I

STATES (NATIONAL LAWS AND DECISIONS OF NATIONAL COURTS)

AFGHANISTAN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

1. *Constitution of 31 October 1931.* The Constitution of Afghanistan did not undergo any changes during the year 1951.

2. *Municipality Act of December 1947.* This Act deals with the formation of municipalities, the amalgamation of the territory of several municipalities, and the division of one into several municipalities. The Act also sets forth the powers and duties of municipal councils, voluntary tasks which they may assume, the number of members of these councils, the setting up of municipal commissions, and electoral provisions such as qualifications and disqualifications of voters, the establishment of electoral committees, and penalties for electoral offences. Article 15 of this Act provides that "to exercise the right to vote in the election of members of municipal councils, a person must fulfil the following requirements: be of Afghan nationality; have attained eighteen years of age, and have been born in the municipality or have resided in it at least one year prior to the date of the election".

Article 16 provides that the following persons shall not have the right to vote: persons who have no means of subsistence of their own and are public charges or are entirely dependent on the means of others; persons who are ineligible for public service; or persons who have been sentenced for a serious offence against the authority of the State or against another individual.

3. *Postal regulations of 1936.* These regulations contain, *inter alia*, provisions for the protection of the secrecy of correspondence. Article 25 of the regulations reads as follows: "The opening of letters, suppression of correspondence or disclosure of the contents of correspondence by an employee of the postal services, or disclosure of the contents of correspondence or of personal letters orally or otherwise by any person unless he has been authorized to do so by an official of the censorship office, shall be punished as a criminal offence."

Articles 30 and 53 of the postal regulations state that the postal services are bound by the regulations of the Universal Postal Union and the provisions of the International Telecommunication Convention.

4. *Regulations for courts martial of 1951.* These regulations deal with the procedure of courts martial to be applied to members of the armed forces, the police force and the gendarmerie for offences which are punishable under these regulations.

5. *Regulations of 1939 implementing the Afghan Nationality Act.*[2] These regulations deal with the granting of certificates of nationality to Afghan nationals.

6. *Act of 1943 concerning the status of civil servants and employees in public services.* This Act determines the working hours for civil servants and employees in public services during the various seasons of the year, and deals with vacation, sickness and emergency leave. In accordance with other laws, employees in public services, as well as other persons in need, may be granted low-interest loans for the construction of dwelling houses by the Finance Corporation for Construction, such loans being repayable within a period of twenty-eight years. Employees in public services are also entitled to purchase food from the Public Employee Co-operative in Kabul at cheap prices which remain unaffected by market fluctuations.

7. *Act of 1935 for the protection of the destitute.* This Act lays down rules for the admission of destitute persons into poor-houses established for their protection.

8. In the field of public health, it is the law of the land that poor and destitute patients are provided with free beds, medical treatment and medicine in the hospitals of Afghanistan. Anti-cholera and anti-typhus vaccines are provided in the event of outbreaks of epidemics in any part of the country; the Ministry of Public Health is responsible for dispatching mobile medical units to minister to the population in distant parts of the country.

9. The Government is responsible for administering all branches of education. Books, stationery, and other educational material are provided free of charge. The Government maintains boarding houses for poor and orphaned students, who are granted cash benefits in addition to free board and lodging.

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[1] This note was prepared on the basis of texts and information received through the courtesy of Mr. Fazal Ahmad Zormati, chief of section in the Department of the Press of the Ministry of Foreign Affairs, Kabul.

[2] See a summary of this Act in *Yearbook on Human Rights for 1950*, p. 7.

ARGENTINA

ACT No. 14021 DECLARING ALL PROPERTIES OF THE CORPORATION "LA PRENSA" SUBJECT TO EXPROPRIATION[1]

dated 13 April 1951

Art. 1. All properties constituting the assets of the corporation La Prensa, which operates under the name of "Ezequiel P. Paz y Zelmira Paz de Anchorena", owner of the newspaper *La Prensa*, are hereby declared to be subject to expropriation in the public interest. Movable or immovable property of third parties utilized in the operation of the newspaper *La Prensa* and rights derived from the registration of the name *La Prensa* in the Trade Mark Registry of the nation and from the registration of the ownership of the title of the newspaper *La Prensa* in the Registry of Intellectual Property of the nation are expressly included in the foregoing provision.

The Executive Power is authorized to allocate or to transfer any properties that may be expropriated in the general interest and for the social betterment of the Argentine people.

Art. 2. The expenditure incurred in implementing the present Act shall be defrayed from the proceeds of the sale of government debt bonds, the Executive Power being authorized to issue such bonds in sufficient quantity.

. . .

[1] Spanish text in *Boletín Oficial* No. 16883, of 18 April 1951. English translation from the Spanish text by the United Nations Secretariat. This Act was adopted by the Congress of Argentina on 12 April and promulgated by the President of the Republic on 13 April 1951.

ACT No. 14023 GRANTING AMNESTY TO OFFENDERS UNDER THE ACT ON POLITICAL RIGHTS OF WOMEN[1]

dated 6 June 1951

Art. 1. Offenders under Act No. 13010 on political rights of women shall be granted an amnesty, provided that they regularize their position within a period of three months from the promulgation of the present Act.[2]

. . .

[1] Spanish text in *Boletín Oficial* No. 16917, of 7 June 1951. English translation from the Spanish text by the United Nations Secretariat. This Act was adopted by the Congress of Argentina on 30 May and promulgated by the President of the Republic on 6 June 1951.

[2] Act No. 13010 of 23 September 1947, by which the women of Argentina acquired the right to vote (see *Yearbook on Human Rights for 1947*, page 5) provides, *inter alia*, that "women failing to comply with their obligation to register within the prescribed period shall be subject to a fine of 50 Argentine pesos or to fifteen days' house arrest, without prejudice to their registration in the appropriate electoral roll".

ACT No. 14037 ESTABLISHING AS PROVINCES THE NATIONAL TERRITORIES OF CHACO AND LA PAMPA[1]

of 8 August 1951

Art. 1. The national territories of Chaco and La Pampa are hereby declared provinces in accordance with the provisions of articles 13 and 68, paragraph 14, of the national Constitution.[2]

Art. 3. The Executive shall convene the constituent assemblies, which shall meet in the capital city of each of the territories.

Art. 4. The election of deputies to the said assemblies shall be carried out in accordance with the national legislation relating to elections and on the basis of the national system, and shall take place on the same date as the elections for the renewal of the national executive and legislature.

Art. 5. Fifteen deputies shall be elected to the assemblies in each territory, the electoral system followed to be that governing the election of national deputies at the time when the assemblies are convened.

Art. 6. Candidates for election as deputies to the said assemblies must be Argentine citizens by birth and fulfil the same requirements and have the same qualifications as national deputies. During their term of office the deputies to the assemblies shall enjoy the same privileges and immunities as the members of the national legislature . . .

Art. 9. Each assembly shall promulgate a constitution observing the representative republican system, in accordance with the principles, declarations and guarantees of the national Constitution,[3] and ensuring the administration of justice, the municipal system, primary education and the co-operation required by the national Government for the purpose of securing compliance with the national Constitution and the national legislation enacted pursuant thereto.

Art. 10. The constitutions shall also safeguard rights, duties and the guarantees of personal liberty, the rights of the worker, the family and aged persons, and educational and cultural rights, and shall establish the social function of private property, capital and economic activity. The principles of the said constitutions may not conflict with the national Constitution or with the declarations of political and economic independence.

Art. 12. At the first national general elections subsequent to the constitution of the provincial authorities, national senators and deputies, whose terms of office shall coincide with the terms of those now in office, shall be elected. On the occasion of the first election, lots will be drawn by district to determine whose term of office is to end in the first three-year period.

. . .

[1] Spanish text in *Boletín Oficial* No. 16962, of 10 August 1951. English translation from the Spanish text by the United Nations Secretariat. This Act was adopted by the Congress of Argentina on 20 July and was promulgated by the President of the Republic on 8 August 1951.

[2] Article 13 provides:

"New provinces may be admitted into the nation; but no new province may be set up in the territory of one or more other provinces nor may one province be formed from a number of others, without the consent of the legislatures of the provinces concerned and of Congress."

Article 68, paragraph 14 provides:

"Congress has power:

. . .

"Definitely to settle the boundaries of the territory of the Republic; to fix those of the provinces; to create new provinces and to determine by special legislation the organization, administration and government of any national territories left outside the boundaries assigned to the provinces; and to establish rulings governing the waters of inter-provincial rivers and their tributaries."

[3] See the text of the Constitution of the Argentine nation of 16 March 1949 in *Yearbook on Human Rights for 1949*, pp. 4–11.

NOTE ON TEXTS RELATING TO ECONOMIC AND SOCIAL RIGHTS

1. Act No. 14022 providing for prophylaxis against yellow fever was adopted on 17 May and promulgated on 28 May 1951. The Act is published in *Boletín Oficial* No. 16911, of 30 May 1951. The Act gives the Ministry of Public Health extended powers of inspection and of imposing vaccinations on persons domiciled or residing in, or travelling through areas determined by this ministry in order to protect the population against this contagious disease. Penalties are provided for those who do not comply with the law.

2. Act No. 14094 instituting a system of social security for members of the professions was adopted on 30 September and promulgated on 26 October 1951. The Act is published in *Boletín Oficial* No. 17016, of 31 October 1951. All members of professions with university degrees and those who by law or decree are authorized to exercise a profession are compulsorily insured. The social security services for members of professions are affiliated with the National Institute of Social Security. The Act determines the amount of the contributions of the members, and defines the benefits to which they are entitled.

3. Act No. 14113 according pension rights and grants to journalists, members of the National Institute of Social Security, was adopted on 30 September and promulgated on 25 October 1951. The Act is published in *Boletín Oficial* No. 17016, of 31 October 1951.

AUSTRALIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

1. Legislation passed in Australia during 1951 touching on human rights concerns social service rights, industrial and economic rights and the right to education. In the field of social service rights, some liberalization of the conditions under which age and invalid pensions, maternity allowances and rehabilitation benefits are payable was effected by the Social Services Consolidation Act 1951[2] of the Commonwealth, and there was an increase in pension rates generally. In the field of industrial and economic rights, the Commonwealth Conciliation and Arbitration Act (No. 2), 1951,[3] made provision enabling trade unions to provide for the holding of secret ballots for the election of union officers, and prohibited incitement to disregard industrial awards, while in relation to the right to education, Commonwealth Scholarship Regulations, made under the Education Act, 1945, provided for the awarding of Commonwealth scholarships covering reimbursement of fees and expenses to successful applicants studying at universities and approved institutions.

2. Mention should be made of the Papua and New Guinea Act, 1949,[4] which approved the placing of the Territory of New Guinea under the International Trusteeship System. This Act, which establishes administrative, legislative and judicial organs for the government in an administrative union of the Territory of Papua and the Territory of New Guinea, was brought into full operation on 26 November 1951, when the Legislative Council for Papua and New Guinea began to exercise its powers and functions under the Act.[5]

3. Section 7 of the Act provides that the Minister of State for Territories shall make to the General Assembly of the United Nations the annual report required by the Charter of the United Nations on the political, economic, social and educational advancement of the inhabitants of the Territory of New Guinea.

4. Sections 25 to 29 provide for the establishment, by ordinance, of Advisory Councils for Native Matters to advise the administrator of the territory concerning any matter affecting native welfare, and native village councils, with powers relating to the peace, order and welfare of natives in their respective areas.

5. By section 71 of the Act, the slave trade is prohibited in the territory, and forced labour is prohibited except in such circumstances as are permitted by the convention concerning forced or compulsory labour adopted by the International Labour Organisation.[6]

6. Section 72 prohibits, subject to such exceptions and exemptions as are provided by ordinance, the supply of intoxicating liquor to natives in the Territory. (The exceptions which have been provided, in the arms, liquor and opium prohibition ordinances, are the giving of alcoholic liquor in a case of urgent necessity for purely medicinal purposes, the use by a native in any religious service, held by a recognized religious denomination, of sacramental wine, and the entrusting of liquor, under the written permit of a district officer, to a native named therein, for the purposes of immediate transport.)

7. In the field of international instruments, mention may be made of the treaty of peace with Japan, signed by the contracting parties, one of which was the Commonwealth of Australia, on 8 September 1951.[7]

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[1] Note prepared by Mr. H. F. E. Whitlam, formerly Crown Solicitor, Canberra.

[2] Act No. 22 of 1951 (assented to 31 October 1951).

[3] Extracts from this text are reproduced below.

[4] See *Yearbook on Human Rights for 1949*, p. 258; for extracts from this Act see below, p. 425.

[5] See Proclamation, *Commonwealth Gazette* No. 80, of 31 October 1951, p. 2773.

[6] ILO Convention No. 29, adopted 28 June 1930, came into force 1 May 1932. Section 71 of the Act came into operation in 1949 and is reproduced in *Yearbook on Human Rights for 1949*, p. 258.

[7] The treaty was ratified on 10 April 1952, and came into force on 28 April 1952. The preamble to this treaty is reproduced in the present *Yearbook*, p. 489.

COMMONWEALTH CONCILIATION AND ARBITRATION ACT (No. 2)[1]

No. 18 of 1951

AN ACT TO AMEND THE CONCILIATION AND ARBITRATION ACT 1904–1950

(Assented to 19 July 1951)

. . .

9. After section seventy of the principal Act,[2] the following section is inserted:

"70A (1). In addition to the conditions referred to in sub-section (2) of the last preceding section, the conditions to be complied with by associations applying for registration as organizations, and, subject to this section, by organizations, include a condition that the rules of the association or organization relating to an election for an office in the association or organization or in a branch of the association or organization (being an office specified in paragraph (*a*), (*aa*), or (*b*) of the definition of 'office' in section four of this Act)—

"(*a*) Shall provide that the election shall be by secret ballot; and

"(*b*) Shall make provision for—

"(i) Absent voting;

"(ii) The manner in which persons may become candidates for election;

"(iii) The appointment, conduct and duties of returning officers;

"(iv) The conduct of the ballot;

"(v) The appointment, conduct and duties of scrutineers to represent the candidates at the ballot; and

"(vi) The declaration of the result of the ballot,

and a condition that those rules shall be such as will ensure, as far as practicable, that no irregularity can occur in connexion with the election.

"(2) Without prejudice to the operation of section eighty of this Act, the rules of an association applying for registration, or of an organization, relating to any such election may provide for compulsory voting.

"(3) An association which is registered as an organization at the date of commencement of this section is allowed a period of three months after that date, or such longer period as the Industrial Registrar determines, within which to bring its rules into conformity with the requirements of sub-section (1) of this section.

"(4) If the rules of an organization to which the last preceding sub-section applies do not, at the expiration of the period allowed by that sub-section, in the opinion of the Industrial Registrar, conform with the requirements of sub-section (1) of this section, the Industrial Registrar may, after inviting the organization to consult with him on the matter, determine such alterations of the rules as will, in his opinion, bring them into conformity with those requirements.

"(5) The Industrial Registrar shall register the alterations so determined by him, and thereupon the rules shall be deemed to be altered accordingly.

"(6) A reference in this section to the rules of an organization shall be read as including a reference to the rules of a branch of the organization."

. . .

11. Section seventy-eight of the principal Act is repealed and the following section inserted in its stead:

"78. (1) An officer, servant or agent, or a member of a committee, of an organization or branch of an organization shall not, during the currency of an award—

"(*a*) Advise, encourage or incite a member of an organization which is bound by the award to refrain from or prevent or hinder such a member from—

"(i) Entering into a written agreement;

"(ii) Accepting employment; or

"(iii) Offering for work, or working,

in accordance with the award or with an employer who is bound by the award;

"(*b*) Advise, encourage or incite such a member to make default in compliance with the award;

"(*c*) Prevent or hinder such a member from complying with the award;

"(*d*) Advise, encourage or incite such a member to retard, obstruct or limit the progress of work to which the award applies by 'go slow' methods; or

"(*e*) Advise, encourage or incite such a member—

"(i) To perform work to which the award applies in a manner different from that customarily applicable to that work; or

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[1]English text in: The Commonwealth of Australia, *Conciliation and Arbitration* (No. 2), Canberra, Commonwealth Government Printer. Text received through the courtesy of Mr. H. F. E. Whitlam, formerly Crown Solicitor, Canberra.

[2]The principal Act is the Conciliation and Arbitration Act 1904–1950. Article 70 of the principal Act deals with registration of associations of employers and employees. Sub-section 2 of article 70 refers to schedule B of the principal Act in which the conditions for registration are set forth.

"(ii) To adopt a practice in relation to that work, where the result would be a limitation or restriction of output or production or a tendency to limit or restrict output or production.

"(2) The last preceding sub-section extends to advice, encouragement, incitement, prevention or hindrance in relation to employment or work with or for a particular employer or of a particular kind.

"(3) In a prosecution for a contravention of this section it is a defence to prove that there were reasonable grounds for the conduct charged, being grounds—

"(*a*) Unrelated to the terms and conditions of employment prescribed by the award; or

"(*b*) Arising out of a failure or proposed failure by an employer to observe the award.

"(4) Notwithstanding the provisions of section one hundred and nineteen of this Act, a person who has committed an offence against this section shall not be charged before the Court.[1]

. . .

"Penalty: One hundred pounds."

[*Former text: 78.* No officer of an organization, or member of any committee thereof, or servant or agent thereof, shall, during the currency of an award in the industry concerned, advise, encourage or incite any member of such organization to refrain from—

(*a*) Entering into a written agreement, or

(*b*) Accepting employment, or

(*c*) Offering for work, or working,

in accordance with such award.

Penalty: Twenty pounds.]

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[1]Section 119 of the Act reads as follows: "A person who has committed an offence against this Act may be charged accordingly before the court and the court may impose the penalty provided by this Act in respect of that offence."

AUSTRIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

A. FEDERAL CONSTITUTION

1. The Federal Act of 16 January 1951 on the election of the Federal President (*Bundesgesetzblatt* No. 42/1951) laid down the necessary detailed provisions for the election of the Federal President by the population of the Federation by direct and secret ballot as provided in the Austrian Federal Constitution, text of 1929, article 60. Any candidate who receives more than half of all valid votes is elected. If there is no such absolute majority, a second ballot is held between the two candidates who received most votes in the first ballot.

B. LEGISLATION

I. FUNDAMENTAL FREEDOMS

(*a*) *Freedom of Movement*

2. The Federal Act of 20 June 1951 (*Bundesgesetzblatt* No. 139/1951) empowered the Federal Ministry of the Interior to abolish, by decree covering particular categories of aliens, the requirement of a special permit for residence (cf. also paras. 20–23).

(*b*) *Freedom of Religion*

3. By decree of the Federal Ministry of Education of 24 February 1951, (*Bundesgesetzblatt* No. 74/1951) the Methodists were recognized as a religious community.

II. CULTURAL RIGHTS

4. In virtue of the Federal Act of 6 December 1950 (*Bundesgesetzblatt* No. 4/1951), physicians undergoing professional training are entitled to remuneration for their services in hospitals.

III. LEGISLATION RELATING TO SOCIAL QUESTIONS

5. In virtue of the Federal Act of 4 July 1951 regarding the issue of minimum wage rates (*Bundesgesetzblatt* No. 156/1951) the conciliation board (*Einigungsamt*) is empowered to fix compulsory minimum wage rates for employed persons for whom no collective contract can be concluded owing to the absence of a collective employers' association able to conclude a contract.

6. The General Decree on Protection of Employed Persons of 10 November 1951 (*Bundesgesetzblatt* No. 265/1951) contains detailed provisions regarding measures to protect employed persons in the widest variety of occupations against accidents and other injuries to health.

7. The Decree on Safety Devices for Machinery of 10 November 1951 (*Bundesgesetzblatt* No. 265/1951) prescribes that the machines enumerated therein may be used in Austria only with specific safety devices.

8. The Children's Allowance Act[2] (*Bundesgesetzblatt* No. 161/1951) was altered in some respects by Supplement No. 3 to the Act, promulgated on 25 July 1951.

9. In virtue of the Federal Act of 31 January 1951 (*Bundesgesetzblatt* No. 70/1951), unemployed persons of German stock are awarded emergency assistance on the same terms as Austrian citizens.

10. In virtue of the decrees of the Federal Ministry of Social Administration of 6 February 1951 (*Bundesgesetzblatt* No. 79/1951) and 24 October 1951 (*Bundesgesetzblatt* No. 247/1951), reciprocity in matters of social insurance is guaranteed between Austria and the United States of America (cf. paragraph 23).

11. The fourth decree of application of the Unemployment Insurance Act of 16 December 1950 (*Bundesgesetzblatt* No. 83/1951) regulates short-time working in industries temporarily not fully employed owing to special circumstances.

IV. LEGISLATION RELATING TO ECONOMIC QUESTIONS

12. The Federal Act of 4 April 1951 (*Bundesgesetzblatt* No. 104/1951) provided for the setting up of an economic directorate composed of members of the Federal Government, to which representatives of industry and of employees are attached in an advisory capacity. This directorate is responsible for co-ordinating the economic controls already in operation.

13. The following controls were retained or reintroduced:

(*a*) Price control (Price Control Act Supplement 1951 of 4 April 1951, *Bundesgesetzblatt* No. 108/1951)

(*b*) Control of raw materials (Raw Materials Control Act 1951 of 4 April 1951, *Bundesgesetzblatt* No. 106/1951)

[1] Survey prepared by Dr. Felix Ermacora, senior officer in the Federal Chancellery, Vienna. English translation from the German text by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1950*, p. 24, par. 11.

(*c*) Control of the power industry (Distribution of Liabilities Act of 21 September 1951, *Bundesgesetzblatt* No. 227/1951)

(*d*) Control of certain foodstuffs (Food Control Act of 4 April 1951, *Bundesgesetzblatt* No. 107/1951), of foreign feeding-stuffs (Federal Act of 4 April 1951, *Bundesgesetzblatt* No. 109/1951) and of the bread and flour industry (Federal Act of 14 February 1951, *Bundesgesetzblatt* No. 72/1951)

(*e*) Control of foreign trade (Foreign Trade Act 1951 of 4 April 1951, *Bundesgesetzblatt* No. 105/1951).

14. The Cartel Act of 4 July 1951 (*Bundesgesetzblatt* No. 173/1951), and its two decrees of application of 14 September 1951 (*Bundesgesetzblatt* No. 231/1951) and 22 October 1951 (*Bundesgesetzblatt* No. 242/1951) respectively, aim not at suppressing cartels in general, but at preventing abuse through State control of cartels.

15. The supplement of 4 April 1951 to the Profiteering Act (*Bundesgesetzblatt* No. 98/1951), and the decree of application of 19 May 1951 (*Bundesgesetzblatt* No. 119/1951) referring to it, provide for the closing of an undertaking the owner of which has charged excessively high prices.

16. In virtue of the Federal Act of 21 September 1951 (*Bundesgesetzblatt* No. 228/1951), certain rents were increased five-fold. These rents had hitherto been kept artificially low by measures for the protection of tenants issued during the first world war. House owners must use the increased income to improve their houses or deposit it in a fund.

V. Administration of Justice

17. The Removal of Disabilities Act 1951 of 4 July 1951 (*Bundesgesetzblatt* No. 155/1951) lays down the conditions under which the legal consequences of judicial decisions (e.g., deprivation of franchise) cease to have effect.

18. The decree of 9 May 1951 of the Federal Ministry of Justice (*Bundesgesetzblatt* No. 264/1951) and the decree of 22 October 1951 (*Bundesgesetzblatt* No. 267/1951) supplement and re-enact the regulations governing the procedure of the courts and of the public prosecutor's offices respectively.

C. JUDICIAL DECISIONS

Principle of Equality

19. According to the decision of the Constitutional Court of 5 March 1951, Zl. 8 119/50,[1] the principle of equality of all before the law applies also to legal persons.

D. INTERNATIONAL AGREEMENTS

I. Freedom of Movement

20. The Convention of 18 March 1949 between the Austrian Federal Government and the Italian Government on the control of frontier traffic (*Bundesgesetzblatt* No. 253/1951) came into force on 2 August 1951.

21. The Convention of 14 September 1950 between Austria and Switzerland on the abolition of compulsory visas (*Bundesgesetzblatt* No. 202/1951) came into force on 14 September 1950, and the agreement supplementing it (*Bundesgesetzblatt* No. 203/1951) on 4 May 1951.

22. The Convention of 14 September 1950 between Austria and Switzerland on conditions of residence of their respective citizens (*Bundesgesetzblatt* No. 204/1951) came into force on 14 September 1951.

II. Legislation relating to Social Questions

23. The Convention of 15 July 1950 between Austria and Switzerland on social security (*Bundesgesetzblatt* No. 232/1951) came into force on 1 September 1951.

III. Legislation relating to Economic Questions

24. The Torquay protocol of 21 April 1951 (*Bundesgesetzblatt* No. 254/1951) to the General Agreement on Tariffs and Trade came into force for Austria on 19 October 1951.

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[1] See the following text for a summary of this decision.

JUDICIAL DECISION

EQUALITY BEFORE THE LAW—CAPACITY OF AUSTRIAN FEDERATION OF LABOUR TO CONCLUDE COLLECTIVE AGREEMENTS—APPLICABILITY OF THE PRINCIPLE OF EQUALITY TO LEGAL PERSONS

AUSTRIAN FEDERATION OF LABOUR *v. LAND* GOVERNMENT OF THE TYROL

Constitutional Court of Austria[1]

5 March 1951

The facts. The Austrian Federation of Labour applied to the Central Conciliation Board of the *Land* Government of the Tyrol to be granted capacity to conclude collective agreements. The Federation based its application on the relevant provisions of the Agricultural Labour Act of 2 June 1948 and of the Agricultural Labour Ordinance of the Tyrol of 30 March 1949.

In a communication dated 3 May 1950, the Central Conciliation Board notified the Austrian Federation of Labour of its decision not to grant the Federation capacity to conclude collective agreements within the meaning of the Agricultural Labour Ordinance of the Tyrol of 30 March 1949. The stated grounds for this decision were that article 41, paragraph 1, sub-paragraph 2, of the Agricultural Labour Ordinance of the Tyrol specifically provides that only professional associations which have their headquarters in the territory to which the Act applies—i.e., within the Tyrol—have capacity to conclude collective agreements.

Held: The appeal should be granted. Following the judgment of the Constitutional Court of 5 March 1951 (G.5/50/6), the provisions of article 41, paragraph 1, sub-paragraph 2, of the Act of 30 March 1949 concerning the regulation of labour in agriculture and forestry in the Tyrol (Agricultural Labour Ordinance) in so far as it provides that only professional associations which "have their headquarters in the territory to which the Act applies" have capacity to conclude collective agreements, was overridden as contrary to the Constitution. The legal basis of the contested decision, which rested solely on that provision, has thus been removed.

Nevertheless, the complaint lies only if the contested decision impairs a right conferred on the complainant by the Constitution. Inasmuch as the question of the capacity of the Austrian Federation of Labour to conclude collective agreements is not regulated by the Constitution, the contested decision, though not legally founded, would not by virtue of its content of itself constitute an impairment of a right conferred by the Constitution. To that extent, therefore, the complaint cannot be allowed.

The complainant, however, also alleges impairment of the constitutional right of all citizens to equality before the law (Constitution, art. 7; Fundamental Laws of 21 December 1867, art. 2, *RGBl.* No. 142).[2] As emphasized in the complaint itself, the Austrian Federation of Labour is a legal person. As the Constitutional Court has already found (*Collection* No. 1430), the question whether the fundamental right of all citizens to equality before the law is also conferred on legal persons of Austrian nationality must be answered in the negative in cases where the principle of equality is alleged to have been impaired on the basis of criteria which are applicable only in the case of physical and not of legal persons (birth, sex, position, class or creed). These criteria are, however, enumerated in article 7, paragraph 1, of the Constitution only by way of example. The principle of equality is not exhausted by prohibition of discriminatory treatment on the basis of these criteria; its implication is in fact much wider—namely, that the Legislative and the Executive have an obligation to disregard other than objective criteria in the legal treatment of citizens. So interpreted, it constitutes a general safeguard against the arbitrary enactment and application of legislation, and may also be claimed on behalf of legal persons where their need for such protection is clearly established. A comparison with tax assessment and the protection against inadmissible double taxation will illustrate the point. The law provides that capacity to conclude collective agreements in particular may be vested only in legal persons, and there would therefore be no safeguards whatsoever against the arbitrary enactment and application of legislation in this sphere if the principle of equality were not also valid in the case of legal persons. Moreover, legal discrimination against a corporate body in regard to capacity to conclude collective agreements, if such discrimination is due solely to the personality of that body, constitutes at least as great an impairment of the principle of equality as less favourable treatment accorded to a physical person on the grounds of birth, sex, position, etc. In both cases, a purely subjective criterion is unquestionably invoked as the basis for discriminatory legal treatment. It follows from the foregoing that the equality principle must also apply to legal persons and that the contested decision, refusing, without legal foundation, to grant the Federation of Labour capacity to contract collective agreements, impairs the right to equality before the law conferred on all citizens by the Constitution.

[1] Text of the decision in *Sammlung der Erkenntnisse und wichtigsten Beschlüsse des Verfassungsgerichtshofes*, Vol. 16 (1951) Vienna, 1952, pp. 9–11. English summary by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1947*, pp. 9 and 10.

BELGIUM

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

A. LEGISLATION

Act of 15 June 1951 concerning the armed forces, recruitment and liability to military service. The Act was published in the *Moniteur belge* of 6 July 1951. By royal order dated 30 October 1951, published in the *Moniteur belge* of 11, 12 and 13 November 1951, the Act was declared to become operative on 1 January 1952.

Royal order of 5 February 1951 on the defence of public functions. Extracts from this order are reproduced in this *Yearbook*.

Circular of the Ministry of the Interior concerning the certificate of good citizenship. A summary of this circular appears in this *Yearbook*.

B. JUDICIAL DECISIONS

Decision dated 10 May 1951 by the Sixth Chamber of the court of first instance at Liége. A summary of this decision appears in this *Yearbook*.

Decision of 16 November 1951 by the First Chamber of the Civil Court at Courtrai. A summary of this decision appears in this *Yearbook*.

Belgian Congo

Decree of 26 May 1951 setting up a system of family allowances for indigenous workers. Extracts from this decree are reproduced in this *Yearbook*.

Decree of 26 November 1951 to amend the decree of 30 March 1948 (which made family allowances generally applicable to non-indigenous employees) as supplemented by the decree of 29 September 1948. Extracts of this decree are reproduced in this *Yearbook*.

Decree of 18 December 1951 to repeal article 19, paragraph 2, of the consolidated decrees concerning indigenous jurisdictions in the Belgian Congo (penalty of whipping). This decree is reproduced in this *Yearbook*.

Decree of 18 December 1952 to repeal article 42, paragraph 1, of the decree of 5 December 1933 concerning indigenous districts (penalty of whipping). This decree is reproduced in this *Yearbook*.

[1]This note is based on texts and information received through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels.

ROYAL ORDER No. 72 OF 5 FEBRUARY 1951 ON THE DEFENCE OF PUBLIC FUNCTIONS[1]

Whereas the danger to which certain movements, associations and groups have exposed the normal and regular functioning of the administration has considerably increased;

Whereas these movements, obviously obeying directions from abroad, have disregarded the Belgian people's manifest desire for peace by pledging in advance their faith and allegiance to a foreign government in the event of war;

Whereas external defence measures should be supplemented by internal defence measures;

. . .

Art. 1. Article 9, paragraph 1, of the royal order of 2 October 1937, containing the regulations governing public servants, is replaced by the following provision:

"They may not engage in any activity which is in conflict with the Constitution and laws of the Belgian people, which seeks to destroy the independence of the country, or which imperils national defence or the fulfilment by Belgium of obligations entered into with a view to ensuring its security. They may not become members of or assist any movement, group, organization or association carrying on any such activity."

[1]French text in *Moniteur belge* of 5–6 February 1951, received through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels.

CIRCULAR OF THE MINISTRY OF THE INTERIOR CONCERNING THE CERTIFICATE OF GOOD CITIZENSHIP[1]

dated 10 April 1951

SUMMARY

The object of this circular is to amend the circular of 19 July 1947, which is held likely to hamper social rehabilitation, especially in the case of persons who have suffered a loss of rights without having been convicted of a criminal offence. The certificates of good citizenship required in offers of employment will henceforth be governed by the rules of ordinary law, provision being made for two quite different forms of certificate—one for production to a private person and the other for production to a public authority.

If intended for production to a private person, the certificate may mention only convictions by military criminal courts and by the ordinary courts. The circular specifies the particulars which may no longer be given in the certificates. It prohibits, *inter alia*, reference to any deprivation or suspension of civil and political rights incurred by reason of conduct inconsistent with good citizenship.

Where a certificate is intended for production to the administrative authorities, any conviction or loss of rights entered on the communal police record, and any measure of confinement applied in the case of an abnormal person, should be mentioned.

The certificate has a column reserved for remarks, but this space may not be used for entering opinions concerning the conduct of the persons concerned during the war, regardless of whom the certificate is intended for.

[1] French text of the circular in *Moniteur belge* of 16 and 17 August 1951, received through the courtesy of Mr. E. Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels. Summary prepared by the United Nations Secretariat.

JUDICIAL DECISIONS

CONTRACT OF EMPLOYMENT—FREEDOM OF ASSOCIATION—DISMISSAL—LAW OF BELGIUM

PUBLIC PROSECUTOR AND X *v.* THOLET AND BLOEMEN

Court of First Instance of Liége, Sixth Chamber[1]

10 May 1951

The facts. A female employee (the plaintiff), formerly a member of the *Fédération générale des travailleurs belges* (General Federation of Belgian Workers), resigned from this union in March 1950. Thereupon, the relationship between the plaintiff and the other employees of the undertaking became strained, for the other employees were unwilling to work side by side with non-union personnel. At staff meetings in which Tholet and Bloemen, the representatives of the Federation, took an active part, resolutions were adopted concerning this matter, and it was decided, amongst other things, that the staff would stop work if the employee in question refused to join the union. The defendants, without taking any genuine steps to calm the staff, immediately made representations to the employers and offered them the alternatives of a strike or dismissal of the employee. They claim that they were unaware that the employee was a member of the Christian Trade Union. The employee was dismissed at the request of the staff in order to avoid a dispute.

Held: As regards the criminal charge: Tholet and Bloemen are guilty of malicious intent within the meaning of the Act of 24 May 1921, article 4,[2] and are fined 100 and 50 francs respectively (increased by 900

[1] Text of judgment received through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels. Summary by the United Nations Secretariat.

[2] The Act of 24 May 1921, articles 3 and 4, guarantees freedom of association, in the following terms:

"3. Any person who, for the purpose of compelling a particular individual to join or refrain from joining an association, resorts to violence, molestation or threats, or causes him to fear the loss of his employment or injury to his person, family or property, shall be punished by imprisonment from one week to one month and a fine of 50 to 500 francs, or by one of these penalties.

"4. Any person who, with intent to attack freedom of association, makes the conclusion, the execution or (even with due regard to customary notice) the continuance of a contract of work or service conditional upon the affiliation or non-affiliation of one or more persons to an association, shall be liable to the same penalties."

and 450 francs respectively) with the alternative of imprisonment for one month or fifteen days respectively. The object of the representations made by the defendants to the employers was avowedly to secure the plaintiff's dismissal and consequently the rescission of her contract of employment; the defendants would not have taken this step had they been able to persuade her to join the Federation; in short, their efforts to persuade her, followed by the execution of a presumably prearranged plan, were calculated, in view of the employee's firm stand, to infringe her constitutional freedom of association. The court held that each of the defendants should be sentenced to a single penalty only, since they had displayed one and the same culpable intent.

As regards the claim for damages: Tholet and Bloemen were required to pay, jointly, a specified sum (12,000 francs) by way of damages to the plaintiff, who had suffered a financial and moral loss through her dismissal.

NATIONALITY—VOLUNTARY ACQUISITION OF BELGIAN NATIONALITY—PURPORT OF ARTICLE 7 OF ROYAL DECREE OF 14 DECEMBER 1932 CO-ORDINATING THE LAWS RESPECTING ACQUISITION, LOSS AND RECOVERY OF NATIONALITY —UNIVERSAL DECLARATION OF HUMAN RIGHTS

In re PIETRAS

Civil Court at Courtrai, First Chamber [1]

16 November 1951

The facts. On 5 July 1951, Edouard Pietras, twenty years old, of Polish nationality, born of native-born Polish parents, who had been resident in Belgium since birth except for a period of two years when he was in Poland, made a statement for the purpose of acquiring Belgian nationality. A petition was submitted by the Royal Prosecutor attached to the court at Courtrai recommending approval of this statement.

Pietras had received all his schooling in Belgium, expressed the wish to perform his military service there, and declared that he no longer had any clear recollection of Poland and wanted to renounce his Polish nationality and become a Belgian citizen. Under article 6, paragraph 1, of the nationality laws co-ordinated by royal decree of 14 December 1932, a child born in Belgium may voluntarily acquire Belgian nationality. Under article 7, a choice of nationality is not admissible, however, if the law of the applicant's country allows him to retain his nationality in the event that he acquires a new nationality. Under the Polish Act of 17 January 1951,[2] a Polish national may not simultaneously possess any other nationality and may acquire a foreign nationality only with the authorization of the proper Polish authorities. A statement on the legal situation made by the Polish Consul-General at Brussels was submitted to the court.

Held: Pietras' statement made for the purpose of acquiring Belgian nationality is declared valid and approved. The law presumes that a person is attached to the country in which he is born and is ordinarily resident from 14 to 18 years of age or for not less than nine years including the year preceding his statement of choice, but this presumption is rebutted and the admissibility of the choice is placed in doubt if more than one nationality can be voluntarily acquired. In the light of the deliberations of the Chamber and of the Senate, article 7 of the nationality laws is to be interpreted to mean that the law of the applicant's country must not allow him to retain his original nationality after he acquires Belgian nationality. This article, however, does not prevent an applicant whose fitness, assimilation or assimilability into the national community and whose attachment to Belgian laws, customs and ways of life are definitely established, from making the choice of Belgian nationality, if the law of his country arbitrarily does not allow him to make, or prohibits him from making such choice. This will be the case if the law of the applicant's country demands unrestricted and universal allegiance and thereby precludes a change of nationality in any circumstances, and also if the law of the applicant's country requires an authorization from the applicant's government and this authorization is regularly and arbitrarily refused, with the result that the original nationality is retained. Senator Vauthier said, in his report to the Senate on article 7, that "this provision does not prevent a person from becoming a Belgian national even though his previous nationality was considered by the legislation governing it to be permanent. This perpetual allegiance is not incompatible either with the statement of choice or with naturalization."

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[1] Flemish text of the decision in *Rechtskundig Weekblad* 1951/52, cols. 769–776, received through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels. Summary by the United Nations Secretariat.

[2] See the text of this Act on p. 291 of this *Yearbook*.

Such legislation is in conflict with both human dignity and national sovereignty. Modern law presumes that a person whose relationship to his country of origin has become weak or was never close, must be free to change his nationality. This is expressly recognized in article 15, paragraph 2, of the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on 10 December 1948, which states that no one can be arbitrarily denied the right to change his nationality. No foreign law can in any absolute and general or in any arbitrary manner be allowed to obstruct Belgian law in the granting of Belgian nationality to a person who has shown that he has no attachment to his country of origin and wishes to become part of the Belgian community; Belgian sovereignty would thereby be infringed. These circumstances apply to the applicant. Since the Polish Council of State, on the proposal of the President of the Council of Ministers, decides on the loss and acquisition of Polish nationality, this authorization depends upon an arbitrary decision, first by the President of the Council of Ministers, who must submit the proposal, and secondly by the Council of State; no objective conditions or criteria whatever are set in the legislation on the acquisition and loss of Polish nationality.

A certificate of good conduct was issued to Pietras at his request by the Polish Consulate-General at Brussels, and no further action has been taken in the matter. The applicant has been brought up in the midst of the Belgian community; has complied with Belgian laws; has adopted Belgian manners and customs; has been educated by Belgian teachers; and therefore appears to be properly qualified to be adopted into the Belgian community. The circumstances in which the statement of choice of nationality was made disclose the finality of his renunciation of his original nationality and his application to the Consulate-General at Brussels clearly shows that he does not intend to retain his original nationality together with Belgian nationality. His choice of nationality therefore appears to be admissible. It appears from the examination and from the opinion of the justice of the peace that the applicant possesses the necessary qualifications—that is to say, that he is of good moral character and has shown himself to be loyal and thus gives all desirable guarantees of his allegiance.

BOLIVIA

JUDICIAL DECISIONS[1]

WORKMEN'S COMPENSATION ACT—COMPENSATION FOR DEATH RESULTING FROM OCCUPATIONAL DISEASE—LAW OF BOLIVIA

NATIONAL SOCIAL INSURANCE FUND (*Caja Nacional de Seguro Social*)
v. VALENTIN CHOQUEVILLCA

Supreme Court of Justice[2]

8 January 1951

The facts. In this case, the National Social Insurance Fund appealed against a decision by the National Labour Court, dated 15 March 1950, awarding compensation to Valentin Choquevillca for the death of his son, Juan de Dios Choquevillca, as a result of an occupational disease. On 24 September 1945, the deceased had been medically examined, it being found that he had lesions due to pneumoconiosis, and on the same date he had resumed work in the mines. After two further years of employment in the mines he had died of pulmonary tuberculosis. In the proceedings leading to the present appeal, the National Labour Court had distinguished between the pneumoconiosis lesions from which the deceased had been suffering at the time of resuming work in the mines, and the pulmonary tuberculosis to which he had ultimately succumbed; and it had held that the evidence produced before it did not show a causal connexion between the two. Hence, the fatal disease was not an aggravation of a pre-existing condition, but had been contracted in the course and as a result of the deceased's employment in the mines for the two years preceding his death. Accordingly, it had ruled that compensation was payable.

Held: That the lower court had been correct in its construction of the facts and of the relevant legislative provisions (article 82 of the Workmen's Compensation Act and article 112 (6) of the regulations of 23 August 1943); that its decision could be reviewed only if it was wrong in its construction of the said facts or provisions; and that therefore the appeal by the National Social Insurance Fund against the decision of the National Labour Court must be dismissed.

[1] The judicial decisions included in the section on Bolivia were received through the courtesy of the Permanent Representative of Bolivia to the United Nations. Summaries prepared by the United Nations Secretariat.

[2] Decision No. 2 (1951).

PROTECTION OF INTERESTS OF ILLEGITIMATE CHILDREN—PROCEEDINGS FOR DETERMINATION OF PATERNITY—INTERPRETATION OF STATUTORY LAW—CONSTITUTION OF BOLIVIA—DECLARATION OF THE RIGHTS OF THE CHILD ADOPTED BY THE FIFTH ASSEMBLY OF THE LEAGUE OF NATIONS

ISABEL RODRIGUEZ *v.* RAFAEL PANTOJA

Supreme Court of Justice[1]

30 April 1951

The facts. In proceedings before the court of first instance, the plaintiff had applied for a declaration of paternity against the defendant in respect of the child Maria del Rosario Ruth; for an order against him for the payment of arrears of maintenance; and for an order fixing future payments. In her action, she relied on a voluntary undertaking in writing entered into by the defendant and signed by him in the presence of the District Attorney (*Fiscal de Partido*) on 1 September 1948, whereby the defendant had pledged himself to pay to the plaintiff, as the mother, the sum of 300 bolivianos a month "in respect of the maintenance of

[1] Decision No. 83 (1951).

my illegitimate daughter Maria del Rosario". In his defence, the defendant claimed that the undertaking had been entered into under duress and hence was void. The court held that it was not required to give a ruling on the question of paternity, but sustained the plaintiff's claim for arrears and future payments of maintenance at the rate of 300 bolivianos a month.

On appeal to the Superior Court of the District of Chuquisaca, the decision of the lower court was reversed on the ground that, though not admitting the affiliation proceedings, it had ordered the appellant to pay maintenance as though he were the father.

The mother of the child then appealed to the Supreme Court.

It was argued by the Attorney-General (*Fiscal General*) that the appeal should be dismissed on the grounds that the undertaking of 1 September 1948 was invalid because, not having been executed in the form of a "public instrument", it failed to satisfy the provisions of the Civil Code relating to the acknowledgment of illegitimate children (Art. 166 (2)).

Held: That the appeal should be allowed, the Superior Court's ruling being quashed; the child was declared to be the respondent's illegitimate daughter and the respondent was ordered to pay maintenance to the appellant according to the undertaking so far as arrears were concerned and at the rate of 500 bolivianos a month so far as future payments were concerned. The Supreme Court declared that the main issue to be decided was whether the undertaking of 1 September 1948 was enforceable despite its defects of form. The strict enforcement of the rule requiring the deed of acknowledgment to be entirely voluntary would produce hardship. It was the function of the courts to avoid hardship and, where necessary, to supplement the literal construction of statutory law by more liberal interpretations in the light of advances in legal thought and social progress. The Bolivian Constitution, inspired by the Declaration of the Rights of the Child adopted by the Fifth Assembly of the League of Nations, established in its relevant provisions the principle of the equality of children and admitted proceedings to determine paternity;[1] though no regulations had been enacted to give effect to this provision, the absence thereof was no defence in cases where paternity had been implicitly or expressly admitted. A flaw of form could not be pleaded to defeat the ends of justice, and the respondent had in fact implicitly acknowledged the child as his illegitimate daughter before a public official.

[1] Article 134 of the Constitution; see *Yearbook on Human Rights for 1947*, p. 17.

VALIDITY OF ACKNOWLEDGMENT EXECUTED DURING MINORITY—PROTECTION OF THE INTERESTS OF CHILDREN—LAW OF BOLIVIA

PAULINO CONDORI *v.* LORENZA CANAZA

Supreme Court of Justice[1]

7 June 1951

The facts. It was stated on behalf of the appellant that, in November 1944, being then nineteen years of age and doing his military service in La Paz, he was forcibly seized by the police and detained in the police station, where he was threatened by Lorenza Canaza and her family, who forced him to go to a lawyer's office and sign a statement acknowledging himself to be the father of Miss Canaza's child, Teresa. It was argued that his signature was obtained by duress; that being then a minor he had no capacity to execute a valid legal instrument; and that therefore the purported deed of acknowledgment was voidable and should be voided.

It was argued for the other side that the alleged duress was not proven; that the appellant had publicly admitted the child Teresa to be his daughter; that in 1948 the applicant had himself applied for custody of the child; and that the plea of minority at the time of signing the deed of acknowledgment was no defence since a child may be acknowledged by will and a male over the age of fourteen years may make a valid will (articles 166 (3) and 459 of the Civil Code).

Held: That the appeal should be dismissed on the grounds invoked by the respondent. As part of the reasoning of the court the following additional grounds were mentioned: that the parties had previously cohabited and that the police had not exceeded their powers, because it was part of their duties to protect the interests of children in conformity with articles 1 and 7 (27) of the Security Police Organization (Act of 11 November 1881).

[1] Decision No. 8 (1951).

JURISDICTION OF SUPREME MILITARY TRIBUNAL—JURISDICTION OF CIVILIAN COURTS—OFFENCE OF RESISTING PUBLIC AUTHORITIES—LAW OF BOLIVIA

EDMUNDO ROCA, PEDRO RIBERA MENDEZ, FILIPE MIDDAG AND OTHERS
v. PUBLIC PROSECUTOR'S DEPARTMENT

Supreme Court of Justice[1]

21 June 1951

The facts. On criminal proceedings being instituted in Santa Cruz against the appellants for the offence of resisting the public authorities (*rebelión*), the local court was notified by a telegram from the Supreme Military Tribunal to discontinue the case, jurisdiction in such matters with respect to both civilians and military personnel being vested in the Supreme Military Tribunal, and to refer all the documents and evidence to it. Some of the accused applied to the superior district court of Santa Cruz to set aside the ruling whereby the lower court had transferred the case. The superior district court, by a ruling dated 9 June 1950, sustained the lower court's decision, whereupon the accused (the appellants) appealed to the Supreme Court.

Held: That the appeal must be dismissed. Both the lower courts had been correct in their interpretation of articles 77, 78 and 102 of the Military Judicial Organization and Jurisdiction Act supplemented by the Acts of 21 October and 28 November 1944. The superior court, in confirming the ruling of the lower court, had not contravened the terms of the Code of Criminal Procedure; the provisions of the Code of Civil Procedure, relating to the issue of jurisdiction as between two or more courts, relied upon by the appellants were inapplicable.

[1] Decision No. 39 (1951).

BRAZIL

ACT No. 1060 TO REGULATE THE GRANT OF JUDICIAL ASSISTANCE TO NEEDY PERSONS[1]

of 5 February 1950

Art. 1. The Federal and state public authorities shall grant judicial assistance to needy persons in the manner prescribed in this Act.

Art. 2. All Brazilian nationals and all aliens resident in the country who are obliged to have recourse to the penal, civil, military or labour courts shall be entitled to the benefit of this Act.

For the purposes of the Act, a needy person is a person whose financial circumstances are such that he is unable, without prejudice to his own or his family's support, to defray the costs of the proceedings and to pay the fees of legal counsel.

Art. 3. Judicial assistance involves exemption from the following:

I. Judicial charges and stamps;

II. Fees and costs payable to judges, organs of the Ministry of Justice and employees of the court;

III. Expenses connected with notices which have to be inserted in the newspapers in which official notices are required to be published;

IV. Compensation payable to witnesses, who, if employed, shall receive their full wages from the employer exactly as if they had been at work, subject to the right to claim reimbursement from the federal public authorities in the Federal District and territories or the state public authorities in the states;

V. Fees of legal counsel and experts.

Art. 4. The party claiming the benefit of judicial assistance shall apply to the competent judge, stating in his application his income or earnings and his liabilities in respect of his own and his family's support.

1. The application shall be accompanied by a statement certifying that the applicant is a needy person unable to defray the costs of the proceedings. This certificate shall be issued, free of stamps or charges, by the police authorities or by the municipal prefect.

2. In state capitals and in the Federal District the certificate to be given by the prefect may be issued by an authority expressly designated by him.

Art. 5. Unless there are valid grounds for refusing the application, the judge shall consider it at once and shall recommend its acceptance, with or without reasons, within seventy-two hours.

1. When the application has been accepted, the judge shall order the judicial assistance service organized and maintained by the state, where such a service exists, to designate within the space of two working days the legal counsel who is to represent the needy person.

2. If there is no state-maintained judicial assistance service in the state, the said counsel shall be designated by the Guild of Advocates (*Ordem dos Advogados*) acting through its state sections or municipal sub-sections.

3. In the municipalities where there are no sub-sections of the Guild of Advocates of Brazil, the judge himself shall appoint a legal counsel to represent the needy person.

4. Preference shall be given to the legal counsel indicated by the person concerned, if that counsel agrees to act for him.

Art. 6. If the application is made during the proceedings, it shall not operate to suspend the proceedings, and the judge may, in the light of the evidence, forthwith grant or refuse the benefit of judicial assistance. In this case, the application shall be dealt with separately, and the relevant records shall be added to those of the principal proceedings after a ruling has been given on the application.

Art. 7. At any stage of the proceedings, the opposing party may request the withdrawal of the benefit of assistance, the said party to produce evidence to show that the conditions on which the grant of the assistance depends do not exist or have ceased to exist.

Any such request shall not operate to suspend the proceedings, and shall be dealt with in the manner laid down in the last sentence of article 6 of this Act.

Art. 8. If the circumstances described in the previous article apply, the judge may *ex officio* order the withdrawal of the benefit, the interested party receiving a hearing within not more than forty-eight hours.

[1] Portuguese text in *Diario Oficial*, section I, of 13 February 1950. Text received through the courtesy of Dr. Carlos Medeiros Silva, Legal adviser to the Brazilian Government, Rio de Janeiro. English translation from the Portuguese text by the United Nations Secretariat. The Act came into force thirty days after its publication in the *Diario Oficial* (article 19).

Art. 9. The benefit of judicial assistance shall extend to all matters relating to the proceedings until the final settlement of the case in all the stages.

Art. 10. The benefit of judicial assistance is granted to the individual for the particular case. It cannot be transmitted as of right to any assignee, and lapses upon the death of the beneficiary. Nevertheless, the benefit may be granted to the heirs if they continue the proceedings and prove that they need the assistance in the manner prescribed by this Act.

Art. 11. The fees of counsel and experts, the costs of proceedings, the court charges and judicial stamps shall, if the person in receipt of the assistance succeeds in his case, be paid by the unsuccessful party.

1. The fees of counsel shall be taxed by the judge, up to an amount not exceeding 15 per cent of the sum awarded by the decision.

2. The unsuccessful party may proceed against the successful party to recover the costs of the proceedings, including counsel's fees, on producing evidence to show that the successful party has ceased to be a needy person within the meaning of the Act.

Art. 12. The party who received the benefit of exemption from the payment of costs shall be bound to pay them as soon as he is able to do so without prejudice to his own or his family's support. If within five years from the final decision the person who received assistance has been unable to pay, the obligation shall lapse.

Art. 13. If the person in receipt of assistance is able to defray part of the costs of the proceedings, the judge shall order such payment to be distributed proportionately amongst all those entitled to it.

Art. 14. Counsel designated to provide assistance or appointed for that purpose by the judge shall be under an obligation, in the absence of grounds considered adequate by the judge, to undertake the representation of the needy persons; if they fail to comply with this obligation they shall be liable to a fine of 200 cruzeiros to 1,000 cruzeiros.

The fines payable under this article shall be credited to the counsel undertaking the case.

[Article 15 indicates the reasons for which an attorney designated or appointed has the right to refuse to serve.]

Art. 16. If counsel, on appearing in court, does not produce the written authority of the person in receipt of assistance, the judge shall order the terms of the said authority to be entered in the records of the hearing.

Art. 17. An appeal shall lie on the grounds of abuse of authority against decisions made under this Act, except decisions to disallow assistance, in which case the remedy shall be an appeal on the grounds of violation of the right of petition.

Art. 18. Law students from the fourth stage of their training may be designated for judicial assistance, or appointed by the judge to represent needy persons, in which case they shall be bound by the same obligations as this Act imposes on qualified legal counsel.

. . .

ACT No. 1110 REGULATING THE CONDITIONS OF THE RECOGNITION OF RELIGIOUS MARRIAGES IN CIVIL LAW[1]

dated 23 May 1950

SUMMARY

This Act implements article 163, paragraphs 1 and 2, of the Constitution of 18 September 1946, which states that:

"Marriage shall be civil, and its performance gratuitous. Religious marriage shall be equivalent to civil marriage, if performed with observance of the conditions prescribed by law and if request to this effect be made by the celebrant or any party at interest, provided that the act is inscribed in the public registry.

"Religious marriage performed without the formalities of this article shall have civil effects if, at the request of the betrothed, it is inscribed in the public registry after rehabilitation before a competent authority."

Article 1 of Act No. 1110 states that a religious marriage shall be equivalent to a civil marriage, and contains certain provisions to which this rule is made subject.

[1] Portuguese text of the Act in *Diario Oficial*, section I, of 27 May 1951. Text received through the courtesy of Dr. Carlos Medeiros Silva, legal adviser to the Brazilian Government, Rio de Janeiro. Summary by the United Nations Secretariat.

ACT No. 1164 TO REPLACE THE ELECTORAL CODE[1]

dated 24 July 1950

PART I

INTRODUCTION

Art. 1. The Electoral Judiciary, the political parties and all matters relating to registration and elections, shall be governed by the provisions of this Code.

Art. 2. All Brazilian citizens registered in the manner prescribed by law are electors.

Art. 3. The following may not register as electors:

(*a*) Illiterate persons;

(*b*) Persons unable to express themselves in the national tongue;

(*c*) Persons who have been deprived, whether temporarily or permanently, of their political rights.

Sole paragraph. Members of the armed forces below the rank of officer may not register as electors, though this shall not apply to aspirant officers, junior officers, sub-lieutenants (*sub-tenentes*), sergeants and the pupils of military staff colleges.

Art. 4. Registration and voting are compulsory for Brazilian citizens of both sexes, except

I—With regard to registration:

(*a*) Invalids;

(*b*) Persons over seventy years of age;

(*c*) Persons outside the country;

(*d*) Women not engaged in a gainful occupation.

II—With regard to the vote:

(*a*) Sick persons;

(*b*) Persons absent from their place of domicile;

(*c*) Officials in the public service and military personnel on duty on the day of the election.

Art. 5. Electors who fail to vote shall be exempted from the prescribed penalty (article 175, No. 2)[2] only if they are able to prove a lawful impediment.

[Part II provides for the establishment of an Electoral High Court with its seat in the capital of the republic, regional electoral courts in the capital of each state, and in the Federal District, and, if the Electoral High Court so decides, in the capital of a territory. This part also deals with the duties of the judges serving on the electoral courts and on the electoral *juntas* which have to verify the elections in the electoral districts under their jurisdiction. Part III deals with electoral registers.]

PART IV

ELECTIONS

Title I.—The Electoral System

Art. 46. Suffrage is universal and direct; the vote is compulsory and secret.

Paragraph 1. Election to the Chamber of Deputies, the legislative assemblies, and the municipal councils shall be in accordance with the system of proportional representation.

Paragraph 2. The principle of the majority vote shall apply in the election of the President and Vice-President of the Republic, governors and vice-governors of states, federal senators and their alternates, federal deputies in territories electing only one representative, municipal prefects and vice-prefects and magistrates.

Paragraph 3. When there are two seats to be filled in the legislative chambers, these shall be distributed in accordance with the system described in this code for the distribution of additional seats, and where there are three seats or more, they shall be distributed in the manner prescribed in article 58.[3]

[Chapter I deals with registration of candidates.]

CHAPTER II.—SECRET BALLOT

Art. 54. Secrecy of the ballot shall be ensured by the following means:

1. The use of official standard opaque envelopes, countersigned by the polling officer upon delivery to the electors;

2. The electors shall be accommodated in enclosed booths when recording their votes, placing their ballots in the envelopes and sealing them;

3. The use of the correct envelope shall be checked by means of the countersignature;

4. The use of a ballot-box ensuring a secret ballot; it must be sufficiently large to ensure that the envelopes do not accumulate in the order in which they are placed in the box.

PART V

MISCELLANEOUS

Title I.—Electoral Guarantees

Art. 129. For the purpose of securing the electoral rights and guarantees of electors it is enacted that:

1. No person may hamper or hinder voters in the exercise of their suffrage;

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[1] Portuguese text in *Diario Oficial*, section I, of 26 July 1950. Text received through the courtesy of Dr. Carlos Medeiros Silva, legal adviser to the Brazilian Government, Rio de Janeiro. English translation from the Portuguese text by the United Nations Secretariat. According to article 201, this Act came into force on the date of its publication.

[2] A fine of 100 to 1,000 cruzeiros.

[3] *Art. 58:* There shall be elected as many candidates registered by a party as the respective quota indicates, in the order of the number of votes received by each candidate.

2. No authority may, for a period of five days before and forty-eight hours after the closing of the polls, arrest or detain any elector, unless *in flagrante delicto* or pursuant to a sentence passed by a criminal court for an offence for which bail is not allowed;

3. No political propaganda by broadcasting, or in public assembly may be allowed for a period of forty-eight hours before and twenty-four hours after election;

4. Polling officers and party officers may not be arrested or detained while performing their duties, unless apprehended *in flagrante delicto*; the same guarantee shall apply to candidates for fifteen days before the election;

5. The presence of police on the premises where polling is taking place or in the immediate vicinity shall be prohibited, with due regard to the provisions of article 83, sole paragraph;[1]

6. For the purpose of conducting any party or electoral propaganda in open premises, the only requirement shall be notice in writing or by telegram to the competent authority, which is empowered only to specify premises for the meeting, provided that in so doing it neither obstructs nor prevents the meeting;

7. It shall be unlawful for official journals, broadcasting stations and printing establishments owned by the Union, the states, Federal District and territories, municipalities, independent bodies and semi-public corporations to carry on any political propaganda which expresses support of or opposition to any citizen or party;

8. The broadcasting stations referred to in the preceding paragraph shall, for the fifteen days preceding an election, allot one half-hour daily to broadcasts by the organs of the electoral judiciary, for the dissemination of information relating to electoral procedure.

Art. 130. For the ninety days preceding general elections in the entire country or in each electoral district, all broadcasting stations, with the exception of those referred to in the preceding article and those with a power of less than ten kilowatts, shall allot two hours daily to party propaganda, one hour at least being in the evening; the same time shall be allocated to the several political parties in strict rotation at uniform charges.

Art. 131. Electoral propaganda in any form may be carried on only in the national tongue.

Paragraph 1. If any person contravenes this article, he shall be liable to a penalty of three to six months' imprisonment, in addition to the seizure and permanent confiscation of the propaganda material, whatever the means of dissemination used.

Paragraph 2. The procedure for investigating the acts referred to in this article shall be the same as that applicable to punishable offences.

Paragraph 3. Without prejudice to the procedure and penalties prescribed by this article, the electoral judge, the prosecutor and the police and municipal authorities shall take immediate steps to prevent the propaganda from being carried on.

Title II.—Political Parties

CHAPTER I.—THE ORGANIZATION AND REGISTRATION OF POLITICAL PARTIES

Art. 132. Political parties are legal persons under domestic public law.

Paragraph 1. Political parties must have a membership of at least fifty thousand electors, distributed over five or more electoral districts, with not less than one thousand electors in each, and shall adopt programmes and articles of association applicable and valid throughout the country.

Paragraph 2. Political parties acquire legal personality on registration with the Electoral High Court.

Paragraph 3. It shall be unlawful to organize and register any political party whose programme or action in any way conflicts with the democratic system based on the plurality of parties and on the guaranteed fundamental human rights.

Art. 134. Amendments to the programme and articles of association of a political party will not come into force until approved by the Electoral High Court and published.

Sole paragraph. For the purpose of such amendments, the Electoral High Court shall confine its consideration to the particular points it is proposed to amend.

Art. 135. Two or more duly registered political parties may amalgamate to form a single party, if the respective national conventions so decide.

Sole paragraph. The new party will acquire legal personality upon registration with the Electoral High Court.

CHAPTER II.—ORGANS OF THE POLITICAL PARTIES

Art. 136. The national, regional and municipal conventions are the deliberative organs of the political parties.

. . .

Art. 137. The national, regional and municipal directorates are the executive organs of the political parties.

[1] *Art. 83, sole paragraph:* Similarly, no member of the armed forces may approach within a distance of less than one hundred metres of the voting premises; nor may any member of the armed forces approach or enter the said premises without the order of the presiding officer.

Sole paragraph. The articles of association of each party shall make provision for the establishment of the necessary local directorates in the Federal District; the organization and functions of these directorates shall correspond to those of the municipal directorates.

Art. 138. The articles of association (of each party) shall regulate and organize the functioning of the directorates.

Art. 139. The directorates shall be registered with the Electoral High Court.

Paragraph 1. The national directorate shall be registered with the Electoral High Court, and the regional, municipal, and local directorates with the regional electoral court.

Paragraph 2. The application for registration from the national directorate shall be signed by its president, and those from the other directorates shall be signed by the president of the regional directorate concerned.

Paragraph 3. The requirements of the law and of the articles of association having been satisfied, the registration shall be made.

Paragraph 4. The decision to grant or withhold registration shall be published in the official organ. If the registration is granted, a membership list of the directorate shall accompany the published notice of the decision.

Paragraph 5. The Electoral High Court shall communicate its decision to the regional electoral courts by telegram or by post within forty-eight hours. The regional courts shall communicate their decisions to the electoral judges within the same period of time and by the same means.

Paragraph 6. Changes in the composition of the directorates shall be recorded by the Electoral High Court or by the regional courts, as the case may be, in the same manner as described in the preceding paragraphs.

CHAPTER III.—ALLIANCES BETWEEN POLITICAL PARTIES

Art. 140. Two or more political parties may form an alliance for the purposes of registration and the election of one or more joint candidates in national, regional or municipal elections.

Paragraph 1. The alliance shall in each case be arranged by the competent directorates concerned.

Paragraph 2. Alliances for the purposes of municipal elections require the previous consent of the regional directorates.

Paragraph 3. The alliance shall be represented by an inter-party committee, chosen by the directorates concerned.

Paragraph 4. Each alliance shall be designated by its own name. Each party forming part of an alliance may in the elections use its own name under that of the alliance.

CHAPTER IV.—VIOLATION OF PARTY DUTIES

Art. 141. If any directorate commits a violation of the programme or the articles of association of its political party, or fails to respect any of its decisions taken in the regular manner, it shall be liable to the penalty of dissolution.

Paragraph 1. The registration of a directorate shall be cancelled upon its dissolution.

Paragraph 2. A new directorate shall, unless some other period is specified in the articles of association, be elected within a period of thirty days, and all members who voted against the action for which the directorate was dissolved, or expressed disagreement with it, shall be considered as re-elected.

Paragraph 3. No person deprived of office for an individual or collective action under the terms of this article may be re-elected immediately.

Art. 142. In the cases referred to in the preceding article, responsibility shall be determined by the competent party organ in accordance with the articles of association of the particular party.

CHAPTER V.—ACCOUNTS AND FINANCES OF POLITICAL PARTIES

Art. 143. The articles of association of political parties shall contain provisions which:

I. Require and empower the party to fix and determine the maximum sums which may be personally expended by each party candidate for the purpose of his election;

II. Prescribe the limits of contributions and assistance from party members;

III. Are to govern the party's accounts.

Paragraph 1. Parties shall keep strict account of their receipts and expenditure, with particulars of the origin of the former and the purpose of the latter.

Paragraph 2. The account books of the national directorate shall be opened, closed and countersigned on each page by the President of the Electoral High Court. The presidents of the regional courts shall perform the same function in respect of the books of regional directorates, and the electoral judges in respect of those of the municipal directorates.

Art. 144. It shall be unlawful for political parties to:

I. Receive, whether directly or indirectly, any financial contribution or assistance, or any assistance of financial value from a foreign source;

II. Receive from the public authorities contributions from an illegal source;

III. Receive, whether directly or indirectly, any kind of assistance or contribution from semi-public corporations or from concessionary undertakings operating any public utility.

Art. 145. The financial resources referred to in the preceding paragraph, and any assistance and contributions of unspecified origin, are deemed to be illegal.

Art. 146. The Electoral High Court or the regional electoral court, upon receiving substantiated information from any elector or party delegate under the recognized signature of or, on his behalf, through the Public Prosecutor or the regional prosecutor, respectively, may order the examination of the accounts of any political party and the investigation of any act violating the statutory provisions or articles of association which political parties and their candidates are bound to observe in financial matters.

CHAPTER VI.—SUSPENSION AND CANCELLATION OF REGISTRATION OF POLITICAL PARTIES

Art. 147. If any political party applies to the Electoral High Court in accordance with its articles of association for the cancellation of its registration, either because it does not intend to continue in existence or because it has decided to amalgamate with another party or other parties to form a new political party, its registration may be cancelled.

Art. 148. The registration of any party whose programme or action conflicts with the democratic system based on the plurality of parties and on the guarantee of fundamental human rights shall be cancelled.

Sole paragraph. The registration of any party which at the general elections fails either to obtain the election of at least one representative to the National Congress or to obtain a total of 50,000 votes from the country as a whole shall be cancelled.

Art. 149. Cancellation of registration involves loss of legal personality, and the party's property and debts shall then be disposed of in accordance with its articles of association.

Art. 150. When a party's registration has been cancelled, the citizens elected as its representatives shall continue in office, unless the cancellation was ordered under article 148.

CHAPTER VII.—PARTY PROPAGANDA

Art. 151. Political parties, acting through their directorates, are guaranteed the following rights, for the exercise of which they do not require the consent of the public authority and for which they are not bound to pay any charges:

Paragraph 1. The right to display as they see fit, on the façade of their headquarters and offices, the name by which they are designated;

Paragraph 2. The right to install loud-speakers at their headquarters and offices, and in vehicles belonging to them or placed at their disposal while the vehicles are passing through any part of the national territory. They may normally operate these loud-speakers from 4 p.m. to 8 p.m., and during electoral campaigns from 2 p.m. till 10 p.m.;

Paragraph 3. The right to carry on propaganda for their parties or their candidates by means of posters and during electoral campaigns by means of bills displayed in public thoroughfares.

(1) The propaganda referred to in paragraph 3 may also be carried on directly by any registered candidate.

(2) During electoral campaigns, the municipal administration shall erect billboards in suitable places for the display of posters. In the event of their failure to do so, any political party may erect them instead.

(3) Posters or bills may not be affixed to private premises or public buildings unless the owner or tenant, or the authority in charge of the premises, has first consented. In the case of public buildings, the consent granted to one party or candidate shall extend automatically to the other parties and candidates.

(4) No person may hamper the exercise of these privileges or destroy, damage or disturb any propaganda medium which is properly employed. Any person who contravenes these provisions shall be answerable for the damage and liable to the appropriate penal proceedings.

(5) During electoral campaigns, the official or concessionary telephone services shall, without priority, install the necessary telephones at the headquarters of duly registered directorates, at the request of the presidents of those directorates and upon payment of the proper charges.

(6) An election campaign shall, for the purposes of this article, be deemed to last throughout the country for the three months preceding the election of the President and the Vice-President of the Republic and, in each electoral district, for the three months preceding the general elections.

. . .

ACT No. 1207 RELATING TO THE RIGHT OF ASSEMBLY[1]

dated 25 October 1950

Art. 1. It shall be unlawful for any agent of the Executive Power for any reason whatsoever to intervene in any peaceful unarmed meeting, convened in a private house or in a closed place of assembly, except in the circumstances described in article 141, paragraph 15, of the Federal Constitution,[2] or if the meeting has been convened for the purpose of committing an unlawful act.

Paragraph 1. If the meeting has been convened for the purpose of committing an unlawful act, the police authority may ban the meeting, and, within two days, shall make a statement to the court setting forth the reasons for banning or suspending the assembly. The court shall give a hearing to the person responsible for arranging the meeting, who shall be given two days in which to enter a defence. The court shall give its decision within two days, and an appeal may be lodged against that decision within three days, but such appeal shall not operate to suspend the effect of the decision.

Paragraph 2. If the said authority does not make the statement required under paragraph 1 within the prescribed time limit, the person responsible for convening the meeting may apply for a warrant of security.

Art. 2. If any agent of the Executive Power contravenes any provision contained in the preceding article and its paragraphs, he shall be liable to the penalty of six months' to one year's imprisonment and loss of office in conformity with article 189 of the Federal Constitution.[3]

Art. 3. The chief police authorities of the Federal District and in the cities shall, at the beginning of each year, designate the premises which may be used for public assemblies and shall publish an order listing such premises. Any amendment to the list shall not come into force until ten days have elapsed after the publication of the amendment.

Paragraph 1. If the premises designated are so unsuitable that the right of assembly is virtually frustrated, any person may require the police authority to designate suitable premises. If the said authority within two days fails to designate suitable premises or designates unsuitable premises, the applicant may apply to the competent court for a warrant of security which will safeguard his right to hold a public meeting even when there is no intention for the time being to exercise that right. If he desires to exercise this right, the court shall have power to designate suitable premises, if the police have not already done so by amending their order.

Paragraph 2. The public meeting may be held in premises designated for the purpose without authorization from the police; but the person responsible for convening the meeting shall, at least twenty-four hours before it takes place, give due notice to the police authorities, so that the latter may guarantee to him, in accordance with the chronological order in which notice is received, the right to hold the meeting as against any other person wishing to hold any other meeting in the same premises on the same day and at the same time.

. . .

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[1] Portuguese text in *Diario Oficial*, section I, of 27 October 1950. Text received through the courtesy of Dr. Carlos Medeiros Silva, legal adviser to the Brazilian Government, Rio de Janeiro. English translation from the Portuguese text by the United Nations Secretariat. According to article 4, this Act came into force on the day of its publication in the *Diario Oficial*.

[2] Article 141, paragraph 15, of the Federal Constitution reads as follows:

"The home is the inviolable asylum of the individual. No one may enter therein at night, without the consent of the dweller, unless it be to succour the victims of crime or disaster, or by day, except in the cases and in the manner established by law."

[3] Article 189 of the Federal Constitution reads as follows:

"Public employees shall lose their positions: (I) if holding a life appointment, only by virtue of a judicial sentence; (II) if having stability of employment, not only in the case provided for in the preceding item, but also if their offices are extinguished or if they are dismissed following an administrative process, in which they have been allowed ample defence . . ."

ACT No. 1390 INCLUDING AMONG PENAL OFFENCES ACTS MOTIVATED BY DISCRIMINATION BASED ON RACE OR COLOUR[1]

dated 3 July 1951

Art. 1. Refusal by any commercial or educational establishment of any kind to lodge, serve, attend or receive a client, buyer or student owing to prejudice based on race or colour constitutes a penal offence punishable in accordance with the provisions of this Act.

The director, manager or person in charge of the establishment shall be considered as the offender.

Art. 2. Refusal of hospitality in a hotel, boarding house or similar establishment owing to prejudice based on race or colour. Penalty: imprisonment for three months to one year and fine from 5,000 to 20,000 cruzeiros.

Art. 3. Refusal owing to prejudice based on race or colour to sell merchandise in stores of any kind or to wait on customers in restaurants, bars, tea shops and similar places open to the public in which food, beverages, refreshments and sweets are served. Penalty: imprisonment for fifteen days to three months or fine of 500 to 5,000 cruzeiros.

Art. 4. Refusal of admission to public entertainment or sports establishments and to barbers' shops or hairdressing establishments owing to prejudice based on race or colour. Penalty: imprisonment for fifteen days to three months or fine of 500 to 5,000 cruzeiros.

Art. 5. Refusal to register a student in an educational institution giving any course or grade owing to prejudice based on race or colour. Penalty: imprisonment for three months to one year, or fine of 500 to 5,000 cruzeiros.

If an official educational institution is involved, the penalty shall be the dismissal of the offender after due investigation.

Art. 6. Denial of access to any post in the public service or in any branch of the armed forces owing to prejudice based on race or colour. Penalty: dismissal after due investigation of the official in charge of the department responsible for receiving applications of candidates.

Art. 7. Denial of employment or work to anyone in an independent undertaking, mixed undertaking, public service or private enterprise owing to prejudice based on race or colour. Penalty: imprisonment for three months to one year and fine of 500 to 5,000 cruzeiros in the case of a private enterprise; dismissal of the person responsible for the refusal in case of an independent undertaking, a mixed undertaking or a public service.

Art. 8. In case of repetition of the offence in private establishments, the judge may order the additional penalty of suspension for a period not exceeding three months.

Art. 9. This Act shall enter into force fifteen days after its publication and all provisions to the contrary are repealed.

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[1] Portuguese text in *Diario Oficial*, section I, No. 156, of 10 July 1951. English translation from the Portuguese text by the United Nations Secretariat.

BURMA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS

Constitution Amendment Act 1951. Extracts from this Act are reproduced in the present *Yearbook.*

Trade Disputes (Amendment) Act 1951. Act No. XII of 5 April 1951. This Act is published in the *Burma Gazette* of 14 April 1951. It lays down modified rules for the composition of the Court of Industrial Arbitration, which was established by the Trade Disputes Amendment Act, 1947, and also certain provisions on rules which the Governor-General in Council and the local governments are entitled to make for the purpose of giving effect to the provisions of the Trade Disputes Act. The complete texts of the Trade Disputes (Amendment) Acts of 1947, 1948, 1950 and 1951 are published in: International Labour Office, *Legislative Series*, 1951—Bur.1.

Workmen's Compensation (Amendment) Act 1951. Act No. LII of 27 October 1951. This Act is published in the *Burma Gazette* of 10 November 1951. It amends the principal Act of 1944, gives, *inter alia*, a new definition of the term "workman", changes certain articles relating to occupational diseases and also Schedule III which lists occupational diseases. The complete text of the Workmen's Compensation (Amendment) Act 1951 is published in: International Labour Office, *Legislative Series*, 1951—Bur. 3.

CONSTITUTION AMENDMENT ACT, 1951 [1]

Act No. LXII of 1951

Introductory Note. Under the Constitution Amendment Act, 1951, the Karen State has been constituted and the Government of the Karen State established.

Chapter IX, Part III, of the Constitution of Burma of 24 September 1947 [2] deals with the Karen State. Section 180 as originally enacted provided that the Karenni State, the Salween District and such adjacent areas occupied by the Karens as may be determined by a special commission to be appointed by the President shall, if the majority of the people of these three areas and of the Karens living in Burma outside these areas so desire, form a constituent unit of the Union of Burma to be known as the Karen State.

Section 181 provided that until the Karen State was constituted, the Salween District and such adjacent areas occupied by the Karens as may be determined by a special commission to be appointed by the President, should be a Special Region to be known as Kaw-thu-lay, subject to provisions concerning the establishment of a Karen Affairs Council and the appointment of a Minister for Karen Affairs. The section also defines broadly the duties and powers of the Karen Affairs Council and the Minister for Karen Affairs; subject to these provisions, further details relating to the duties and powers of the Council and the Minister are to be determined by law.

The Karens are the only minority in the Union of Burma whose population exceeds one-tenth of the population of any unit, and by far the majority of the Karens are spread out in the areas where they are in the minority.[3] Section 83, sub-section 1, of the Constitution of Burma as originally enacted, therefore, contained a sentence declaring that "provisions shall be made to reserve such number of seats as may be proportionate to the population of Karens to be filled by their representatives",[4] and this provision was implemented by the Parliamentary Election Act, 1948,[5] which provides for twenty seats of the Chamber of Deputies to be filled by Karens. Two separate electoral rolls have been compiled—one for the Karens, and the other for non-Karens. Moreover, separate constituencies have been established for the Karens.

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[1] Source: *The Constitution Amendment Act*, 1951, Burmese and English texts, 8 January 1952.

[2] See the provisions on human rights of that constitution in *Yearbook on Human Rights for 1947*, pp. 64–68.

[3] See *Yearbook on Human Rights for 1948*, p. 287.

[4] Ibid.

[5] Section 3 of that Act, reproduced ibid.

Section 3 of the Constitution Amendment Act, 1951, provides that the above-quoted sentence in sub-section 1 of section 83 of the Constitution shall be deleted. Section 5 of the same Act provides for the deletion of section 195 of the Constitution;[1] all provisions in Part IV of Chapter IX of the Constitution, called "The Karenni State", which were to cease to have effect if and when the Karen State was constituted under section 180, have been abolished. For the expression "Karenni State", wherever it occurs, the expression "Kayah State" shall be substituted. According to section 7 of the Amendments, the Chamber of Nationalities, of which twenty-four seats were to be filled by representatives of the Karens, shall in the future include fifteen such seats, while the number of seats reserved for representatives from territories of the Union of Burma for which no specific provision was made will be raised, under the same section, from fifty-three to sixty-two seats.

The Act came into force upon its promulgation, except for sections 3 and 7, which are to come into force on the date of the dissolution of the Parliament following the first general elections held under section 233 of the Constitution.

Section 4 is reproduced hereunder.

. . .

4. For the provisions in sections 180 and 181 of the Constitution, the following *shall be substituted*—namely:

180. (1) The territory hitherto known as the Salween District shall form a constituent unit of the Union of Burma and be hereafter known as "The Karen State". It shall also include such adjacent areas occupied by the Karens as may be determined by an Act of Parliament.

(2) All the members of the Parliament representing the Karen State shall constitute the Karen State Council.

. . .

(4) The State Council may recommend to the Parliament the passing of any law relating to any matter in respect of which the Council is not competent to legislate.

(5) When a Bill has been passed by the State Council it shall be presented to the President for his signature and promulgation. The President shall sign the Bill within one month from the presentation of the Bill, unless he refers the Bill to the Supreme Court for its decision under sub-section (6).

(6) The President may, in his discretion, refer any Bill presented to him under sub-section (5) to the Supreme Court for decision on the question whether such Bill or any specified provision thereof is repugnant to this Constitution.

(7) The Supreme Court, consisting of not less than three judges, shall consider the question referred to it and, after such hearing as it thinks fit, shall pronounce its decision on such question in open court as soon as may be and in any case not later than thirty days after the date of such reference. The decision of the majority of the judges shall, for the purpose of sub-section (6), be the decision of the court.

(8) In every case in which the Supreme Court decides that any provision of the Bill, the subject of a reference to the Supreme Court under sub-section (6), is repugnant to this Constitution, the President shall return the Bill to the State Council for reconsideration and shall decline to sign it unless the necessary amendments shall have been made thereto.

(9) In every other case, the President shall sign the Bill and promulgate the Act as soon as may be after the decision of the Supreme Court shall have been pronounced.

(10) When the President has signed a Bill presented to him under sub-section (5) whether without or after a reference to the Supreme Court, the validity of any provision of the Bill shall not be called in question on the ground that it was beyond the competence of the State Council.

. . .

(12) The head of the Karen State may from time to time summon and prorogue the State Council:

Provided that there shall be a session of the State Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session.

THE GOVERNMENT OF THE KAREN STATE

181. (1) A member of the Union Government to be known as the Minister for the Karen State shall be appointed by the President on the nomination of the Prime Minister acting in consultation with the Karen State Council from among the members of the Parliament representing the Karen State. The Minister so appointed shall also be the head of the Karen State for the purpose of this Constitution.

(2) The head of the State shall be in charge of the administration of the State; that is to say, the executive authority of the State shall be exercised by the head of the State either directly or through officers subordinate to him.

[1] Section 195 reads: "All the provisions in this part (Part IV of Chapter IX) shall cease to have effect if and when the Karen State is constituted under section 180."

(3) Without prejudice to the generality of the provisions of sub-section (4), the said executive authority shall extend to all matters relating to recruitment to the State civil services, to postings and transfers and to disciplinary matters relating to these services.

(4) Subject to the provisions of this Constitution, the executive authority of the State extends to the matters with respect to which the State Council has power to make laws, and in all such matters the decision of the Council shall be binding on the head of the State.

(5) The head of the State shall consult the State Council in all other matters relating to the State.

(6) In order to facilitate the communication of the decisions and the views of the State Council to the head of the State, the Council shall at its first meeting after a general election elect from among its members or otherwise a cabinet of State ministers to aid and advise the head of the State in the exercise of his functions.

(7) The head of the State shall give or cause to be given an account of his work to the State Council in each ordinary session, present or cause to be presented to the Council a report upon all matters relating to the State, and recommend for the consideration of the Council such measures as he thinks fit for promoting the general welfare.

(8) The head of the State shall prepare or cause to be prepared the estimates of the receipts and of the expenditure of the State for each financial year and shall present them or cause them to be presented to the State Council for consideration.

(9) Subject to any conditions that may be imposed by the Union in respect of any contributions from the Union, the State Council shall have power to approve the budget of the State; and in order to enable the President to satisfy himself that the conditions have been duly observed, such budget shall be incorporated in the Union budget.

(10) The provisions of chapter X of this Constitution[1] shall not apply to the Karen State.

(11) Subject to the provisions of this Constitution, all matters relating to the Constitution of the State, including those relating to the powers and duties of the Head of the State, of the State Council and of the Cabinet of State Ministers and their relations to each other and to the Union Government shall be determined by law.

Provided that until the date of the dissolution of the Parliament constituted following the first general elections held under section 233 of the Constitution,[2] the Karen State Council shall be constituted with all the members of the Parliament representing Karens.

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[1] Chapter X grants every State the right to secede from the Union in accordance with conditions laid down in sections 202–206 of the Constitution.

[2] This section provides that the first general elections under this Constitution shall be held within eighteen months from the date of the coming into operation of this Constitution.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

THE FULFILMENT OF THE FOURTH (FIRST POST-WAR) FIVE-YEAR PLAN OF THE BYELORUSSIAN SSR FOR 1946–1950[1]

REPORT OF THE STATE PLANNING COMMISSION AND THE STATISTICAL BOARD OF THE BYELORUSSIAN SSR

Extracts

FULFILMENT OF THE FIVE-YEAR PLAN WITH REGARD TO THE MATERIAL AND CULTURAL ADVANCEMENT OF THE PEOPLE

In the Byelorussian SSR, there has been and is no unemployment. The number of manual and office workers employed in the national economy of the Republic at the end of 1950 was greater than the number at the end of 1945.

The standard of living of the workers of the republic has risen considerably in the last five years, as shown by the increase in the nominal and real wages of manual and office workers and in the income derived by peasants both from common collective farm enterprise and from subsidiary and private farming.

State expenditure on cultural and social services for workers shows a marked increase. The State has provided allowances and social insurance payments to manual and office workers, pensions under the social security system, free transportation and transportation at reduced rates to sanatoria, rest homes and children's institutions, allowances to mothers of large families and unmarried mothers, free medical treatment, free education and additional training of skilled workers at State expense, scholarships, and many other payments and grants. All manual and office workers were given paid annual leave of at least two weeks, while in a number of occupations longer leave was granted.

The systematic improvement in the workers' standard of living in the Byelorussian SSR was accompanied by the further successful development of the culture of the Byelorussian people, which is national in form and socialist in content.

The number of students in the primary, seven-year and secondary schools, technical schools and other specialized secondary schools and night schools for young manual and agricultural workers was 1,600,000 in 1950. In the five-year period, 2,990 new schools were built, with accommodation for 304,000 pupils. The number of higher educational institutions increased from 25 in 1940 to 30 in 1950. Higher educational institutions were attended by 31,700 students in 1950, as against 21,500 students in 1940. During the past five years, 12,000 specialists with higher education and 34,500 with secondary education were trained in the educational establishments of the Republic.

The Academy of Sciences of the Byelorussian SSR was restored, and the network of scientific and research establishments expanded. The faculty buildings of the Byelorussian State University, the Byelorussian Polytechnic and Forestry Institutes, the Byelorussian State Institute of National Economy, the Gorets Agricultural Academy and other universities and technical institutes were restored or re-built or are being completed. In the past five years, nineteen technical schools and other specialized secondary schools have been restored.

The Theatre of Opera and Ballet and the Russian Theatre of Drama at Minsk, the Theatre of Drama at Brest and Bobruisk and cinemas at Polotsk, Gomel, Minsk and other towns have been re-built.

In 1950, there were 15 per cent more clubs and public libraries in town and country than in 1940. By the end of 1950 there were twice as many cinemas as in 1940.

Since the war, further improvements have been made in the medical, hospital and prophylactic services provided for the population of the republic. The number of hospital beds in the republic is now greater than in 1940, and the number of physicians has increased by 47 per cent.

Considerable progress has been made in the development of Soviet trade in the republic. In the period between 1947 and 1950, the Government of the republic lowered prices for consumer goods three times and made preparations for further price reductions to take effect on 1 March 1951. This has ensured a considerable rise in the real earned wages of manual and office workers and members of the intelligentsia, and a decrease in the expenditure of agricultural workers

[1]Russian text received through the courtesy of the Delegation of the Union of Soviet Socialist Republics to the United Nations. English translation from the Russian text by the United Nations Secretariat.

through the purchase of cheaper industrial goods. Each year the volume of retail trade has expanded. Sales of foodstuffs and industrial goods to the population by State and co-operative stores have increased, especially those of meat and fish products, confectionery, sugar, toilet and household soap, sewn and knitted goods, and leather and rubber footwear. Sales of cultural and household goods have also increased. The volume of collective farm trade has risen above the 1940 level. Collective-farm market prices have dropped since the abolition of rationing and the currency reform.

In the last five years, much has been done to restore and develop the economy and culture of the western regions of the republic.

Much reconstruction work has been carried out in Minsk and other cities of the Republic.

State enterprises and institutions and local Soviets, as well as the populations of cities and industrial settlements, with the aid of State credit, have built and restored dwellings with a total area of 4,300,000 square metres. In addition, 290,000 dwellings and 54,000 communal buildings for the productive and cultural life of collective farms have been built in rural areas.[1]

[1]The State Budget of the Byelorussian SSR for 1951 was the subject of a report by Mr. F. L. Kokhonov, Minister of Finance, to the first meeting of the third session of the Supreme Soviet of the Byelorussian SSR on 4 April 1951. According to this report, 747,250,000 roubles are allocated for financing the national economy, or 262,853,000 roubles more than in 1945. 2,496,509,000 roubles, or 1,505,334,000 roubles more than in 1941, are allocated for financing social and cultural activities. Of this sum, 1,720,991,000 roubles are allocated for education, 632,776,000 roubles for public health, 131,006,000 roubles for social security and 11,736,000 for physical culture. Expenditure on social and cultural activities constitutes 67.7 per cent of total budgetary expenditure. More than 70 per cent of the total expenditure for education is allotted to general education. The total number of children attending schools this year will be 1,548,000. The number of schools will be increased by 11,820 by the end of the year.

The sum of 335,333,000 roubles is allocated for the financing of children's establishments, 264,207,000 roubles of which are ear-marked for the maintenance of children's homes. These funds will cover the maintenance and education in children's homes of 35,000 children whose parents perished in the struggle to liberate our country from the fascist occupiers. In 1951, 47,000 persons will attend educational establishments in Byelorussia, including 11,000 enrolled in higher-education institutions and 28,800 in technical colleges. The sum of 52,552,000 roubles is allocated for scientific and research establishments, 30,925,000 roubles of which are ear-marked for the Academy of Sciences of the Byelorussian SSR.

To meet the further cost of extending the system of hospitals and medical establishments and improving health services for the population, the sum of 632,776,000 roubles is allocated for public health in the republic in 1951. Expenditure on physical culture and sport is estimated at 11,736,000 roubles, or 39.6 per cent more than was actually spent in 1950.

The sum of 131,006,000 roubles is allocated for social security, 95,100,000 roubles of which are ear-marked for the payment of pensions to disabled workers and 2,792,000 roubles for assistance to disabled veterans of the Patriotic War.

According to another report of Mr. Kokhonov, which dealt with the State budget of 1952 and the execution of the State budget for 1950, the total State budget of the Byelorussian SSR for 1952, taking into account the lowering of wholesale prices and tariffs as from 1 January 1952, is estimated at 3,718,386,000 roubles (revenue and expenditure). The local Soviets have important tasks to perform in the further development of the national economy and culture. In view of these tasks, the total of the local budgets for 1952 (revenue and expenditure) is estimated at 2,606,328,000 roubles and constitutes 70 per cent of the total State budget of the Byelorussian SSR.

Byelorussian budgetary revenue is derived principally from receipts from the socialist economy, amounting to 2,792,300,000 roubles, or 75.1 per cent of the total budget. Tax payments by the population constitute only 12.6 per cent, and State loans subscribed by the population account for 9 per cent. The yield from the turnover tax in the budget of the Byelorussian SSR for 1952 is estimated at 1,826,348,000 roubles. In 1951, the turnover tax yielded a surplus, owing to the successful implementation of production and sales plans and to improvements in the quality and variety of production.

The bulk of the expenditure of the Byelorussian SSR, or 87.9 per cent, is intended to finance the national economy and social and cultural activities. The sum of 722,151,000 roubles is allocated to finance the national economy in the current year. Economic organs will also allot considerable sums for that purpose from their profits. Estimated expenditure in the current year on education, health, physical culture, social security and science amounts to 2,547,257,000 roubles, or 1,249,100,000 roubles more than was allocated for these purposes under the 1940 budget of the Byelorussian SSR. The proposed allocations for the national economy include 180,759,000 roubles for financing industry, 240,010,000 roubles for agriculture and forestry, 158,684,000 roubles for communal housing, 44,774,000 roubles for transport and communications and 14,880,000 roubles for trade.

A large proportion of the budgetary allocations for the national economy is ear-marked for capital construction and expansion, together with the working capital which is being produced in greater quantity by enterprises and economic organizations. It is proposed to assign 370,833,000 roubles from the budget for capital construction. In addition, enterprises and economic organizations will allocate 212,957,000 roubles from their own resources for capital construction in 1952. In connexion with the further expansion of production and trade, the target figure for the individual working capital of enterprises and economic organizations is to be increased by 96,383,000 roubles, towards which 32,983,000 roubles will be allocated under the budget.

As already indicated, 158,684,000 roubles are allocated for communal housing under the 1952 budget. These funds will be used for the further expansion of communal undertakings and for the improvement of communal services. 28,804,000 roubles will be allocated for housing construction alone under the budgets of the local Soviets.

Under the State budget of the Byelorussian SSR for 1952, 1,746,685,000 roubles are allocated for national education, 950,352,000 roubles of which are ear-marked for the maintenance of schools of general education. The problem of providing seven-year and secondary education for all pupils is being solved successfully in the Republic. In 1952, 11,650 elementary, seven-year and secondary schools will be in operation and will be attended by 1,450,000 children. Boarding-school accommodation is being increased to enable all children to obtain a seven-year education. More than 297,000,000 roubles are allocated for the maintenance of kindergartens and children's homes. 272,618,000 roubles are being allocated for the training of cadres for the national economy and cultural construction, and for scientific

REGULATIONS FOR ELECTIONS TO THE SUPREME SOVIET OF THE BYELORUSSIAN SSR[1]

Approved by the Presidium of the Supreme Soviet of the Byelorussian SSR

14 December 1950

CHAPTER I

ELECTORAL SYSTEM

Art. 1. In accordance with article 109 of the Constitution of the Byelorussian SSR, members of the Supreme Soviet of the Byelorussian SSR are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 2. In accordance with article 110 of the Constitution of the Byelorussian SSR, elections of deputies are universal: all citizens of the Byelorussian SSR who have reached the age of eighteen, irrespective of race, nationality, sex, religion, educational or residential qualifications, social origin, property status or past activites, have the right to vote in the election of deputies to the Supreme Soviet of the Byelorussian SSR, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 3. Every citizen of the Byelorussian SSR who has reached the age of twenty-one, irrespective of race, nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, may be elected a deputy of the Supreme Soviet of the Byelorussian SSR.

Art. 4. In accordance with article 111 of the Constitution of the Byelorussian SSR, elections of deputies are equal; each citizen has one vote; all citizens participate in elections to the Supreme Soviet of the Byelorussian SSR, on an equal footing.

Art. 5. In accordance with article 112 of the Constitution of the Byelorussian SSR, women have the right to elect and be elected to the Supreme Soviet of the Byelorussian SSR on equal terms with men.

Art. 6. In accordance with article 113 of the Constitution of the Byelorussian SSR, citizens serving in the ranks of the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 7. In accordance with article 114 of the Constitution of the Byelorussian SSR, elections of deputies are direct: the Supreme Soviet of the Byelorussian SSR is elected by the citizens by direct vote.

Art. 8. In accordance with article 115 of the Constitution of the Byelorussian SSR, voting at elections of deputies to the Supreme Soviet of the Byelorussian SSR is secret.

Art. 9. In accordance with article 18 of the Constitution of the Byelorussian SSR, citizens of all the other Union Republics have the right in the territory of the Byelorussian SSR to elect and be elected to the Supreme Soviet of the Byelorussian SSR equally with citizens of the Byelorussian SSR.

Art. 10. Persons residing in the territory of the Byelorussian SSR who are not citizens of the USSR, but citizens or subjects of foreign States, are not entitled to take part in elections or be elected to the Supreme Soviet of the Byelorussian SSR.

Art. 11. In accordance with article 116 of the Constitution of the Byelorussian SSR, candidates for election to the Supreme Soviet of the Byelorussian SSR are nominated according to electoral districts.

Art. 12. The expenses connected with the holding of elections to the Supreme Soviet of the Byelorussian SSR are borne by the State.

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development. The sum of 71,044,000 roubles—7,461,000 roubles more than in 1951—is allocated for the maintenance of cultural and educational institutions. 7,698,000 roubles are being allocated merely for the provision of additional library books. The budget allocations for 1952 will enable a further 277 rural clubs, 50 children's libraries and 217 rural libraries to be established in the Republic.

Of the total expenditure on social and cultural activities, 664,154,000 roubles are ear-marked for public health and physical culture.

With a view to improving medical services for the population, 1,200 more beds will be provided in city and country hospitals, and the network of medical and obstetrical stations in rural areas will be expanded. Hospitals will be further equipped with X-ray apparatus and other medical equipment. Disabled service-men of the great Patriotic War and the families of fallen soldiers receive unremitting care. Under the Republic's budget, 5,807,000 roubles are allocated for sanatorium and resort treatment and lump-sum payments to disabled service-men of the Patriotic War and the families of fallen soldiers, 10,365,000 roubles for the maintenance of disabled service-men's homes, and 99,699,000 roubles for the payment of pensions to disabled workers.

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat. See also the text of chapter IX of the Constitution of the Byelorussian SSR, "The Electoral System", in *Yearbook on Human Rights for 1948*, p. 289. The text of the regulations should be read together with the text of this chapter of the Constitution.

CHAPTER VI

PROCEDURE FOR THE NOMINATION OF CANDIDATES FOR ELECTION AS DEPUTIES TO THE SUPREME SOVIET OF THE BYELORUSSIAN SSR

Art. 49. In accordance with article 116 of the Constitution of the Byelorussian SSR, the right to nominate candidates for election as deputies to the Supreme Soviet of the Byelorussian SSR is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 50. The right to nominate candidates for election as deputies to the Supreme Soviet of the Byelorussian SSR is exercised by the central organs of the public organizations and associations of the working people, by their regional and district organs, and by general meetings of manual and office workers in undertakings and institutions, general meetings of military personnel in military units, general meetings of peasants in collective farms and villages, and general meetings of manual and office workers on State farms.

CHAPTER VII

VOTING PROCEDURE

Art. 67. Special rooms shall be reserved or separate booths provided in the polling stations to enable electors to mark ballot papers. It is forbidden for any person whomsoever (including the members of the electoral commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

Art. 71. An elector who, owing to illiteracy or any physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER VIII

DETERMINATION OF ELECTION RESULTS

Art. 100. Any person who by duress, deceit, threats or bribery obstructs a citizen of the Byelorussian SSR in the free exercise of his right to elect or be elected to the Supreme Soviet of the Byelorussian SSR shall be liable to deprivation of liberty for a period not exceeding two years.

Art. 101. Any official of the Soviet or member of the electoral commission who forges a ballot paper or knowingly miscounts votes shall be liable to deprivation of liberty for a period not exceeding three years.

REGULATIONS FOR ELECTIONS TO THE SOVIETS OF WORKING PEOPLE'S DEPUTIES OF REGIONS, DISTRICTS, CITIES, VILLAGES AND SETTLEMENTS IN THE BYELORUSSIAN SSR[1]

Approved by the Presidium of the Supreme Soviet of the Byelorussian SSR

5 October 1950

CHAPTER I

ELECTORAL SYSTEM

Art. 1. In accordance with article 109 of the Constitution of the Byelorussian SSR, members of the Soviets of Working People's Deputies of regions, districts, cities, villages and settlements are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art. 2. In accordance with article 110 of the Constitution of the Byelorussian SSR, elections of deputies are universal: all citizens of the Byelorussian SSR who have reached the age of eighteen, irrespective of race, nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies and to be elected to the Soviets of Working People's Deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 3. In accordance with article 111 of the Constitution of the Byelorussian SSR, elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 4. In accordance with article 112 of the Constitution of the Byelorussian SSR, women have the right to elect and be elected on equal terms with men.

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat. See also p. 32, footnote 1.

Art. 5. In accordance with article 113 of the Constitution of the Byelorussian SSR, citizens serving in the ranks of the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 6. In accordance with article 114 of the Constitution of the Byelorussian SSR, elections of deputies are direct: the Soviets of Working People's Deputies of regions, districts, cities, villages and settlements are elected by the citizens by direct vote.

Art. 7. In accordance with article 115 of the Constitution of the Byelorussian SSR, voting at elections of deputies to the Soviets of Working People's Deputies of the Byelorussian SSR is secret.

Art. 8. In accordance with article 18 of the Constitution of the Byelorussian SSR, citizens of all the other Union republics have the right in the territory of the Byelorussian SSR to elect and be elected to the Soviets of Working People's Deputies of the Byelorussian SSR, equally with citizens of the Byelorussian SSR.

Art. 9. Persons living in the territory of the Byelorussian SSR who are not citizens of the USSR, but citizens or subjects of foreign States, are not entitled to take part in elections or be elected to the Soviets of Working People's Deputies of the Byelorussian SSR.

Art. 10. In accordance with article 118 of the Constitution of the Byelorussian SSR, elections to the Soviets of Working People's Deputies of the Byelorussian SSR are held by electoral districts.

One deputy is elected to the respective Soviet of Working People's Deputies from each electoral district.

Art. 11. The expenses connected with the holding of elections to the Soviets of Working People's Deputies of the Byelorussian SSR are borne by the State.

CHAPTER VIII

PROCEDURE FOR THE NOMINATION OF CANDIDATES

Art. 68. In accordance with article 116 of the Constitution of the Byelorussian SSR, candidates for elections are nominated according to electoral districts.

The right to nominate candidates for election to the Soviets of Working People's Deputies of regions, districts, cities, villages and settlements is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 69. The right to nominate candidates is exercised by the central organs of the public organizations and associations of the working people, by their regional and district organs, and by general meetings of manual and office workers in undertakings and institutions, general meetings of military personnel in military units, general meetings of peasants in collective farms and villages, and general meetings of manual and office workers on State farms.

CHAPTER X

VOTING PROCEDURE

Art. 87. Special rooms shall be reserved or separate booths provided in the polling stations to enable electors to mark ballot papers. It is forbidden for any person whomsoever (including the members of the electoral commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

Art. 91. An elector who, owing to illiteracy or any physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER XII

DETERMINATION OF ELECTION RESULTS

Art. 120. Any person who, by duress, deceit, threats or bribery, obstructs a citizen of the Byelorussian SSR in the free exercise of his right to elect or be elected to the Soviets of Working People's Deputies of the Byelorussian SSR shall be liable to deprivation of liberty for a period not exceeding two years.

Art. 121. Any official of the Soviet or member of the electoral commission who forges a ballot paper or knowingly miscounts votes shall be liable to deprivation of liberty for a period not exceeding three years.

REGULATIONS FOR ELECTIONS OF PEOPLE'S COURTS OF THE BYELORUSSIAN SSR[1]

Approved by the Presidium of the Supreme Soviet of the Byelorussian SSR

23 August 1951

CHAPTER I
ELECTORAL SYSTEM

Art. 1. In accordance with article 85 of the Constitution of the Byelorussian SSR[2] and article 22 of the Act on the judicial system of the USSR, Union republics and autonomous republics, people's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 2. Any citizen of the Byelorussian SSR who has the right to vote and has reached the age of twenty-three by the date of the elections may be elected a people's judge or people's assessor. Persons who have been convicted may not be elected as people's judges or people's assessors.

Art. 3. In accordance with article 18 of the Constitution of the Byelorussian SRR, citizens of all the other Union republics have the right in the territory of the Byelorussian SSR to elect and to be elected as people's judges and people's assessors equally with citizens of the Byelorussian SSR.

Art. 4. In accordance with article 23 of the Act on the judicial system of the USSR, Union republics and autonomous republics, people's judges and people's assessors are elected by the citizens of the district according to electoral districts. The electoral district for the election of a people's court (people's judge and people's assessors) covers the whole population within the territorial jurisdiction of that people's court.

Art. 5. The expenses connected with the holding of elections to people's courts are borne by the State.

CHAPTER II
ELECTORAL ROLLS

Art. 7. The electoral rolls shall include all citizens, men and women, having the right to vote and living in the territory of the respective Soviet at the time when the electoral rolls are drawn up who have reached the age of eighteen by the date of the elections, irrespective of race, nationality, religion, educational or residential qualifications, social origin, property status or past activities.

Art. 8. The electoral roll shall exclude persons deprived of their electoral rights by a court of law, for the whole period of such deprivation of electoral rights as laid down in the sentence, and also persons who have been adjudged insane under the procedure prescribed by law.

CHAPTER V
PROCEDURE FOR THE NOMINATION OF CANDIDATES FOR ELECTION AS PEOPLE'S JUDGES AND PEOPLE'S ASSESSORS

Art. 26. The right to nominate candidates for election as people's judges and people's assessors is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies—and also to general meetings of manual and office workers in undertakings and institutions, to general meetings of military personnel in military units, to general meetings of peasants in collective farms and villages, and to general meetings of manual and office workers on State farms.

CHAPTER VI
VOTING PROCEDURE

Art. 41. Special rooms shall be reserved or separate booth provided in the polling stations to enable electors to mark their ballot papers. It is forbidden for any person whomsoever (including the representative of the executive committee and members of the polling commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

Art. 44. An elector who, owing to illiteracy or any physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER VII
DETERMINATION OF ELECTION RESULTS

Art. 67. Any person who by duress, deceit, threats or bribery obstructs a citizen of the Byelorussian SSR in the exercise of his right to elect people's judges and people's assessors or to be elected as such shall be liable to deprivation of liberty for a period not exceeding two years.

Art. 68. Any official who forges a ballot paper or knowingly miscounts votes in an election to a people's court shall be liable to deprivation of liberty for a period not exceeding three years.

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[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1947*, p. 70.

CANADA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

The legislation of the Federal Parliament and the provincial legislatures in 1951 having a bearing on human rights is described below. The texts of two provincial Acts which directly implement rights set out in the Universal Declaration of Human Rights are appended.

I. FEDERAL LEGISLATION

Emergency Powers

Through the Emergency Powers Act,[2] Parliament gave the Governor in Council temporary authority to safeguard the economy of Canada from disruption while defence preparations are being carried out. The Act gives the Governor in Council a large measure of the special power conferred during the two world wars by the War Measures Act and partially continued in the post-war period by annual enactments, the last of which expired on 30 April 1951. However, it was not thought desirable that the wide powers conferred by the War Measures Act to interfere with the fundamental liberties of the individual should be brought into operation at this time. The powers conferred on the Governor in Council do not include power to make orders in relation to arrest, detention, exclusion or deportation, censorship or the control or suppression of publications and writings.

Besides the general power to make any order deemed necessary or advisable for "the security, defence, peace, order and welfare of Canada", the Governor in Council has authority to make orders concerning (1) control and suppression of maps, plans and photographs; (2) control of communications; (3) control of harbours and shipping; (4) transportation; (5) trading, exportation, importation, production and manufacture; and (6) collection of fees or charges established for the purposes of a scheme of control. All orders must be tabled in Parliament and may be annulled by resolution of the Senate and House of Commons.

Economic Rights for the Aged

The Old Age Security Act,[3] which became effective 1 January 1952, marks an important step in the development of social security in Canada. Two federal measures already in effect provide for the payment of family allowances to children under 16 and a contributory unemployment insurance scheme.

Under this Act the Federal Government pays a universal monthly pension of forty dollars to every person who has attained the age of seventy years and who meets certain residence requirements. The scheme is financed from an Old Age Security Fund established by a two-per-cent tax on personal income and corporation income, and a two-per-cent sales tax.

This legislation was made possible by an amendment to the British North America Act in May 1951, which gives the Parliament of Canada authority to make laws in relation to old-age pensions. Before this amendment, the Constitution placed the responsibility for care of the aged entirely upon the provinces, and federal participation was confined to financial assistance which was given subject to specified conditions. Since 1927 the Federal Government has aided the provinces in a programme of assistance to needy persons over seventy years of age.

Under a new Old Age Assistance Act,[4] the Federal Government may enter into an agreement with each of the provinces to share equally in financing a pension of up to $40 a month to needy persons between the ages of sixty-five and sixty-nine.

Under blind persons legislation, needy blind persons over the age of twenty-one may be granted pensions of up to $40 a month, the Federal Government paying 75 per cent and the provincial government 25 per cent. A change in 1951[5] reduced the required period of residence in Canada from twenty to ten years.

More Self-government in Indian Communities

The Indian Act of 1951[6] is the first complete revision of the laws governing the administration of Indian affairs in Canada since 1880. The new legislation, which was drafted after exhaustive study, is designed to encourage a gradual transition of Indians, of whom there are about 136,000 in Canada, from wardship to citizenship. Under the Canadian Constitution, Indians and lands reserved for Indians come within federal jurisdiction, and the responsibility for administering the

[1] This note was received through the courtesy of Mr. A. MacNamara, Deputy Minister of Labour, Ottawa.

[2] *Statutes of Canada*, 1951, c. 5. The Act was assented to on 21 March 1951.

[3] *Statutes of Canada*, 1951 (2nd Session), c. 18. The Act was assented to on 21 December 1951.

[4] *Statutes of Canada*, 1951, c. 55. The Act was assented to on 30 June 1951. See the complete text of this Act in: International Labour Office, *Legislative Series* 1951—Can. 1.

[5] *Statutes of Canada*, 1951, c. 38. This Act (to be cited as The Blind Persons Act) was assented to on 30 June 1951.

[6] *Statutes of Canada*, 1951, c. 29. This Act was assented to on 20 June 1951.

Indian Act is vested in a special branch of the Federal Government. However, health services are provided through the Federal Department of National Health and Welfare, and family allowances and old-age pensions are available to Indians as to other residents of Canada.

The new Act gives Indians a greater measure of responsibility through their band councils in their own affairs, such as management of reserve lands, the development of natural resources on Indian reserves and control of Indian trust funds. For the first time, Indian women are given the right to vote in band elections. New provision is made for the education of children of Indians living off reserves, in the regular school system in association with other Canadian children. Special schools may be established where facilities are not available.

As in the previous Act, provision is made for the "enfranchisement" of an Indian, a process whereby he is released from the band, obtains the funds that are due to him together with a small gratuity from the Government, and assumes all the obligations and privileges of Canadian citizenship.

Political Development in the Northern Territories

The North-west Territories Act and the YukonAct, which provide for the local government of the vast, sparsely settled nothern areas of Canada not yet organized as provinces, were amended[1] to give these territories a greater measure of self-government. The government in each territory is composed of a Commissioner appointed by the Federal Government and a territorial council. The number of members on each council was increased. The elected Yukon Council will consist of five instead of three members, and in the North-west Territories, the elective principle was introduced for the first time, three of the eight members now being elected. Formerly, all members of this Council were appointed by the Federal Government.

Federal Aid to Universities

The Royal Commission on National Development in the Arts, Letters and Sciences, in the course of its inquiry in 1950, received reports from numerous universities, and gave consideration to the difficulties they encounter in the upkeep and development of their institutions. Because of the wide contribution of the universities to culture in Canada, the Commission recommended that the Federal Government provide sufficient funds to help universities continue their essential role in the development of the arts, letters and sciences.

Provision was made by Parliament[2] to give effect to these recommendations by voting the sum of $7,100,000 to be distributed to the universities of all the provinces. The allocations are to be made after consultation between the federal and the provincial governments and the universities concerned.

The total grant is based on an amount of 30 cents per person of the nation's population, and the grant to each university will be based on the number of its full-time intra-mural students in proportion to the total number of such students in the province.

II. PROVINCIAL LEGISLATION

Anti-discrimination Measures

The Fair Employment Practices Act[3] which was passed by the Ontario legislature in 1951 states in its preamble that the measure is in accord with the Universal Declaration of Human Rights. This Act, the first of its type to be passed in Canada, forbids discrimination in respect of employment or trade union membership and sets up a Fair Employment Practices Branch in the Department of Labour to deal with charges of discrimination, first by conciliation procedure, and if that fails, by prosecution.

The Act forbids an employer to refuse to employ, to discharge or to discriminate against any person because of race, creed, colour, nationality, ancestry or place of origin. Trade unions are forbidden to exclude, expel or suspend any person from membership, or to discriminate against any member or person, for any of these reasons.

The text of this Act is published in this *Yearbook.*

Also appended is an amendment[4] to the more general anti-discrimination law of Saskatchewan, the Bill of Rights Act 1947, the text of which appears in the *Yearbook on Human Rights for 1947.*[5]

A second important anti-discrimination measure was enacted in Ontario in 1951, the Female Employees' Fair Remuneration Act,[6] under which women are entitled to pay equal to that of men if they do the same work in the same establishment. The machinery established for dealing with charges of discrimination is the same as that established under the Fair Employment Practices Act.

The text of the equal pay law also appears in this *Yearbook.*

Labour Legislation

In the field of labour legislation, which in the main comes within provincial jurisdiction, a number of enactments added to the body of legislation which seeks to ensure economic rights to workers. A new

[1] *Statutes of Canada*, 1951, c. 21 (The Northwest Territories Amendment Act) and c. 23 (The Yukon Amendment Act). Both Acts were assented to on 31 May 1951.

[2] *Statutes of Canada*, 1951, c. 65 (assented to on 30 June 1951) and P.C. 123, 9 January 1952.

[3] *Statutes of Ontario*, 1951, c. 24.

[4] *Statutes of Saskatchewan*, 1951, c. 32.

[5] Pp. 73–74.

[6] *Statutes of Ontario*, 1951, c. 26.

Workmen's Compensation Act[1] came into effect in Newfoundland, and five other provinces increased the benefits under their Acts. All Canadian provinces now have workmen's compensation laws providing for collective liability on the part of employers under a State insurance scheme.

The school-leaving age was raised to fifteen in Newfoundland,[2] and a new measure extending the scope of control of employment of children was passed in Nova Scotia.[3] Laws for the safety of workers in mines and factories were improved in several provinces, and some progress was made in the establishment of higher standards concerning limitation of hours of work, annual paid holidays, and minimum wages.

Right of Women to Serve on Juries

For some years, women have been eligible for jury service in Alberta, British Columbia and Nova Scotia; and, by legislation enacted in 1951,[4] women will be allowed to serve on juries in Ontario. Provision is made, however, that a woman called for jury duty may, at her request, be exempted from jury service for a period of one year.

Free Legal Aid

Some form of free legal aid for needy persons, or for other persons unable to afford standard legal fees, is available in every province of Canada, but in most cases these services are available only in certain cities. An attempt to establish a province-wide scheme of legal aid was made in Ontario in 1951, by the passing of an Act[5] to amend the Law Society Act, permitting the Law Society of Upper Canada to establish the Ontario Legal Aid Plan. Panels of lawyers prepared to give their services are established, and the expenses are met from a special fund created by the Law Society. Where costs are awarded by the court to a person assisted under the plan, they are paid into the fund. Under this plan, free legal aid is available for both civil and criminal cases. Before the end of 1951, clinics at which applications may be made for free legal aid had been established in a large number of cities and towns.

[1] *Statutes of Newfoundland*, 1950, No. 25, as amended by 1951, No. 2.
[2] *Statutes of Newfoundland*, 1951, No. 27.
[3] *Statutes of Nova Scotia*, 1951, c. 15.
[4] *Statutes of Ontario*, 1951, c. 41.
[5] *Statutes of Ontario*, 1951, c. 45.

Provinces

ONTARIO

ACT TO PROMOTE FAIR EMPLOYMENT PRACTICES IN ONTARIO, 1951[1]

Whereas it is contrary to public policy in Ontario to discriminate against men and women in respect of their employment because of race, creed, colour, nationality, ancestry or place or origin; whereas it is desirable to enact a measure designed to promote observance of this principle; and whereas to do so is in accord with the Universal Declaration of Human Rights as proclaimed by the United Nations,

. . .

1. In this Act,

(*a*) "Director" means Director of the Fair Employment Practices Branch of the Department of Labour;

(*b*) "Employment agency" includes a person who undertakes with or without compensation to procure employees for employers and a person who undertakes with or without compensation to procure employment for persons;

(*c*) "Employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;

(*d*) "Minister" means Minister of Labour;

(*e*) "Person", in addition to the extended meaning given it by the Interpreation Act, includes employment agency, employers' organization and trade union;

(*f*) "Trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

2. This Act does not apply,

(*a*) To any domestic employed in a private home;

(*b*) To any exclusively religious, philanthropic, educational, fraternal or social organization that is not operated for private profit or to any organization that is operated primarily to foster the welfare of a religious or ethnic group and that is not operated for private profit;

(*c*) To any employer who employs less than five employees.

[1] *Statutes of Ontario*, 1951, c. 24. Text received through the courtesy of Mr. A. MacNamara, Deputy Minister of Labour, Ottawa. This Act came into force on 4 June 1951.

3. No employer or person acting on behalf of an employer shall refuse to employ or to continue to employ any person or discriminate against any person in regard to employment or any term or condition of employment because of his race, creed, colour, nationality, ancestry or place of origin.

4. No trade union shall exclude from membership or expel or suspend any person or member because of race, creed, colour, nationality, ancestry or place of origin.

5. No person shall use or circulate any form of application for employment or publish any advertisement in connexion with employment or prospective employment or make any written or oral inquiry which expresses either directly or indirectly any limitation, specification or preference as to the race, creed, colour, nationality, ancestry or place of origin of any person.

6. (1) The Minister may on the recommendation of the Director designate a conciliation officer to inquire into the complaint of any person that he has been refused employment, discharged or discriminated against contrary to section 3, or that he has been excluded, expelled, suspended or discriminated against contrary to section 4, or that any person has used or circulated any form or published any advertisement or made any inquiry contrary to section 5.

(2) Every such complaint shall be in writing on the form prescribed by the Director and shall be mailed or delivered to him at his office.

(3) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of.

(4) The conciliation officer shall report the results of his inquiry and endeavours to the Director.

7. (1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may, on the recommendation of the Director, appoint a commission composed of one or more persons and shall forthwith communicate the names of the members of the parties and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, *quo warranto* or otherwise, to question the appointment of the commission, or to review, prohibit or restrain any of its proceedings.

(2) The commission shall have all the powers of a conciliation board under section 26 of the Labour Relations Act.

(3) The commission shall give the parties full opportunity to present evidence and to make submissions and if it finds that the complaint is supported by the evidence it shall recommend to the Director the course that ought to be taken with respect to the complaint, which may include reinstatement with or without compensation for loss of earnings and other benefits.

(4) If the commission is composed of more than one person, the recommendations of the majority shall be the recommendations of the commission.

(5) After a commission has made its recommendations, the Director may direct it to clarify or amplify any of its recommendations and they shall not be deemed to have been received by the Director until they have been so clarified or amplified.

(6) The Minister on the recommendation of the Director may issue whatever order he deems necessary to carry the recommendations of the commission into effect and the order shall be final and shall be complied with in accordance with its terms.

(7) Each member of a commission shall be remunerated for his services at the same rate as the chairman of a conciliation board appointed under the Labour Relations Act.

8. (1) Every person who fails to comply with any provision of this Act or with any order made under this Act is guilty of an offence and on summary conviction is liable,

(*a*) If an individual, to a penalty of not more than $50; or

(*b*) If a corporation, trade union, employers' organization or employment agency, to a penalty of not more than $100.

(2) The penalties recovered for offences against this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund.

9. A prosecution for an offence under this Act may be instituted against a trade union or employers' organization in the name of the union or organization, and any act or thing done or omitted by an officer, official or agent of a trade union or employers' organization within the scope of his authority to act on behalf of the union or organization shall be deemed to be an act or thing done or omitted by the union or organization.

10. (1) No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister on the recommendation of the Director.

(2) The Director shall not make such a recommendation if he is satisfied that the act complained of was done in good faith solely for the purpose of preserving the security of Canada or any part thereof or of any State allied or associated with Canada in connexion with any national emergency or any war, invasion or insurrection, real or apprehended.

11. This Act may be cited as the Fair Employment Practices Act, 1951.

ACT TO ENSURE FAIR REMUNERATION TO FEMALE EMPLOYEES, 1951 [1]

1. In this Act,

(*a*) "Director" means Director of the Fair Employment Practices Branch of the Department of Labour;

(*b*) "Establishment" means a place of business or the place where an undertaking or a part thereof is carried on;

(*c*) "Minister" means Minister of Labour;

(*d*) "Pay" means remuneration in any form.

2. (1) No employer and no person acting on his behalf shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment.

(2) A difference in the rate of pay between a female and a male employee based on any factor other than sex shall not constitute a failure to comply with this section.

3. (1) The Minister may on the recommendation of the Director designate a conciliation officer to inquire into the complaint of any person that she has been discriminated against contrary to section 2.

(2) Every such complaint shall be in writing on the form prescribed by the Director and shall be mailed or delivered to him at his office.

(3) The conciliation officer shall forthwith after he is appointed inquire into the complaint and endeavour to effect a settlement of the matter complained of.

(4) The conciliation officer shall report the results of his inquiry and endeavours to the Director.

4. (1) If the conciliation officer is unable to effect a settlement of the matter complained of, the Minister may on the recommendation of the Director appoint a commission composed of one or more persons and shall forthwith communicate the names of the members of the commission to the parties and thereupon it shall be presumed conclusively that the commission was appointed in accordance with this Act, and no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, declaratory judgment, *certiorari*, *mandamus*, prohibition, *quo warranto* or otherwise, to question the appointment of the commission, or to review, prohibit or restrain any of its proceedings.

(2) The commission shall have all the powers of a conciliation board under section 26 of the Labour Relations Act.

(3) The commission shall give the parties full opportunity to present evidence and to make submissions and if it finds that the complaint is supported by the evidence it shall recommend to the Director the course that ought to be taken with respect to the complaint.

(4) If the commission is composed of more than one person, the recommendations of the majority shall be the recommendations of the commission.

(5) After a commission has made its recommendations, the Director may direct it to clarify or amplify any of its recommendations and they shall not be deemed to have been received by the Director until they have been so clarified or amplified.

(6) The Minister on the recommendation of the Director may issue whatever order he deems necessary to carry the recommendations of the commission into effect, and the order shall be final and shall be complied with in accordance with its terms.

(7) Each member of a commission shall be remunerated for his services at the same rate as a commissioner under the Labour Relations Act.

5. (1) Every person who fails to comply with any provision of this Act or with any order made under this Act is guilty of an offence and on summary conviction is liable to a penalty of not more than $100.

(2) The penalties recovered for offences against this Act shall be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund.

6. No prosecution for an offence under this Act shall be instituted except with the consent in writing of the Minister on the recommendation of the Director.

7. (1) This Act shall come into force on the first day of January 1952.

(2) Nothing in this Act shall affect written contracts of employment and collective bargaining agreements that were made before the first day of March 1951, but if any such contract or agreement is in force on the first day of September 1952, this Act shall apply thereto on and after that day.

8. This Act may be cited as the Female Employees Fair Remuneration Act, 1951.

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[1] *Statutes of Ontario*, 1951, c. 26. Text received through the courtesy of Mr. A. MacNamara, Deputy Minister of Labour, Ottawa. This Act came into force on 1 January 1952.

SASKATCHEWAN

ACT TO AMEND THE SASKATCHEWAN BILL OF RIGHTS ACT, 1947[1]

His Majesty, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

1. Section 16 of the Saskatchewan Bill of Rights Act, 1947, is repealed and the following substituted therefor:

16. Every person who deprives, abridges or otherwise restricts or attempts to deprive, abridge or otherwise restrict any person or class of persons in the enjoyment of:

(*a*) *Any right under section 3, 4, 5, 6, or 7; or*

(*b*) *Any right under section 8, 9, 10, 11, 12 or 13 because of the race, creed, religion, colour or ethnic or national origin of such person or class of persons;*[2]

may be restrained by an injunction issued in an action in the Court of King's Bench brought by any person against the person responsible for such deprivation, abridgement or other restriction, or any attempt thereat.

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[1] *Statutes of Saskatchewan*, 1951, c. 32. Text received through the courtesy of Mr. A. MacNamara, Deputy Minister of Labour, Ottawa. This Act was assented to 5 April 1951.

[2] Words in italics are amendments of 1951, substituted for the words in the Act of 1947 "any right under this Act". The sections referred to under (*a*) and (*b*) are reproduced in *Yearbook on Human Rights for 1947*, pp. 73–74. Sections 3, 4, 5, 6 and 7 refer to the freedom of conscience, opinion, belief, religious association, teaching, practice and worship (3); the freedom of expression (4); the right to peaceable assembly and association (5); the freedom from arbitrary arrest or detention (6); the right to exercise the franchise freely (7).

Sections 8, 9, 10, 11, 12 and 13 refer to the right to employment without discrimination with respect to the compensation, terms, conditions or privileges of employment (8); the right to engage in and carry on any occupation, business or enterprise (9); the right to acquire, to own, to lease, to rent and to occupy lands, etc. (10); the right to obtain the accommodation or facilities of any standard or other hotel, theatre, etc. (11); the right to membership in and benefits appertaining to membership in every professional society, trade union or other occupational organization (12); the right to education in any school or other place of learning, vocational training or apprenticeship.

CEYLON

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS

The Parliament of Ceylon, in 1951, adopted the following Acts[1] which are relevant to human rights:

Municipal Council (Amendment) Act, No. 3 of 1951;
Education (Amendment) Act, No. 5 of 1951;
Muslim Marriage and Divorce Act, No. 13 of 1951;

this Act makes provision with respect to marriages and divorces of Muslims in Ceylon and, in particular, with respect to the registration of such marriages and divorces;

Newspapers (Amendment) Act, No. 18 of 1951;
Housing Loans (Amendment) Act, No. 22 of 1951.

No other laws of importance in the field of human rights were enacted during the year.

[1]English text in *Acts of Ceylon*, 1951, Colombo, Ceylon Government Press.

CHILE

DECREE No. 4244 APPROVING THE REGULATIONS RELATING TO THE AMATEUR RADIO COMMUNICATIONS SERVICE[1]

dated 30 September 1950

CHAPTER I

GENERAL

. . .

Art. 2. The necessary permit must be obtained from the Directorate-General of Electrical Services (hereinafter called the Directorate), in accordance with the provisions of the present regulations, before amateur radio stations are installed and put into operation. Every such permit shall be subject to all the relevant legal provisions and regulations, in force or subsequently issued, and to those pursuant to international conventions signed by the Government.

Art. 6. Officials authorized by the Directorate for the purpose shall have free access to all premises of amateur radio stations.

Art. 8. The Directorate may cancel any amateur radio operator's licence when, in its opinion, circumstances make such action advisable, without the person concerned being entitled to claim compensation of any kind.

Art. 9. In the event of any doubt or difference of opinion, it shall be the responsibility of the Directorate to interpret the provisions of the present regulations and to establish rules for any special cases which may arise.

CHAPTER IV

PERMITS FOR AMATEUR RADIO STATIONS

. . .

Art. 24. Applications for licences to operate amateur radio stations from persons under eighteen years of age must be accompanied by a written authorization from the parent or guardian. In the authorization the parent or guardian must agree to assume such civil responsibilities as may subsequently be incurred by the applicant, in the course of his activities as a licence-holder.

. . .

CHAPTER V

LICENCES FOR AMATEUR RADIO OPERATORS

Art. 26. Chilean citizens over fifteen years of age who fulfil the requirements of the present regulations are entitled to obtain an amateur radio operator's licence.

The Directorate may grant an amateur radio operator's licence to foreign nationals who produce evidence of at least one year's continuous residence in the country, are over fifteen years of age and fulfil the requirements of the present regulations. The Directorate is not obliged to give reasons for refusing an application.

Art. 43. Licences may be suspended or permanently withdrawn by the Directorate, as a penalty or because of a public emergency.

Art. 44. Any radio operator's licence is automatically cancelled without right to renewal if the holder: (*a*) is sentenced to a penalty involving loss of civil rights; (*b*) has more than three times incurred penalties imposed by the Directorate which involved temporary suspension.

CHAPTER VI

OPERATION OF AMATEUR RADIO STATIONS

Art. 45. Amateur radio stations may be used only for amateur purposes, in accordance with the category to which they belong, and may communicate only with amateur stations or stations of other services expressly authorized to communicate with them.

Art. 46. An amateur station may not be used to transmit communications, even as an emergency measure, for payment, direct or indirect, made or promised. Such a station may likewise not be used to transmit any kind of entertainment, such as music, speeches, songs, theatrical performances, lectures, etc., even as an ex-

[1] Spanish text in *Diario Oficial* of 3 April 1951. English translation from the Spanish text by the United Nations Secretariat.

periment. Further, such a station may not be used to re-transmit broadcasts by other stations not forming part of the amateur service, whether direct or recorded by any electrical or mechanical means.

Art. 47. It is absolutely forbidden to include in the communications any commercial matter, relating either to third parties or to the licence-holder, either in clear or in disguised form; however, questions concerning the material or apparatus used by any of the communicating stations shall not be deemed commercial matter.

The transmission of words or ideas offensive to decency and morals is likewise absolutely forbidden.

Art. 48. Generally speaking, transmissions may only be in plain language and in Spanish; the Directorate may, however, specify other languages which may be used. Use of the accepted international abbreviations for amateur radio broadcasting is, however, permitted.

Art. 51. The Directorate may decide when a person who does not hold the requisite radio operator's licence may use the microphone of telephone exchanges. The radio operator in charge of the apparatus at that time must announce the station's call sign and give the name of the person using the microphone.

The name of the person in question must be recorded in the register of the station.

. . .

CHAPTER XI

SANCTIONS AND PENALTIES

. . .

Art. 73. The Directorate may suspend, temporarily or permanently (according to the circumstances, of which it shall be the judge), the licences of radio operators who fail to give the Directorate an account of the activities of their portable or mobile stations in the form required by the present regulations.

Art. 75. The transmission of slanderous or immoral expressions, false announcements, information or reports, propaganda against the established constitutional regime inciting to subversion against the public order or violating the customs or laws of the country, shall be punished by a fine of 1,000 pesos, without prejudice to the relevant penal proceedings. The Directorate may, in any event, apply article 83 of the present regulations.

Art. 81. The unauthorized disclosure of messages of any service intercepted by an amateur station shall be punished by a fine of 500 pesos, without prejudice to the penal action provided for under article 337 of the Penal Code and the application of article 83 of the present regulations.

Art. 83. The Directorate may, in any event, temporarily or permanently withdraw the licence of an amateur radio operator when it considers that the activities of the person concerned should be ended.

REGULATION TO REPLACE ARTICLES 30 AND 36 OF THE TRADE UNION ORGANIZATIONS (AMENDING) DECREE No. 1030 OF 26 DECEMBER 1949[1]

dated 8 May 1951

. . .

Art. 30 (as amended in 1951). A person may not offer himself as a candidate for election to the executive board of a trade union unless he has first been nominated at the preparatory meeting prescribed in article 379, paragraph 1, of the Labour Code (such meeting to be held in the month previous to that in which the member or members of the executive board are to be elected, and to comply with the formalities required by the articles of association or regulations of the trade union concerned) or his name has been included in the list of candidates drawn up at least one month before the date of the election.

The name of the candidate or the list of the candidates nominated in conformity with the preceding paragraph shall be communicated immediately by the chairman and secretary of the trade union, or by any official or member of the trade union, to the competent Inspectorate of Labour (*Inspección de Trabajo*), with particulars of the surname and two first names of the candidate, his trade or profession, domicile, undertaking or establishment where employed, number of identity card or office issuing it and electoral registration.

This communication shall be made without prejudice to the communication which, pursuant to article 379, paragraph 1, of the Labour Code, is to be made to the employer or employers concerned.

Art. 36 (as amended in 1951). The Inspectorate of Labour shall verify if the candidates whose names appear on the list referred to in article 30 are members of any of the associations, entities, parties, factions or movements described in title I, articles 1 and 2, of decree No. 5839 of 30 September 1948, which con-

[1] Spanish text in *Diario Oficial* of 15 May 1951. English translation from the Spanish text by the United Nations Secretariat. The regulation came into force on the day of its publication in the *Diario Oficial*.

solidates the provisions of the Act regarding the permanent defence of democracy.[1]

For these purposes, the presumptions referred to in the transitional article 3 of the said Act[2] shall be specially taken into account.

If the said presumptions are not applicable to the candidate or candidates, the Inspectorate of Labour shall conduct the necessary investigations to verify whether the candidate or candidates are members of the said associations, for which purpose it shall apply to the police and investigation departments for the necessary reports and shall endeavour to collect all the probative evidence.

If, as the result of this investigation, it appears that any candidate is disqualified for the above reasons, the Inspectorate of Labour shall inform the competent labour court accordingly, pursuant to articles 497, 498 and 554 of the Labour Code.

The date of the election for the post of official or for the executive board shall be appointed as soon as the competent Inspectorate of Labour has received from the trade union or from any of its members, the lists naming the candidate or candidates who qualify, or, if there is any doubt concerning their qualifications, as soon as the labour court has given a ruling.

[1] See *Yearbook on Human Rights for 1948*, pp. 36–37.

[2] Paragraphs 2–4 of this transitional article 3 provide: "For the purposes of this article and for the purposes of the other provisions of this Act and of the provisions thereby amended, it shall be presumed that a person is a member of the Communist Party of Chile if he is now or was formerly a member of the national, regional or local executive organs, or of any cell, of that party; or if, not being a member of some other party, he appeared as a candidate in the returns of candidates presented for Parliament or the post of *regidor* by the Communist Party of Chile, or by the National Progress Party; or if he made these returns on behalf of the said parties or signed them in the capacity of sponsoring elector in the last elections for Parliament or for the post of *regidor*; or if he has held the post of Minister of State, Intendant, Deputy-delegate or District Inspector as the representative of the Communist Party.

For the aforesaid purposes, it shall furthermore be presumed that a person is a member of the Communist Party if, not being a member of some other party, he acted as the authorized representative of the aforesaid parties at the polling stations or before the departmental colleges or boards polling officers at the last ordinary or extraordinary elections for Parliament or for the post of *regidor* or for President of the Republic. For the purpose of proving these facts a certificate issued by the Director of the Electoral Register or by the Head of the Electoral Archives testifying to these facts, and to the circumstances that the person has stood as candidate or acted as sponsor or presented the said returns of candidates, shall constitute conclusive evidence.

The presumptions raised in the preceding paragraphs shall not be relied upon as evidence for the application of penalties in respect of acts committed before the promulgation of this Act.

ACT No. 9864 TO AUTHORIZE A GRANT AS SPECIFIED THEREIN TO FREE PRIVATE PRIMARY SCHOOLS AND INSTITUTIONS OF SECONDARY EDUCATION, VOCATIONAL AND TEACHER TRAINING[1]

of 15 January 1951

Art. 1. Primary schools and institutions giving secondary education and vocational and teacher training courses, which are free and private, shall receive an average assistance grant per pupil equivalent to half the cost of a primary school pupil in the case of the former, and to half the cost of a pupil attending a State high school or corresponding State school, in the case of the latter.

An institution shall be deemed to be giving free education if it does not charge tuition fees.

Art. 2. The grant shall be paid to the private primary schools which fulfil the conditions laid down in article 68, paragraphs (*a*), (*b*), (*c*) and (*d*), of decree No. 5291, of 22 December 1929, of the Ministry of Education, and whose secular teachers have completed at least three years of studies in the humanities or hold a teaching certificate from any of the universities recognized by the State in conformity with legislative decree No. 280, of 30 May 1931, or from a teacher training college. It shall be a further condition that all secular staff receive the minimum remuneration and all statutory allowances.

For the purposes of this Act, ten years of teaching experience shall be considered sufficient qualification, provided that the teachers in question have received satisfactory marks from the inspectors in their particular subjects.

Private institutions giving secondary education and vocational and teacher training courses shall be eligible for a grant, provided that they are free, adopt the curricula of State high schools or corresponding State schools for the technical and basic courses and operate for at least the same number of hours as the latter.

The secular teachers responsible for instruction in the higher classes of free high schools, in addition to fulfilling the conditions laid down above, shall have completed six years of study in the humanities.

. . .

[1] Spanish text in *Diario Oficial* No. 21861 of 25 January 1951. English translation from the Spanish text by the United Nations Secretariat.

REGULATION No. 10783 FIXING THE AMOUNT OF SUBSIDIES TO BE GRANTED TO PRIVATE EDUCATIONAL INSTITUTIONS

of 17 November 1951

SUMMARY

This regulation, published in *Diario Oficial* of 21 December 1951, fixes the average cost of instruction per pupil to determine the amount of a subsidy to be granted to private educational institutions—primary, secondary, normal and professional schools—which, according to Act No. 9864 of 15 January 1951,[1] are entitled to receive half the sum expended per pupil in State schools. The average expenditure for a pupil in a State school is fixed (in Chilian pesos) at:

4,204.35 in primary and normal schools;
9,105.42 in secondary schools;
18,777.35 in professional schools;
48,477.63 in elementary agricultural schools;
56,318.79 in technical agricultural schools.

[1] See the preceding text.

COLOMBIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

Throughout 1951 the peace remained disturbed and the whole nation continued in a state of siege, a situation provided for and regulated by article 121 of the Fundamental Charter.

Title III of the National Constitution[2] remained in force, and was applied within the natural limits imposed by these conditions.

In its concern to ensure that elections were honestly conducted, the Government engaged a team of Canadian experts to revise the electoral rolls, correct the abuses in registration and provide each citizen with a permanent identity document incapable of any kind of falsification.

When the Canadian team had completed its work, the Government announced an election for senators and representatives to the National Congress; the election was held on 16 September in full freedom with all the necessary safeguards.

The Government took the necessary steps to see that all citizens exercised their right to vote and, to ensure respect for the rights of others, stipulated, by decree No. 1037 of 15 May,[3] that if for any reason a political party decided to take no part in the election, the other parties could not take over the seats allotted to the abstaining party.

As a result of the elections held in these conditions, the Government party occupied only the seats allotted to it as the majority party, and the National Congress met in regular session to carry out the functions assigned to it in the Constitution.

In the course of the sessions, the National Congress, on the proposal of the Government, approved in first reading the law to convene a National Constituent Assembly, the necessity and urgency of which was stressed in a presidential message stating that the Constitution of 1886 no longer corresponded entirely to the spirit of the times and that the new Constituent Assembly should "put new life into the Charter, bring it up to date, eliminate any inconsistencies that experience had disclosed and, in order to provide for all contingencies, introduce any necessary innovations to bring it into harmony with the spirit of this new epoch in the history of Colombia".

In accordance with article 46 of extraordinary decree No. 3743 of 1950, the Ministry of Labour prepared an official edition of the substantive labour code with the modifications provided for in that. The labour code in its new form entered into force on 1 January 1951; its general principles are reproduced in this *Yearbook*.

The provisions governing the Colombian Social Insurance Institute were amended by extraordinary decree No. 1199 of 29 May 1951. A survey of the laws and regulations governing social insurance in Colombia and a summary of these provisions are included in the present *Yearbook*.

The Ministry of Labour issued resolution No. 206 of 1951 on 25 April 1951. This resolution lays down regulations for the settlement and payment of retirement benefit for financing workers' housing, and fixes the conditions to be observed by firms which are compelled to provide group life insurance for their workers and which wish to qualify as insurers under the terms of the labour laws.

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[1] Note based on the text received through the courtesy of Mr. Hernando Rivas, First Secretary of the Delegation of Colombia to the United Nations. English translation from the Spanish text by the United Nations Secretariat.

[2] This title (articles 16–52) concerning civil rights and social guarantees is reproduced in *Yearbook on Human Rights for 1946*, pp. 68–70.

[3] See the following text.

DECREE No. 1037 LAYING DOWN CERTAIN PROVISIONS REGARDING ELECTIONS[1]

dated 15 May 1951

Art. 1. The Government shall immediately arrange for the issuance to citizens of identity cards which shall be as nearly as possible proof against fraud.

Art. 2. For the purpose of the next elections for senators and representatives, the Electoral Court shall send, through the intermediary of the National Civil Registry, to each city hall, town hall and police headquarters where there is a representative of the municipal registrar, a roll or list of the citizens whose identity cards have been verified and found to correspond with the fingerprint registration papers deposited with the National Registry. This roll or list shall serve as the electoral roll for the constituency concerned and, accordingly, only the persons included therein, provided they also fulfil the other legal requirements, shall be entitled to vote in the next elections.

Art. 3. As soon as the Electoral Court has carried out the provisions of the previous article, it shall inform the National Government, which shall name one of the succeeding thirty days for holding the elections for senators and representatives.

Art. 4. The elections for councillors and deputies to departmental assemblies shall be held on the date fixed by the Congress.

Art. 5. At the next elections for senators and representatives, the scrutineers shall first ascertain the number of votes cast for each of the various parties which have registered lists of candidates and then allot the majority of the seats to the party that has received the largest number of votes. The rest of the seats shall be allotted to the other parties on the basis that the same number of votes shall be required for each seat as in the case of the majority party, that number being determined by dividing the number of votes cast for the majority party by the number of seats allotted to it.

If the number of votes cast for each of the parties other than the majority party does not reach the figure for each seat of the majority party, one seat shall be allotted to each party which has received more than half that figure.

Any seats which cannot be filled in accordance with the provisions of this article shall remain vacant.

When the name of any of the traditional parties of Colombia appears in a registration list, that list shall be regarded as belonging to the traditional party, even when accompanied by other names.

Art. 6. Once the seats in the body for which the elections were held have been allotted to the various parties as described above, the candidates who are to occupy the seats shall be decided from the names in the various lists, due regard being had to the distribution of seats among the various political parties as provided for above and to the principle that, where there are several lists for the same political party, preference shall be given to the list which has received the largest number of votes and to the candidates on that list in the order in which their names appear.

Art. 7. For all constitutional and legal purposes, the persons elected in accordance with the above rules shall constitute the bodies concerned and shall be the only members thereof.

Alternates, who are elected when the need arises, shall have the status of members only when they are representing the elected member in his absence.

Art. 8. When the membership of a body has to be based on the political composition of one of the legislative chambers, the provisions of the preceding article shall be observed, but for the purposes of election or appointment and in order to ensure the correct representation of the parties, the vacant seats in the corresponding legislative chamber shall be regarded as belonging to the political party other than the party with a majority in the body which, during the immediately preceding period, was one of the two parties with the largest representation therein.

Art. 9. Any person voting in the next popular elections either more than once, or in place of another elector, or while under age or deprived of his civil rights, or with an unverified or forged identity card, shall be liable to imprisonment for from six months to two years.

Any polling officer conniving in, assisting in, encouraging, concealing or failing to report any of the offences referred to above shall be liable to the same penalty.

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[1] Spanish text in *Diario Oficial* No. 27615, of 30 May 1951. Text received through the courtesy of Mr. Hernando Rivas, First Secretary of the Delegation of Colombia to the United Nations. English translation from the Spanish text by the United Nations Secretariat.

LABOUR CODE[1]

Decree No. 2662 of 5 August 1950, as amended by Decree No. 3743 of 20 December 1950

PRELIMINARY PART

GENERAL PROVISIONS

Art. 1. Object. The essential object of this code shall be to establish equitable relations between employers and employees, in a spirit of economic co-ordination and social equilibrium.

Art. 2. Territorial application. This code shall apply throughout the territory of the Republic to every inhabitant, irrespective of nationality.

Art. 3. Scope. This code shall govern relationships under private labour law respecting individuals and under collective labour law, both public and private.

Art. 4. Public servants. The relationships under the labour law respecting individuals between public bodies and railway employees, employees in State undertakings, public works and other State services shall not be governed by this code, but by special measures to be subsequently enacted.

Art. 5. Definition of employment. The word "employment" shall mean, for the purposes of this code, every form of free human activity, manual or intellectual, permanent or temporary, carried on of his own free will by any person in the service of another, irrespective of the object of such activity, if it is carried on under a contract of employment.

Art. 6. Casual employment. "Casual employment or temporary employment" shall mean any employment of short duration not exceeding one month, performed in connexion with tasks other than the activity normally carried on by the employer.

Art. 7. Work is obligatory. It shall be a social obligation to work.

Art. 8. Freedom of choice of work. It shall be forbidden to limit any person's right to work, or to prevent any person from carrying on any occupation, industry or trade he pleases, in so far as the exercise of such occupation, industry or trade is not unlawful, save by decision of the appropriate authority taken in order to protect the rights of employees or of society, in cases provided for by law.

Art. 9. Protection of work. All work shall be placed under the protection of the State, in the manner provided for in the National Constitution and by statute. All public officials shall be bound, in accordance with their powers and duties, to extend to all workers proper protection for the effective guarantee of their rights.

Art. 10. Equality of employees. Every employee shall be equal in the eyes of the law and shall have the same protection and the same guarantees; in consequence, every juridical distinction between workers based on the intellectual or manual nature of the work, on the way in which it is carried out or the way in which it is remunerated shall be abolished, subject to the exceptions provided for by law.

Art. 11. The right to work. Every person shall have the right to work and to choose freely his occupation or trade, subject to the rules laid down in the Constitution and by statute.

Art. 12. Right of association and right to strike. The State of Colombia guarantees the right of association and the right to strike, in the manner provided for in the National Constitution and by statute.

Art. 13. Minimum rights and guarantees. The provisions of this Code lay down the minimum rights and guarantees conferred on employees. Any stipulation which interferes with or fails to observe these minimum rights and guarantees shall be null and void.

Art. 14. Public nature of provisions; no waiver. The provisions of the law respecting human labour shall be of a public nature; there shall, in consequence, be no waiver of the rights and prerogatives conferred by such provisions, save in cases where there is an exception expressly provided for by the law.

Art. 15. Validity of compromises. Compromises involving mutual concessions respecting labour matters shall be valid, save where they affect definite and unquestionable rights.

Art. 16 (as amended by decree No. 3743 of 20 December 1950). Effects. (1) Since all enactments respecting labour are of a public nature, they shall have immediate and general effect and shall, in consequence, apply likewise to all contracts of employment existing or in force as soon as the said enactments come into force; nevertheless, such enactments shall not have retroactive effect; that is, they shall not affect any situation defined or established in accordance with previous legislation.

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[1] Spanish text in *Diario Oficial* No. 27407, of 9 September 1950. Spanish text of the amendment in *Diario Oficial* No. 27504, of 11 January 1951. An English translation of the entire Code can be found in: International Labour Office, *Legislative Series*, 1950, Colombia 3.

(2) If a later Act establishes a benefit already granted by the employer either spontaneously or by agreement or under an arbitration award, the employee shall receive whichever benefit is the more favourable to him.

Art. 17. Organization of supervision. The administrative labour authorities shall be responsible for supervising the enforcement of social legislation.

Art. 18. (Repealed by decree No. 3743 of 20 December 1950.)

Art. 19. General rule of interpretation. In interpreting this code, account shall be taken of its object, as expressed in section 1.

Art. 20. Additional rules of interpretation. Whenever there is no provision which can be exactly applied to any particular matter in dispute, provisions respecting similar matters, the principles emanating from this code, case law, custom and usage and legal doctrine shall be applied, and also Conventions and Recommendations adopted by the International Labour Organisation and the International Labour Conference, in so far as they are not in conflict with the national social legislation, and such principles of ordinary law as are not in conflict with those of labour law, and always in a spirit of equity.

Art. 21. Conflict of laws. Whenever there is a conflict between enactments respecting labour and any other enactments, the labour enactments shall take precedence.

Art. 22. More favourable provisions. Whenever there is a conflict or doubt respecting the application of provisions of legislation in force respecting labour, the provisions which are more favourable to the employee shall take precedence. The provisions adopted must be applied in their entirety.

NOTE ON SOCIAL INSURANCE IN COLOMBIA[1]

I. LEGAL PROVISIONS IN FORCE IN 1951

Act No. 90 of 1946 (26 December) establishing compulsory social insurance and setting up the Colombian Social Insurance Institute.

Decree-law No. 2324 of 1948 (11 July) enacting certain provisions relating to compulsory social insurance and regulating the operation of the Colombian Social Insurance Institute.

Decree No. 4225 of 1948 (23 December) to approve the Statutes of the Colombian Social Insurance Institute.

Decree No. 320 of 1949 (15 February) enacting certain rules relating to compulsory social insurance, together with other provisions.

Decree No. 721 of 1949 (22 March) to approve the general regulations for compulsory sickness and maternity insurance.

Decree No. 1343 of 1949 (9 May) to approve the general regulations of the Colombian Social Insurance Institute governing claims, penalties and procedure.

Extraordinary Decree No. 3850 of 1949 (5 December) amending Act No. 90 of 1946 and Decree-law No. 320 of 1949, suspending certain provisions and extending the social insurance system to the rural population.

Decree No. 521 of 1950 (20 February) to endorse the establishment of a Social Insurance District Fund for Quindio and Norte del Valle and approve the statutes for the said fund.

Decree No. 2623 of 1950 (4 August) to approve the general regulations for compulsory insurance in respect of employment injuries (industrial accidents and occupational diseases).

Extraordinary decree No. 1199 of 1951 (29 May) amending the supplementary provisions of the Colombian Social Insurance Institute.

II. SUMMARY OF THE SOCIAL INSURANCE PROVISIONS

General

In general, social insurance is compulsory for all persons working under a contract of employment. It covers sickness of non-occupational origin and maternity, industrial accidents and occupational diseases, invalidity, old age and death.

For the purpose of the organization and administration of the various branches of social insurance, Act No. 90 of 1946 created two types of legal person under social law with property distinct from that of the State:

(*a*) The Colombian Social Insurance Institute, which is responsible for policy decisions in all branches of social insurance in the country, supervises all social insurance activities and itself administers directly the various types of insurance, except that covering sickness of non-occupational origin and maternity;

(*b*) The district funds, which are responsible for the direct administration of the insurance covering sickness of non-occupational origin and maternity in an economic region specified by the Institute; they also serve as agencies of the Institute for the types of insurance administered directly by it.

Both the Institute and the district funds are financed by a system of compulsory triple assessment of the State, workers and employers, the proportion to be

[1] Note received through the courtesy of Mr. Hernando Rivas, First Secretary of the Delegation of Colombia to the United Nations. English translation from the Spanish text by the United Nations Secretariat.

paid by each being based on the Institute's actuarial calculations of workers' wages. In the case of insurance against industrial accidents and occupational diseases, the assessment applies only to the employer.

Benefits in respect of Sickness of Non-occupational Origin and Maternity

The benefits are in cash and in kind for this type of insurance, which is the only type at present in force.

The benefits in kind are as follows: medical, surgical, pharmaceutical, dental and hospital aid, preventive medicine, laboratory tests, drugs, X-rays and obstetric treatment both for the insured and for their wives or female companions; full paediatric care for the children of insured persons up to the age of six months; nursing aid for mothers who cannot feed their children properly, and supplementary food (a fortnightly ration) for those who can.

Benefits in cash consist, in the case of maternity, in the payment of full wages for four weeks before and four weeks after confinement. In the case of sickness without hospitalization, the payment is two-thirds wages for the first 120 days of incapacity and half wages for the next 60 days—i.e., for a maximum of 180 days; in the case of incapacity with hospitalization the payment is half the amount payable for sickness without hospitalization.

Territory and Population covered

The economic region of Bogotá: this includes the towns of Bogotá, Bosa, Soacha, Fontibon, Engativa and Usaquen; it has at present 85,000 insured plus 25,000 other beneficiaries (wives, female companions and children of the insured), giving a total of 110,000 persons covered by the system.

District fund of Antioquia—includes the towns of Medellin, Envigado and Itagui; it has at present 75,300 insured plus 22,000 other beneficiaries (wives, female companions and children of the insured), giving a total of 97,300 persons covered by the system.

District fund of Quindio and Norte del Valle—includes the towns of Preira, Alcala, Ansermanuevo, Armenia, Calarca, Cartago, Circasia, Filandia, Marsella, Montenegro, Quimbaya, Santa Rosa de Cabal and Ulloa; it has at present 23,000 insured plus 7,000 other beneficiaries (wives, female companions and children of the insured), giving a total of 30,100 persons covered by the system.

In the three regions there are a total of 183,400 insured and 54,000 other beneficiaries (wives, female companions and uninsured children of the insured), giving a grand total of 237,400 persons covered for sickness of non-occupational origin and maternity.

COSTA RICA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

Act No. 1266 of 20 February 1951 amending certain articles of the Organic Act on the Judiciary. Extracts from this Act are published in this *Yearbook.*

Act No. 1273 of 13 March 1951, authorizing the Government to ratify the Inter-American Convention on the granting of political rights to women and the Inter-American Convention on the granting of civil rights to women.[2] This Act is published in *La Gaceta* No. 67, of 22 March 1951.

Summaries of certain decisions of cases related to human rights by courts of Costa Rica, published in this *Yearbook.*

[1] This note is based on texts and information received through the courtesy of Dr. Fernando Fournier, Professor of International Law, San José.

[2] The texts of these conventions (with introductory note) are published in *Yearbook on Human Rights for 1948*, pp. 438–440.

LEGISLATION

ACT No. 1266 TO AMEND THE ORGANIC ACT CONCERNING THE JUDICIAL POWER [1]

dated 20 February 1951

Sole article. Articles 1, 8, and 86 of the organic law concerning the judicial power shall be amended to read:

Art. 1. The judicial power shall be exercised by the Supreme Court of Justice and by the other courts established by statute.

. . .

Art. 8. The officials who administer justice may not:

1. Apply acts, decrees, orders or government decisions generally which conflict with the Constitution if they have been declared unconstitutional by the competent courts in accordance with the provisions of the Code of Civil Procedure, or in cases similar to that now awaiting a ruling;

2. Apply decrees, regulations, orders or other provisions which conflict with statute law;

3. Commend or censure public officials or official bodies for their actions;

4. Participate in popular elections in any way other than for the purpose of casting their vote; or

5. Actively participate in meetings, demonstrations or other activities of a political nature, even though they may be lawful for all other citizens.

The prohibitions contained in paragraphs 3, 4 and 5 shall apply also to all other judicial officials and employees.

. . .

Art. 86. The local judge in contentious administrative and civil matters shall deal with:

1. Administrative litigation instituted for the purpose of safeguarding the administrative rights of any person in any case where the said rights are alleged to have been impinged by any final order whatsoever made by the Executive Power or any of its officers, by a municipality, or by an autonomous or semi-autonomous institution of the State, acting as a statutory person under statutory powers;

. . .

[1] Spanish text in *La Gaceta* No. 64, of 17 March 1951. Text received through the courtesy of Dr. Fernando Fournier, Professor of International Law, San José. English translation from the Spanish text by the United Nations Secretariat. The Act was adopted by the Legislative Assembly on 20 February 1951 and promulgated by the President of the Republic on 21 February 1951.

JUDICIAL DECISIONS[1]

FREEDOM OF ASSEMBLY—DEMOCRATIC REGIME OF COSTA RICA—LAW OF COSTA RICA—CONSTITUTION OF COSTA RICA

LIGA JUVENIL REVOLUCIONARIA *v.* DIRECTOR OF THE CIVIL GUARD

Supreme Court of Justice[2]

6 March 1951

The facts. The *Liga Juvenil Revolucionaria* having announced its intention to hold a public meeting for which it had previously issued invitations, the Civil Guard decided to prevent the meeting, which had as its purpose to protest against the intervention of the United Nations in Korea. The *Liga Juvenil Revolucionaria* applied to the Supreme Court under the Injunction Proceedings Act[3] (*Ley de amparo*).

Held: That the application should be dismissed. Although article 26 of the Constitution[4] provides that the inhabitants of the Republic have the right to meet peacefully and without arms to discuss political affairs and to examine the public conduct of public officials, the Civil Guard's decision to prevent the meeting was lawful. From the leaflets announcing the meeting that were distributed, it appears that its purpose was none other than to obstruct the efforts being made by the United Nations and the western democracies to combat those who are attempting to undermine the democratic principles on which the Constitution of Costa Rica, which prohibits this kind of propaganda, is based (article 98).[5]

[1] The summaries of the following decisions were received through the courtesy of Dr. Fernando Fournier, Professor of International Law, San José.

[2] File No. 42/1951.

[3] For the text of this Act, see *Yearbook on Human Rights for 1950*, pp. 53–55.

[4] See *Yearbook on Human Rights for 1949*, page 40.

[5] Article 98 of the Constitution provides: "All citizens have the right to form parties in order to take part in national politics. Nevertheless, the formation or operation of parties which, because of their ideological programmes, methods of action or international connexions, tend to destroy the foundations of the democratic organization of Costa Rica or threaten the sovereignty of the country, shall be prohibited if the Legislative Assembly so decides by a vote of not less than two-thirds of its members after consulting the Supreme Electoral Tribunal."

SEIZURE OF PUBLICATIONS—CRITICISM OF ACTIVITIES OF UNITED NATIONS—COMMUNIST TENDENCIES—LAW OF COSTA RICA—CONSTITUTION OF COSTA RICA

DANILO JIMÉNEZ VEIGA *v.* MINISTRY OF FINANCE

Supreme Court of Justice[1]

7 May 1951

The facts. When Danilo Jiménez Veiga went to the Post Office Parcels Department to take delivery of a consignment of periodicals addressed to him from Mexico, the head of the department informed him that he had orders from the Ministry of Finance not to hand over the consignment because the periodical in question was the publication entitled *Partidarios de la Paz*. Danilo Jiménez Veiga applied to the Supreme Court of Justice under the Injunction Proceedings Act[2] (*Ley de amparo*) for a remedy against the refusal of the head of the Post Office Parcels Department to hand over the consignment.

Held: That the application should be dismissed. The Supreme Court of Justice upheld the decision of the Ministry of Finance on the grounds that the publication involved was not one which supported world peace, but, on the contrary, censured the activities of the United Nations, of which Costa Rica is a Member. No violation of article 98 of the Constitution[3] was involved in this case, since the publication in question expressed admittedly communist views.

[1] Decision published in *Boletín Judicial* No. 152, year LVII.

[2] See the preceding text, footnote 3.

[3] See the preceding text, footnote 3.

FREEDOM OF MOVEMENT—PROHIBITION OF PRIVATE MONOPOLIES—LAW OF COSTA RICA—CONSTITUTION OF COSTA RICA

GUILLERMO MEZA CASTRO *v.* DEPARTMENT OF TRAFFIC

Criminal Court, San José[1]

28 November 1951

The facts. The Department of Traffic prevented the free movement of vehicles owned by Guillermo Meza Castro which were used for a commercial passenger service between San José and Heredia. The complainant brought an action before the First Criminal Court of San José on the grounds that his rights had been infringed. The Department of Traffic Police alleged that the complainant's vehicles were withdrawn from circulation because it was necessary to prevent unfair competition with the established omnibus companies. The complainant claimed that articles 22 and 46 of the Constitution,[2] which respectively establish freedom of movement and prohibit private monopolies, had been violated.

Held: The order of the Department of Traffic Police was set aside on the grounds that it violated articles 22 and 46 of the Constitution.

Decision of the Second Penal Chamber (of the Supreme Court): The decision appealed against was upheld on the original grounds.

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[1] Decision published in *Boletín Judicial* No. 88, year LVIII.

[2] These articles read as follows:

"*Art. 22.* Every Costa Rican may move to, and stay in, any place in the Republic or abroad, provided that he is free of legal liability, and may return when he pleases. Conditions calculated to prevent their entry into the country may not be imposed on Costa Ricans."

"*Art. 46.* Private monopolies and any acts, even if originating in a law, likely to threaten or restrict the freedom of trade, agriculture and industry are prohibited.

"State action with a view to preventing any monopolistic practices or tendencies is in the public interest.

"Undertakings which are *de facto* monopolies shall be regulated by special legislation.

"The approval of two-thirds of all the members of the Legislative Assembly shall be required for the establishment of new monopolies in favour of the State or of municipalities."

CUBA

DECREE OF THE MINISTRY OF EDUCATION No. 1087 FOR THE ELIMINATION OF ILLITERACY [1]

dated 7 March 1950

Introductory Note.[2] The present decree was issued in implementation of Article 49 of the Constitution of Cuba, which provides that "the State shall maintain a system of schools for adults, specially dedicated to the elimination and prevention of illiteracy . . ."[3] The preambular part of the decree, in addition to referring to this article of the Constitution, asserts that the illiteracy prevailing in Cuba is such as to require measures for reducing the percentage of illiterates, and that everyone is entitled to fundamental education, to learn the elements necessary for the protection of health and to contribute technically to the conservation of natural resources so that he may become a responsible member of society.

The decree is intended to eliminate illiteracy through the regular school system of the State and through mobilizing the population in order to enlist its co-operation in attaining this objective. Elimination of illiteracy among adults is considered as a specialized educational activity owing to the aims sought, the subjects to be taught and the methods employed. The decree is designed to provide for the organization of the campaign and to create machinery for the purpose of eradicating illiteracy.

CHAPTER I

THE ELIMINATION OF ILLITERACY

Art. 1. The elimination of illiteracy shall be interpreted to mean not only teaching persons to read and write, but also offering them a general social education, particularly concerning hygiene and citizenship, the essentials of a fundamental education enabling them to fulfil the duties and exercise the rights of citizens.

Art. 2. Instruction to illiterates shall be free of charge, subject to the inspection and supervision of the State and in keeping with the conditions and technical organization prescribed in this decree.

Art. 3. In the schools giving literacy classes for adults, whether they be public or private, it shall not be permissible to carry on political or religious propaganda or to disseminate teachings in conflict with the democratic principles proclaimed in the Constitution of the republic.

Nevertheless, private institutions of whatsoever type which conduct literacy classes for adults on their own account, and which do not join the official system set up by this decree, shall not be governed by the special terms thereof, but only by the relevant legislative or constitutional provisions in force.

Art. 4. For the purposes of this decree, literacy centres operated by the State, the provinces or municipalities shall be designated "official" or "public", and centres supported by private institutions or persons shall be designated "private".

Art. 5. The Ministry of Education shall be responsible shall for establishing and administering the official literacy centres and for supervising the private centres. Nevertheless, other ministries may establish and administer literacy centres, though the organization thereof and the methods employed therein shall be subject to the conditions prescribed by this decree and to supervision by the technical experts of the Ministry of Education.

Art. 6. In accordance with article 213 (*c*) of the Constitution, each municipality in the republic shall make every effort to organize at least one literacy centre in the municipal district.

CHAPTER II

AGENCIES AND FUNCTIONS

Art. 7. The national literacy campaign shall be directed by the following agencies:

(*a*) A national institute;
(*b*) Local institutes;
(*c*) A directorate-general;
(*d*) Provincial offices;
(*e*) Local offices.

[The following articles deal with the administrative functions and responsibilities of the agencies listed in article 7.]

[1] Spanish text in *Gaceta Oficial* of 31 January 1951. English translation from the Spanish text by the United Nations Secretariat. The decree came into force on the day of its publication in the *Gaceta Oficial*.

[2] This note is based on the preambular part of the present Act.

[3] See *Yearbook on Human Rights for 1946*, p. 78.

CHAPTER III

THE SYSTEM FOR ELIMINATING ILLITERACY AMONG ADULTS

Art. 17. The campaign for eradicating illiteracy among adults shall be conducted by means of the following two types of institution:

(*a*) Existing schools for adults;

(*b*) Temporary organizations for the eradication of illiteracy—literacy centres, volunteers who give literacy training, travelling teachers and literacy societies.

Art. 18. The schools referred to in paragraph (*a*) of the preceding article form part of and are bound by the rules governing the regular educational system of the country.

Art. 19. The literacy centres shall be conducted by teachers or persons whose services are retained for a certain term or accepted on a voluntary basis, and shall continue to operate in localities for as long as is necessary to fulfil their objective of eradicating illiteracy among the masses of the population.

Art. 20. Travelling teachers shall instruct population groups which are scattered and isolated and shall give their services for the term for which they are retained.

Art. 21. Literacy societies shall be voluntary associations constituted for the purpose of instructing illiterates and of carrying on other activities appropriate to this campaign.

Art. 22. The study plans, programmes and methods of work shall be established in keeping with:

1. The characteristics of the physical and mental development of the illiterate students with a view to encouraging the development of their aptitudes;
2. The geographical and social and economic conditions of the different regions of the country, so that the adults, by becoming more familiar with their environment, will understand its problems and contribute to the solution thereof.

Art. 23. Regular adult schools and literacy centres shall carry on their work so as to encourage students to continue studies including the more advanced stages of the educational system.

Art. 24. Adequate arrangements shall be made to ensure that the social environment in which literacy centres operate is conducive to the literacy campaign.

CHAPTER IV

LITERACY CENTRES

Art. 25. Literacy centres shall be established by the directorate-general of the literacy campaign having regard to the results of the census of illiterates. Courses shall be conducted during the daytime and in the evenings, in cities and rural areas, for men or for women, or for men and women, and after work at hours convenient to the students.

Art. 26. It shall be the object of the studies in the literacy centres to teach the students the elements of education—reading, writing and the rudiments of arithmetic sufficient to meet the needs of daily life; to develop in each individual the capacity to think and speak clearly and precisely; to train him to adjust himself intelligently to the rapid changes in modern life; to train him to understand his rights and lead him to a better future; and to live in dignity.

Art. 27. The teachers in the literacy centres shall be designated by the directorate-general of the campaign and shall serve for as long as is necessary to carry on this specialized work.

Art. 28. The following may be teachers in the literacy centres: persons authorized by the legislation in force to serve as teachers in public schools in the country, and volunteers who have been given prior training by the directorate of the campaign in accordance with the prescribed rules, subject in each case to the constitutional provisions in force.

CHAPTER V

EXTRA-CURRICULAR EDUCATION

Art. 30. Extra-curricular education shall be given to groups of adults attending evening schools and literacy centres with a view to strengthening their democratic opinions and national consciousness, instilling better ideals of family and social life, and developing their individual capacities.

Art. 31. For the purposes of extra-curricular education, use will be made of libraries, radios, theatres and the cinema, musical programmes, exhibitions, lectures, information services, publications, recreational and sports organizations and other media suitable for improving the cultural level of the group.

Art. 32. Efforts shall be made to teach better methods of cultivating the land by means of experiments in the country and in workshops operated independently of or as annexes to schools, barracks, factories, estates, trade unions or other social or economic institutions.

Art. 33. The activities of extra-curricular education shall be organized in keeping with educational and social conditions in Cuba. The directorate-general of the campaign shall determine the policy of and coordinate the extra-curricular activities, in consultation with the Ministries of Health, Social Welfare and Agriculture.

[Chapter VI deals with technical supervision.]

PRESIDENTIAL DECREE No. 2556 CONCERNING NIGHT SCHOOLS [1]

of 21 August 1950

Introductory Note.[2] Night schools in Cuba were set up to reduce illiteracy among the adult population. The present decree intends to broaden the objectives of night schools and especially, to extend cultural preparation and to equip adults for employment and manual arts, and for service in public and private organizations, commerce, industry, in domestic and clerical positions, thereby raising and improving the living conditions of those persons who are prevented from pursuing their studies in other educational institutions.

First: Article 309 of decree No. 2726 of 26 October 1946, containing the General Regulations on Primary Education, shall be amended to read as follows:

"*Art. 309.* The night schools shall be divided into urban and rural schools and shall preferably be co-educational, except when the nature of the subject of instruction would make it advisable that they should be for one sex only, or in the case of vocational schools in which the subjects taught are appropriate specifically to men or women.

"The night schools, both urban and rural, may be further sub-divided as follows:

A—Schools with one classroom;

B—Schools with multiple classrooms;

C—Vocational schools operating as annexes of schools of sub-group B or independently thereof.

Second: Article 310 of the General Regulations on Primary Education shall be re-drafted as follows:

"*Art. 310.* Night schools of category A—i.e., schools with a single classroom—shall be established in sparsely populated areas; shall impart instruction for two and a half hours daily, and shall be devoted exclusively to the eradication of illiteracy. At these schools, instruction shall be given up to the third class level in the following subjects: reading, writing, grammar and syntax, arithmetic, and elementary natural and social science. At the schools in the rural districts, elementary natural science shall be directly related to agriculture.

"Night schools of category B—i.e., schools with more than one classroom—shall be established in areas where there are a requisite number of adults and shall impart instruction for at least two and a half hours daily; one of the classrooms shall be devoted to the teaching of illiterates. These schools may give instruction up to the fifth or sixth class levels in the following subjects: reading, writing, grammar and syntax, arithmetic, social sciences, natural sciences, anatomy, physiology and hygiene, agriculture, manual arts and applied drawing.

Night schools of category C—i.e., vocational schools—shall be classified as urban and rural schools and shall be established in suitable areas capable of defraying the cost of their establishment and upkeep. Teaching shall be imparted for at least two and a half hours daily; this teaching time may be extended by the district inspectors if local conditions warrant it.

Urban vocational schools shall classify their pupils according to the occupations or activities chosen by them . . .

[The following paragraphs contain the curricula for the four groups into which the pupils may be divided according to occupations or activities. Four groups are also provided for pupils in rural vocational groups.]

. . .

Sixth: Article 314 of the General Regulations on Primary Education shall be drafted to read as follows:

"*Art. 314.* Night schools may be attended by pupils of fourteen years of age. They may also be attended by children of school age who are unable to attend day schools, provided special authorization to that effect has been obtained from the district inspector, to whom adequate reasons for such authorization must be produced."

. . .

[1] Spanish text in *Gaceta Oficial* of 9 September 1950. English text based on the translation in *Fundamental Education* (a quarterly bulletin published by UNESCO), Vol. IV, No. 1, January 1952, pp. 20–22.

[2] This note is based on the preambular part of the present Act.

EQUAL CIVIL RIGHTS ACT[1]

Act No. 9 of 20 December 1950

Art. 1. Art. 57 of the Civil Code shall be amended to read as follows:

"*Art. 57.* The spouses shall mutually protect each other and maintain due consideration for each other."

Art. 2. The first paragraph of article 154 shall be amended to read as follows:

"*Art. 154.* The father and the mother jointly, or the surviving spouse, shall exercise parental authority over minor children born of the marriage; and such children shall, while under parental authority, obey their parents and shall at all times respect and honour them."

Art. 3. The wife shall exercise jointly with the husband all rights and duties of parental authority, and her consent shall be required for all acts of administration and acts affecting ownership on behalf of children under such authority.

Art. 4. In the event of divorce, the decision of the court granting the divorce shall state which spouse shall have parental authority.

A divorce decree issued prior to the entry into force of this Act which does not expressly confer parental authority upon either of the spouses shall be deemed to confer such authority upon the spouse to whom the judge has granted custody of the child; and a decree expressly conferring parental authority shall remain in full force and effect.

Art. 5. The legal capacity of spouses under eighteen years of age shall be determined by the provisions of article 59 of the Civil Code.

Art. 6. A woman may be a member of the family council and shall be so designated in the order of priority established in article 294 of the Civil Code.

Art. 7. Subject to any waiver or agreement to the contrary, property jointly acquired during the marriage shall be administered by the spouses.

Art. 8. Acts of administration may be performed by either spouse without discrimination, but any act affecting ownership of property jointly acquired shall require the consent of both spouses.

Art. 9. Any dispute between spouses concerning an act of administration or an act affecting ownership of property jointly acquired during the marriage shall be heard in accordance with the interlocutory procedure laid down in title III of Chapter IV of the second book of the Code of Civil Procedure.

Questions arising between spouses out of their exercise of parental authority with respect to the person or property of their children shall be settled in accordance with the same procedure.

Art. 10. A wife shall be free to engage in trade without the permission of her husband.

Art. 11. Any provision of the Civil Code or of any special enactment or of any legislative decree in any way limiting the provisions of this Act, and in particular paragraph 1 of article 59, title VII of the second book, paragraph 7 of article 237, and articles 1412 to 1416 of the Civil Code, are hereby repealed wholly or in part, in so far as they are incompatible with this Act.

Art. 12. Any restriction of the legal capacity of the wife incompatible with the equality of the sexes provided under the law at present in force in the country, and in particular articles, 6, 7 and 8 of the Commercial Code, are likewise repealed.

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[1] Spanish text in *Gaceta Oficial* No. 302, of 28 December 1950. English translation from the Spanish text by the United Nations Secretariat.

CZECHOSLOVAKIA

ACT No. 184 CONCERNING THE PUBLICATION OF PERIODICALS AND THE ASSOCIATION OF CZECHOSLOVAK JOURNALISTS[1]

of 20 December 1950

PUBLICATION OF PERIODICALS

Art. 1. 1. It is the duty of the Press to assist in the constructive efforts and struggle for peace of the Czechoslovak people and to contribute to their education towards socialism.

2. Press publications, meaning newspapers, magazines and other periodicals (hereinafter referred to as periodicals), may not be objects of private enterprise.

Art. 2. The publication and distribution of periodicals shall be directed by the Ministry of Information and Education, in the case of technical periodicals in agreement with the competent central authorities.

Art. 3. 1. Licences to publish periodicals may be granted to—

(i) Political parties of the Popular Front;
(ii) State authorities;
(iii) The federation of trade unions;
(iv) Central cultural, economic, mutual assistance, social and physical education organizations.

2. Licences to publish periodicals may also be granted to national and communal undertakings, undertakings authorized to carry on foreign trade, people's associations, and other legal persons, but only if the publication is shown to be necessary for their performance of an important public function.

3. Licences under paragraphs 1 and 2 shall be granted by the Ministry of Information and Education, in the case of technical periodicals in agreement with the competent central authorities.

Art. 4. The Ministry of Information and Education may withdraw a licence to publish periodicals from a publisher contravening its conditions or the regulations governing publication of periodicals.

Art. 5. 1. For the establishment of a periodical-publishing enterprise a publisher must also obtain a special permit from the Ministry of Information and Education.

2. Such a permit may be granted only to a periodical publisher so qualified to establish a publishing enterprise as to be likely to make proper use of the permit.

3. The publisher shall decide all matters relating to the publishing methods, management and purpose of a periodical.

Art. 6. Authorities, organizations and legal persons mentioned in article 3 (1, 2) publishing periodicals or carrying on publishing enterprises on the date of the entry into force of this Act may within three months from that date apply for the necessary licence; otherwise their right to publish a periodical or carry on a publishing enterprise shall lapse. Pending decision on the application, they may continue to publish periodicals or carry on publishing enterprises, pursuant to the provisions of this Act.

Art. 7. The existing liability of a responsible representative for the contents of a periodical shall, on a date to be fixed by the Ministry of Information and Education by proclamation in the *Official Gazette*, pass to the editor-in-chief or editor in charge. The Ministry of Information and Education shall also lay down in the proclamation the conditions which must be satisfied by the editor in charge.

ASSOCIATION OF CZECHOSLOVAK JOURNALISTS

Art. 8. 1. An association of Czechoslovak journalists shall be created to ensure that journalists properly discharge their duties in accordance with article 1. Only persons admitted to membership of the Association of Czechoslovak Journalists may practise as professional journalists.

2. The organization and functions of the Association of Czechoslovak Journalists shall be laid down in a constitution which the Minister of Information and Education shall publish by decree.

3. The Association of Czechoslovak Journalists shall have disciplinary authority over its members.

FINAL PROVISIONS

Art. 9. 1. All statutory provisions contrary to this Act, and in particular the Press Act No. 6/1863 r.z. (Austrian Statutes), the Press Act No. XIV/1914 as amended and supplemented, and Act No. 101/1947 Sb. (Collection of Laws) concerning the office of editor and associations of journalists, shall cease to have effect.

2. Provisions conferring duties relating to the periodical press upon other offices or authorities shall remain unaffected.

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 71, of 28 December 1950. English translation from the Czech text by the United Nations Secretariat. According to article 10, this Act came into force on the date of its publication.

DECREE No. 21 OF THE MINISTER OF INFORMATION AND EDUCATION CONTAINING RULES FOR THE ASSOCIATION OF CZECHOSLOVAK JOURNALISTS[1]

of 13 March 1951

INTRODUCTORY PROVISIONS

Art. 1. The Association of Czechoslovak Journalists (hereinafter referred to as the Association) shall be composed of professional Czecholovak journalists and shall be a legal person and shall have its headquarters in Prague. In Slovakia, the functions of the Association shall be carried out by the National Association of Slovak Journalists, with headquarters in Bratislava, as a branch of the Association; it shall be composed of journalists engaged in press, broadcast and pictorial reporting in Slovakia.

Art. 2. (1) The function of the Association shall be to ensure that journalists, through creative work on periodicals and in press, broadcast and pictorial reporting, help to organize the constructive efforts of the Czech and Slovak peoples, contribute to their struggle for peace, collaborate in their education towards socialism, and make of press, broadcasting and pictorial reporting a weapon to ensure the triumph of the will of the workers. In accomplishing this purpose, the Association shall in particular—

(*a*) Promote truthful, trustworthy and prompt reporting;

(*b*) Ensure that journalists are afforded suitable conditions for the proper performance of their work;

(*c*) Ensure, particularly by means of systematic training, the constant ideological and professional development of its members;

(*d*) Ensure that the members of the Association properly and conscientiously discharge all other duties of journalists of a people's democracy;

(*e*) Enable its members to maintain constant contact with workers in order to learn from them how to recognize problems of socialist development arising in daily life and to combine socialist theory with socialist action;

(*f*) Represent its members in relations with foreign organizations of journalists.

(2) The Association shall issue directions, which shall be binding upon its members, for the accomplishment of the purposes set forth in paragraph (1).

MEMBERSHIP

Art. 3. (1) A person shall become a member of the Association upon admission by its executive board.

(2) A person may be admitted to membership in the Association if he—

(*a*) Is a Czechoslovak citizen;

(*b*) Has attained eighteen years of age;

(*c*) Is a reliable supporter of the people's democratic system and an active participant in the building of socialism in the Czechoslovak Republic;

(*d*) Has professional and moral qualifications satisfying the high standards required of journalists;

(*e*) Is a practising journalist.

(3) Persons who do not satisfy the requirements of paragraph 2 (*a*), (*b*) or (*e*) may be admitted to membership of the Association with the approval of the Ministry of Information and Education.

Art. 4. Membership in the Association shall cease

(*a*) On resignation;

(*b*) Three months after the member ceases to practise as a journalist, unless the Executive Board of the Association grants an exception;

(*c*) By erasure;

(*d*) By expulsion.

RIGHTS AND DUTIES OF MEMBERS

Art. 10. Members of the Association are responsible for all their acts to the working people. They shall be bound faithfully to serve the People's Democratic Republic of Czechoslovakia; to support the brotherly relations and unity of the two peoples of the Republic; to deepen and strengthen faithful brotherly relations and solidarity with the Union of Soviet Socialist Republics, and friendship and solidarity with the People's Democratic States; to take an active part in the struggle for peace and democracy; systematically to unmask their enemies; and to oppose fascist ideology in any form.

Art. 11. (1) Members of the Association shall in particular be bound—

(*a*) Conscientiously to perform the functions entrusted to them;

(*b*) To participate in organizing the socialist structure and propagating new working methods and new working forms for socialist emulation;

(*c*) To be vigilant guardians of the revolutionary achievements of our people and to unmask and oppose its enemies at home and abroad;

(*d*) By means of responsible objective criticism to help to remove shortages and obstacles hampering the constructive activity, zeal and initiative of our people;

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 13, of 22 March 1951. English translation from the Czech text by the United Nations Secretariat.

(*e*) By self-sacrificing work and complete and unconditional truthfulness to protect the vital interests of the working people, and by their whole life and every deed to show that their activity springs from their own conviction;

(*f*) To remain while at work in close and constant contact with the workers; learn from them and draw upon their wealth of experience;

(*g*) To instruct and advise the working people and to assist them in their education towards socialism;

(*h*) To participate in congresses, annual meetings of members and meetings of members of the Association.

(2) Journalists shall in the practice of their profession observe the principle of co-operation with their colleagues.

(3) Members of the Association shall have the right to participate in congresses, annual meetings of members of the Association, to vote, to elect and to be elected. They shall be entitled to receive membership cards.

NATIONAL ASSOCIATION OF SLOVAK JOURNALISTS

Art. 20. (1) The functions of the Association shall be carried out in Slovakia by the National Association of Slovak Journalists.

(2) The National Association of Slovak Journalists shall in particular—

(*a*) Direct the ideological and organizational work of the Association's branches in Slovakia;

(*b*) Recommend to the Association candidates for membership;

(*c*) Direct the financial affairs of the National Association of Slovak Journalists in accordance with the budget.

(3) The National Association of Slovak Journalists shall have the following organs:

(*a*) The annual meeting of members;
(*b*) The meeting of members;
(*c*) The committee;
(*d*) The executive board;
(*e*) The chairman;
(*f*) The auditors.

(4) The annual meeting of members shall elect the chairman, the vice-chairman, the secretary, the treasurer, and three additional members of the executive board, nine additional members of the committee, fifteen alternate members of the committee, two auditors and two alternate auditors. It shall propose the establishment or abolition of district branches and professional clubs, present the budget of the National Association of Slovak Journalists, which shall be part of the Association's budget, and approve the administration of the National Association of Slovak Journalists within the limits of the budget. The annual meeting of members shall be convened and conducted in accordance with the by-laws governing the annual meeting of members of the Association.

(5) The other organs of the National Association of Slovak Journalists shall be subject to the by-laws governing the organs of the Association.

. . .

ACT No. 67 CONCERNING SAFETY IN EMPLOYMENT[1]

of 12 July 1951

Article 1

PURPOSE OF ACT

(1) The purpose of this Act is to secure safety in employment for employees and apprentices (hereinafter covered by the single word "workers") and to assist thereby in developing their creative powers, in increasing the productivity of labour, and in further raising the material and cultural level of the working people.

(2) For this purpose, supervision in matters of safety in employment shall be entrusted primarily to the workers themselves, and the measures for industrial safety and hygiene shall be extended and developed in accordance with the latest scientific and technical knowledge.

Article 2

OBLIGATION OF THE MANAGEMENT OF THE UNDERTAKING

(1) The management of the undertaking shall be responsible for ensuring safety and hygiene at the workplace. In order that the workers may, in a safe and healthy environment, achieve the best results from work with the least effort, the management of the undertaking shall among other things—

(*a*) Provide and maintain such installations in the establishments as are required for safety and hygiene, and likewise ensure safe and healthy conditions in the

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 34, of 30 July 1951. English translation received through the courtesy of the Delegation of Czechoslovakia to the United Nations. An English translation of the complete Act is published in: International Labour Office, *Legislative Series*, 1951—Cz. 2. In accordance with article 13, the Act came into force on the date of publication, except for articles 5 (1) and 7 (1), which were to take effect as from 1 January 1952.

subsidiary installations for the workers (factory dwellings, dormitories, kitchens, canteens, day nurseries, etc.);

(*b*) Provide for the education of the workers in safety and hygiene, devoting special care to newly engaged workers;

(*c*) Ascertain and remove the causes of employment injuries and occupational diseases in the establishment, keep a record of them, and immediately report serious accidents to the higher authorities and to the supervision authorities;

(*d*) Ensure that the plant and equipment manufactured in the establishments conform to the industrial safety and hygiene rules.

(2) For carrying out its duties in relation to safety in employment, the management of the undertaking shall, in agreement with the officials responsible for supervising safety in employment, appoint safety technicians in the establishments and installations specified by the Ministry concerned. The safety technicians shall carry out their duties in collaboration with the officials of the Unified Trade Union Organization.

Article 3

OBLIGATIONS OF THE WORKERS

(1) It shall be the duty of the workers to conduct themselves during work in such a way as not to endanger their own lives and health or the lives and health of their fellow workers. If they observe any defect in the establishment capable of endangering the safety or health of the workers, they must inform the management of the undertaking and the officials of the Unified Trade Union Organization.

(2) It shall be the duty of the workers to participate in the training carried out by the management of the undertaking in the interests of safety in employment, and to submit themselves to the prescribed tests and medical examinations.

Article 5

LABOUR INSPECTION

(1) The supervision of safety in employment shall be carried out by the labour inspection officials of the Unified Trade Union Organization.

(2) The powers of the labour inspection officials shall extend to all work-places and subsidiary installations, including the laboratories of technical schools, colleges and institutions (hereinafter covered by the single word "establishments").

(3) The Unified Trade Union Organization shall also carry out technical research in the field of safety in employment.

(4) The expenses on personnel and supplies in connexion with labour inspection and technical research shall be defrayed by the State.

Article 6

(1) In carrying out their supervision of safety in employment, the labour inspection officials shall primarily assist the workers and the management of the undertaking with advice. Their duties shall include the following:

(*a*) Systematically examining the establishments and subsidiary installations and ensuring that the management of the undertaking and the workers are carrying out their obligations under this Act, giving special attention to the substitution of machinery for dangerous and laborious work;

(*b*) Ordering any defects to be eliminated and, if there would be danger in delay, ordering machinery not to be used or work to cease;

(*c*) Issuing detailed instructions and indications for safety in individual establishments, other than transport undertakings;

(*d*) Allowing exceptions to the provisions on working hours and the employment of women and young persons in individual establishments and undertakings, in accordance with the statutory regulations;

(*e*) Co-operating with the people's committees and the undertakings in the planning, construction and licensing of establishments and in authorizing the commencement of production.

(2) In health matters, the labour inspection officials shall collaborate with the public health authorities.

(3) The labour inspection officials may impose fines on persons who have contravened the safety regulations, by the immediate collection procedure, in accordance with the provisions of penal administrative law.

(4) It shall be the duty of the management of the undertaking and the workers to enable the labour inspection officials to perform their functions, to give them all necessary explanations and to submit reports.

Article 7

(1) If an application therefor is made within fifteen days, the Unified Trade Union Organization shall review the arrangements made by the labour inspection officials (section 6 (1)) and may modify or countermand them.

(2) The Unified Trade Union Organization shall lay down the duties of its labour inspection officials in instructions to be approved by the Ministry of Labour

and Social Welfare in agreement with the central departments concerned.

Article 8

TECHNICAL SUPERVISION

Technical supervision of industrial safety in mining and aviation and in certain technical installations to be designated by special provisions shall be exercised by the appropriate Ministry in collaboration with the Unified Trade Union Organization.

Article 9

HEALTH INSPECTION

The duties of health inspection and industrial medicine shall be within the province of the Ministry of Health. Supervision of industrial hygiene (health inspection) shall be carried out by the public health authorities in collaboration with all others concerned, including the labour inspection officials.

. . .

ACT No. 68 CONCERNING VOLUNTARY ORGANIZATIONS AND ASSEMBLIES[1]

of 12 July 1951

VOLUNTARY ORGANIZATIONS

Art. 1. For the purpose of exercising their democratic rights and thereby strengthening the popular democratic system and for the purpose of assisting the effort to build up socialism, the people join together in voluntary organizations, including a unified trade union organization, a women's organization, a youth organization, a unified popular organization for physical training and sports, and cultural, technical and scientific associations.

Art. 2. (1) The aims of a voluntary organization (hereinafter covered by the single word "organization") and the method of achieving the said aims shall be laid down in the by-laws of the organization, which shall also include particulars as to the name and headquarters of the organization, its sphere of activities and its internal administration.

(2) The by-laws must be approved before the organization can come into existence. The power of approving the by-laws shall belong to the people's committee of the region where the headquarters of the organization is to be established; if the proposed sphere of activities of the organization extends beyond the area of a single region, the by-laws must be approved by the Ministry of the Interior.

Art. 3. (1) Membership of the organizations shall be voluntary; subject to the by-laws of the organization, any person who can contribute by his participation to the achievement of its aims shall be entitled to be a member of the organization.

(2) The structural basis of the organization shall be that of democratic centralism. For the adoption of decisions, a simple majority of votes shall suffice, the minority submitting to the majority, and the decisions adopted being binding for all. The members shall elect the officials of the organization by democratic methods.

(3) The component units of the organization shall pursue their particular aims independently while conforming to the decisions of the higher body; federated organizations shall pursue the aims for which they are federated in accordance with the decisions of the supreme body.

Art. 4. (1) The State shall assist the organizations to develop, create favourable conditions for their activities and growth, and take care that life within them proceeds in accordance with the Constitution and the principles of the popular democratic system.

. . .

Art. 5. The following are hereby declared to be organizations within the meaning of this Act: the Revolutionary Trade Union Movement, the Unified Farmers' Federations, the Czechoslovak Federation of Youth, the Czechoslovak-Soviet Friendship Federation, the Czechoslovak Federation of Women, the Czechoslovak Sokol Group and the Czechoslovak Red Cross. The Ministry of the Interior may declare other organizations or societies in existence before 1 October 1951 to be organizations within the meaning of this Act.

ASSEMBLIES

Art. 6. In accordance with the interests of the working people, the exercise of the right of assembly is guaranteed to Czech citizens in so far as the popular democratic system and public tranquillity and order are not thereby endangered.

Art. 7. The persons convening an assembly and the members of its presiding board shall ensure that order is maintained in the assembly; it shall be the duty of each participant to comply with their directions for the maintenance of order.

. . .

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 34, of 30 July 1951. English translation received through the courtesy of the Delegation of Czechoslovakia to the United Nations. An English translation of the entire Act is published in: International Labour Office, *Legislative Series*, 1951—Cz. 3. The Act came into force on 1 October 1951.

ACT No. 102 CONCERNING THE REORGANIZATION OF THE NATIONAL INSURANCE SYSTEM[1]

of 19 December 1951

Article 1

PURPOSE OF THE ACT

The great structure of national insurance is one of the main achievements of the working people as a result of the glorious February victory of the labouring class. Profiting by the experience of the Soviet Union, we are reorganizing national insurance so that it may assist in developing production; so that it may provide comprehensive and continually improving protection for the working man and women; so that the workers may themselves administer it and themselves have direct responsibility for it; and so that insurance in harmony with the development of production may become an instrument for a constant raising of the standard of living of all workers.

SICKNESS INSURANCE

Art. 3. (1) The workers united in the Revolutionary Trade Union Movement shall administer sickness insurance and take the decisions in respect of such insurance. In the case of sickness insurance for members of the different agricultural associations, this shall be done in collaboration with the representatives of the joint farming agriculturists.

(2) The provisions of this Act concerning sickness insurance shall at the same time apply in the field of family benefits.

(3) The Central Council of Trade Unions shall be the supreme authority for sickness insurance; it shall also exercise the functions hitherto belonging to the Ministry of Manpower in relation to sickness insurance and to the benefit schemes and funds for short-term benefit in the different establishments.

(4) The Central Council of Trade Unions shall administer the resources of the sickness insurance system in such a way as to keep them separate from the property of the Revolutionary Trade Union Movement. The estimated receipts and outgoings of sickness insurance shall appear in the State budget.

(5) The Central Council of Trade Unions shall submit to the Government an annual report on sickness insurance.

Art. 4. (1) The Central Council of Trade Unions shall reorganize sickness insurance so that it may be brought closer to the workers; that the benefits may be in harmony with the interests of production and workers and with the principle of reward according to deserts; and that the administration may be simplified and rendered more economical. For this purpose, the Central Council of Trade Unions shall, among other things—

(*a*) Gradually transfer the administration of sickness insurance to the establishments and trade federations, the management of the establishment being responsible for the administrative duties connected with sickness insurance;

(*b*) Reorganize the benefit structure of sickness insurance;

(*c*) Adjust the appeals procedure in matters of benefit so that appeals are decided by the workers themselves.

. . .

PENSION SECURITY SYSTEM

Art. 6. (1) The national pension insurance system shall henceforth include military pensions and pensions for victims of the war and Fascist persecution as well as supplementary pension benefits of all kind (hereinafter covered by the term "pension security system").

(2) The pension security system shall be reorganized so that it may be brought closer to the workers, that the benefits may be in harmony with the needs and development of production and with the principle of reward according to deserts, and that the administration may be simplified and rendered more economical.

(3) The reorganization of the pension security system shall be carried out by Government ordinance.

(4) The estimated receipts and outgoings of the pension security system shall appear in the State budget.

Art. 7. (1) For the reorganization and supervision of the pension security system there is hereby established a State Pension Security Commission (hereinafter called the "State Commission"), with a Slovak Pension Security Commission (hereinafter called the "Slovak Commission") as its territorial organ.

(2) The State Commission shall consist of a chairman and the necessary number of members.

(3) The chairman and members of the State Commission shall be appointed by the Government.

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 50, of 27 December 1951. English translation received through the courtesy of the Delegation of Czechoslovakia to the United Nations. An English translation of the entire Act is published in International Labour Office, *Legislative Series*, 1951—Cz. 5. The Act came into force on 1 January 1952.

(4) The members of the State Commission shall be appointed from among the workers in establishments and in agriculture, predominantly from members of the Revolutionary Trade Union Movement and also from the Unified Federation of Czech Farmers, the Unified Federation of Slovak Farmers and the Federation of Anti-Fascist Fighters, with the advice of the said organizations. The office of the President of the Government and the Ministries of Finance and of the Interior shall send representatives to the meetings of the State Commission.

(5) The members of the Slovak Commission shall be appointed by the State Commission; its chairman shall be appointed on the nomination of the chairman of the State Commission from among the Slovak members. In other respects the provisions of sub-sections (2) and (4) shall apply.

. . .

ACT No. 103 CONCERNING UNIFORM PREVENTION AND TREATMENT SERVICES [1]

of 19 December 1951

PART I.—ORGANIZATION AND FUNCTIONING OF SERVICES

Aims of the Prevention and Treatment Services

Article 1

The State shall provide uniform medical prevention and treatment services in order to secure the constant, systematic and efficient care of the human being, primarily directed towards the workers and towards ensuring the healthy development of the new generation.

Article 2

Without prejudice to the provisions of article 13, the uniform prevention and treatment services shall be planned, organized, directed and supervised by the Ministry of Health and, subject to its directives and indications, by the people's committees (hereinafter referred to as the "public health authorities"). In carrying out their tasks, the said authorities shall, in collaboration with the voluntary organizations, including the Unified Trade Union Organization, make the fullest use of the collaboration of the workers, who shall also be responsible for direct supervision of the functioning of the prevention and treatment services.

Article 3

It shall be the duty of the public health authorities and of the persons working in the institutions for prevention and treatment to raise the standard of health of the people in a systematic manner, and to carry out all their duties conscientiously and according to scientific knowledge, with due awareness of the importance of health care for the uninterrupted development of the forces of production.

Article 4

The public health authorities shall have power to undertake all forms of action needed for the prevention and treatment of disease; this shall include the power to order:

(*a*) Compulsory health inspections of the population and diagnostic examinations;

(*b*) The compulsory reporting of specified cases of disease or other circumstances of importance for the prevention and treatment services;

(*c*) The carrying out of mass prophylactic and therapeutic measures, and of measures against epidemics;

(*d*) The compulsory treatment of specified diseases.

Article 5

The State shall provide preventive and treatment services:

(*a*) With first priority and free of charge, for persons covered by national insurance and for their family dependants, in accordance with their rights under the law on national insurance;

(*b*) Free of charge in other cases, to such an extent and on such conditions as are prescribed in other laws; and

(*c*) In return for payment in all other cases.

Article 6

HEALTH AREAS

The provision of fundamental preventive and treatment services shall be organized on an area basis, the health areas being determined by the people's committees in accordance with directives of the Ministry of Health.

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 50, of 27 December 1951. English translation received through the courtesy of the Delegation of Czechoslovakia to the United Nations. An English translation of the complete Act is published in: International Labour Office, *Legislative Series*, 1951—Cz. 5-B. The Act came into force on 1 January 1952.

RESPONSIBLE INSTITUTIONS

Article 7

(1) For the provision of preventive and treatment services the following categories of health institution are established:

(*a*) Hospitals (as a rule, through a health centre):

District hospitals;
Regional hospitals.

(*b*) Special medical and nursing establishments (including hydrotherapeutic and climatotherapeutic establishments):

Establishments for the treatment of tuberculosis;
Establishments for psychiatric treatment;
Other establishments for special treatment;
Convalescent homes;
Night sanatoria;
Nursing establishments.

(*c*) Out-patient establishments:

Nursing stations;
Medical stations;
Area, district and regional health centres.

(*d*) Maternity and child care establishments:

Maternity hospitals;
Establishments for infants;
Children's homes (for children up to three years);
Day nurseries;
Women's consulting-rooms;
Child consulting-rooms.

(*e*) Establishments for research into the prevention and treatment of disease;

(*f*) Blood-transfusion stations, first-aid stations.

Where these institutions are exclusively devoted to the care of employed persons at the work-place, they are described as "works institutions"; where they are devoted to the care of children, they are described as "child care institutions". Institutions using natural therapeutic springs are described as "hydrotherapeutic institutions". Where institutions are used at the same time for purposes of university medical training, they are described as "faculty of medicine institutions".

(2) The Minister of Health may by order specify other establishments for prevention and treatment services and may modify their classification under subsection (1).

. . .

PART II.—PROVISION OF SPECIAL TREATMENT SERVICES

Article 13

(1) Special treatment services under the law on national insurance shall be planned, organized, directed and supervised by the Unified Trade Union Organization, and shall be provided by the authorities administering national sickness insurance.

(2) The special treatment services, as part of the prevention and treatment services, shall be guided by the Ministry of Health as regards the methods to be used and shall be subject to the higher technical supervision of the Ministry.

Article 14

The institutions assigned to provide special medical treatment shall be administered and operated by the Unified Trade Union Organization, which may establish such institutions with the consent of the Ministry of Health.

. . .

ACT No. 110 CONCERNING STATE MANPOWER RESERVES[1]

of 19 December 1951

Article 1

PURPOSE OF THE ACT

For the planned development of our economy, and particularly of industry, it is necessary to ensure a constant stream of fresh manpower to the mines, foundries and other important branches of the economy. Since unemployment and rural poverty have disappeared from our territory and it is not possible to rely on a spontaneous flow of manpower towards the undertakings, it is necessary to prepare fresh manpower systematically from the ranks of youth and so to create the necessary reserves of manpower.

Article 2

STATE MANPOWER RESERVES

The State manpower reserves shall be constituted by training annually the necessary number of young persons over fifteen years of age as skilled workers in the important branches of industry. The training shall be

[1] Czech text in *Sbírka Zákonů* (Collection of Laws) No. 51 of 27 December 1951. English translation received through the courtesy of the Delegation of Czechoslovakia to the United Nations. The English translation of the complete Act is to be found in: International Labour Office, *Legislative Series*, 1951—Cz. 6.

given in technical colleges and in factory training schools.

Article 3

TECHNICAL COLLEGES AND FACTORY TRAINING SCHOOLS

(1) The Government shall prescribe the branches of the economy or the trades for which technical colleges or factory training schools shall be established.

(2) In the case of occupations requiring a thorough technical training, young persons shall receive instruction at technical colleges for a period of from two to three years.

(3) In the case of other occupations, young persons shall receive instruction in factory training schools for a period of from six to twelve months.

(4) The Ministry of Manpower shall be responsible for the establishment of technical colleges and factory training schools, the recruitment of trainees, and the placing of persons who have completed their training in accordance with the needs of the unified economic plan.

Article 4

RIGHTS AND DUTIES OF PERSONS TRAINED IN TECHNICAL COLLEGES AND FACTORY TRAINING SCHOOLS, AND OBLIGATIONS OF UNDERTAKINGS

(1) The technical colleges and factory training schools shall provide technical and general training and also political, cultural, physical and military education.

(2) The needs of trainees shall be guaranteed by the State during their period of training. The training and education in the technical colleges and factory training schools shall be free of charge.

(3) It shall be the duty of persons who have completed training at the technical colleges and factory training schools to work in the undertakings specified by the Ministry of Manpower for a period of from three to five years, as prescribed by the Ministry.

(4) It shall be the duty of undertakings employing persons who have completed training at the technical colleges and factory training schools to employ them on work corresponding to their vocational qualifications; to enable them to improve their technical knowledge and general education; and to ensure that they have suitable living accommodation. The Ministry of Manpower shall be responsible for the enforcement of these obligations.

MATERIAL NEEDS OF TECHNICAL COLLEGES AND FACTORY TRAINING SCHOOLS

Article 5

(1) The premises which have been mainly used in connexion with the young workers' training centres shall be assigned to the technical colleges and factory training schools, with the exception of the apprentice workshops and other training premises which from the point of view of production are an inseparable part of the undertaking. The Ministry of Manpower shall be responsible for the administration of such property in accordance with the relevant regulations.

(2) The Ministries concerned shall ensure that the undertakings allow the technical colleges and factory training schools to use free of charge the training premises which are not transferred under sub-section (1) to the administration of the Ministry of Manpower, as well as suitable and safe workshops and suitable plant and equipment, and that they provide for the proper and safe functioning of such workshops. The Ministries shall also ensure that the undertakings furnish the necessary number of skilled workers for the technical instruction of the trainees.

Article 6

All expenditure on staff and supplies in connexion with the establishment and operation of the technical colleges and factory training schools shall be borne by the State. Except for the instructors' salaries, the cost of training given in the production workshops shall be borne by the undertaking.

. . .

DENMARK

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

Act No. 286 of 18 June 1951 relating to the loss of civic rights resulting from penal sentences. A summary of this Act is published in this *Yearbook.*

Act No. 262 of 14 June 1951. This Act amended Order No. 308 by which Act No. 138 of 29 March 1947 concerning measures against unemployment among young workers was consolidated. The Act is published in *Lovtidenden* A, No. 35 of 16 July 1951.

Act No. 288 of 14 June 1951 consolidating the Act concerning public grants for the construction of housing. This Act is published in *Lovtidenden* A, No. 31 of 29 June 1951.

Greenland

Greenland Schools Act (No. 274) of 27 May 1950. Extracts from this Act are published in this *Yearbook.*[2]

Order of 25 August 1950 containing transitional provisions for education in Greenland.[3]

Act No. 271 of 14 June 1951 regarding the administration of justice in Greenland. Extracts from this Act are published in this *Yearbook.*[4]

[1] This note is based on texts and information received through the courtesy of Professor Max Sørensen, University of Aarhus.

[2] P. 447.
[3] P. 448.
[4] P. 448.

ACT No. 286 RELATING TO THE LOSS OF CIVIC RIGHTS RESULTING FROM PENAL SENTENCES

dated 18 June 1951

NOTE[1]

The question on loss of civic rights as a consequence of penal sentences has undergone a marked development over the last few decades.

Before the Penal Code of 1930, a great number of different statutory rules provided for the loss of specific rights where a person was found guilty of an act which public opinion considered disgraceful.

The Penal Code of 1930 maintained the same basic principle, but provided that the tribunal, in passing sentence upon the guilty, should state expressly whether the criminal act should be considered disgraceful and loss of civic rights should consequently result from the sentence.

By an Act of 1939, that general provision was repealed, and special provisions were again introduced into a great number of statutory Acts dealing with specific rights. In general, however, the concept of "disgraceful acts" was abandoned, and the exercise of various rights, and the carrying on of various trades and professions were subjected to different requirements. Among the criteria applied, according to the circumstances, may be mentioned the kind and scope of the punishment, the question whether the person could be considered worthy of the confidence required for specific professions, or whether he was of unblemished reputation.

The new Act No. 286 of 18 June 1951 goes a great step farther in the attempt to facilitate the return of convicted persons to normal social life. As a general rule, no loss of civic rights shall result from criminal acts. A person who is found guilty of such an act, may, however, according to special statutory provision, lose the right to exercise certain activities and professions, which require a public licence or permission, if his conduct warrants a reasonable expectation of abuse in the exercise of such an activity or profession.

It should be added that the Act of 1951 does not affect the constitutional provisions according to which voting rights and eligibility to Parliament are lost by a person who, by sentence of a court, is found guilty of an act which public opinion considers disgraceful.

[1] Note prepared by Professor Max Sørensen, University of Aarhus.

DOMINICAN REPUBLIC

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

1. The principles concerning personal rights, including nationality and citizenship, have not been modified in the course of the year 1951. The Constitution of the Dominican Republic, promulgated on 10 January 1947, has not undergone any changes.

2. In the fields of political rights, the right of association, social security, etc., principles and legal provisions guaranteeing these aspects of human activity have been maintained and further developed. Important legal texts adopted in 1951 constitute a series of reforms and far-reaching advances with regard to the above-cited aspects of human activity.

3. A new Labour Code and new Acts on education have been promulgated. New educational programmes affecting intermediate and secondary instruction are further examples of such changes.

(*a*) The Labour Code was promulgated by Act of Congress No. 2920 of 11 June 1951. This Code is based on eight fundamental principles which constitute the introduction to this Code. They are reproduced in the present *Yearbook.*

(*b*) The Organic Act of Education was adopted on 5 June 1951. Chapter I of this Act is published in the present *Yearbook.* The Compulsory Primary Education Act was approved on 19 and 21 June respectively by the two houses of the national congress and promulgated by the President of the Republic on 24 June 1951.

[1]This note was prepared by Dr. Enrique de Marchena, Minister Plenipotentiary and Permanent Alternate Delegate of the Dominican Republic to the United Nations. English translation from the Spanish text by the United Nations Secretariat.

ORGANIC EDUCATION ACT[1]

No. 2909 of 5 June 1951

CHAPTER I

EDUCATION

Art. 1. The education provided in the schools of the Dominican Republic shall be based on the principles of Christian civilization and Spanish tradition from which the country's historic characteristics are derived, and shall, in keeping with the democratic spirit of our institutions, aim at arousing among the pupils a feeling of loyalty to the Pan-American ideal and to international understanding and solidarity.

[1]Spanish text in *Gaceta Oficial* No. 7302, of 27 June 1951. English translation from the Spanish text by the United Nations Secretariat. The Act was approved by the Senate on 30 May 1951 and by the Chamber of Deputies on 31 May and promulgated by the President of the Republic on 5 June 1951. It supersedes the previous Acts relating to public instruction and studies of 5 April 1918, as amended on 5 December 1932. The Act consists of 18 chapters, of which the first, of a general nature, is reproduced here; the others deal with administrative problems and certain fields of education (kindergartens, primary education, intermediate education, etc.). The same *Gaceta Oficial* contains Act No. 2962 concerning primary education, approved on 19 and 21 June respectively by the two houses of the National Congress and promulgated by the President of the Republic on 24 June 1951. This Act deals mainly with the enforcement of the rule of compulsory education and enumerates the cases where the parents and guardians are freed from the obligation to comply with this rule.

New programmes of intermediate and secondary education have been issued by the Secretariat of Education and Fine Arts. (*Programas de la educación intermedia* and *Programas de la educación secondaria*, Ciudad Trujillo, 1950.) Teachers of classes of moral and civic education, geography, world history and elements of law in intermediate education are instructed to promote Pan American ideals and international understanding and solidarity; to stress the organization of the American States; and to familiarize the pupils with the ideas, aims, structure and operation of the United Nations and the specialized agencies, particularly UNESCO. The programme calls for an impartial survey of historical developments and the contributions of various peoples to a common civilization; to reaffirm thereby the principles of international understanding and human solidarity derived from the study of historic evolution, and to propagate the ideals of the United Nations as the sole way to preserve peace. General aspects of labour legislation—the protection of industrial, commercial and domestic workers—and social security are to be emphasized and some elements of international law are to be taught.

Teachers in secondary schools are instructed to present a general picture of the history of mankind as it has evolved from various cultures; to impart an approximate idea of the diversity and unity of the human race, and the complexity and unity of man; and to awaken thereby in the pupils a feeling of solidarity with the principles sustained by the United Nations as the representative organ of international harmony and understanding.

ECUADOR

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. LEGISLATION

Act of 20 September 1951 granting amnesty to persons detained or sentenced for the political occurrences of 15 July 1950. This Act is published in the present *Yearbook.*

Legislative decree providing for insurance against separation from service for members of the teaching profession. This decree was adopted by the National Congress on 1 November, promulgated by the President of the Republic on 3 November and published in the *Registro Oficial* of 20 November 1951.

Insurance against separation from service of all teachers of pre-elementary, primary, secondary schools and institutions of higher education, employed in State, municipal, private or autonomous educational establishments is provided for. Teachers shall contribute 2 per cent of their wages to the Insurance Fund, and employers an amount equal to 1 per cent of the teachers' wages.

To be eligible for insurance benefits, a teacher is required to have contributed twenty-four monthly quotas and been separated from service on any ground for more than sixty days. The Act determines the members of the family who, in case of the death of a teacher, shall be beneficiaries of the insurance. When legitimate and illegitimate children are surviving, the share of the latter shall be half the share of the former.

The amount of the benefits shall be proportionate to the contributions made to the Fund, and shall be fixed by the Board of Governors of the Fund in accordance with the relevant regulations.

Legislative decree providing for insurance against separation from service of officers of the armed forces. This decree was adopted by the National Congress on 2 November, promulgated by the President of the Republic on 14 November, and published in the *Registro Oficial* of 20 November 1951.

This legislative decree amends the legislative decrees of 4 November 1948 and 7 November 1949. Insurance against separation from service of career and non-career officers is established. In order to enjoy the benefits of the insurance, career officers are required to have rendered military service for ten consecutive years. The period of qualification for non-career officers is fifteen years. In case of the death of the officer, the benefits shall pass on to his legal heirs. If the deceased, at his death, did not complete the time required to be eligible for the benefits of the law, his heirs shall none the less be entitled to 75 per cent of the benefits which would have belonged to the officer.

II. DECISIONS IN CASES OF *HABEAS CORPUS*

Summaries of two decisions given by the Mayor of Quito are published in this *Yearbook.*

III. INTERNATIONAL TREATIES AND AGREEMENTS

Treaty between the United States of America and Ecuador, signed at Quito on 3 May 1951. This treaty is published in this *Yearbook.*[2]

[1] This note is based on texts and information received through the courtesy of Mr. José V. Trujillo, Permanent Representative of Ecuador to the United Nations.

[2] See p. 509.

LEGISLATION

ACT OF 20 SEPTEMBER 1951 GRANTING AMNESTY TO PERSONS DETAINED OR SENTENCED FOR THE POLITICAL OCCURRENCES OF 15 JULY 1950[1]

Art. 1. An amnesty and general pardon are granted to all persons detained or sentenced for the political occurrences of 15 July 1950 and to all persons charged with attempting to assist the escape of prisoners detained on account of those occurrences.

Accordingly, all persons detained, indicted, prosecuted and convicted for reasons directly or indirectly connected with the occurrences mentioned in the preceding paragraph are at complete liberty, and the

[1] Spanish text in *Registro Oficial* No. 924, of 25 September 1951. English translation from the Spanish text by the United Nations Secretariat.

penalties which may have been applied in such cases shall have no legal effect nor be regarded as constituting a criminal record.

Similarly, pending cases shall be abandoned, and any security which the accused may have deposited in the course of the penal proceedings in order to obtain their liberty shall be waived (or reimbursed, as the case may be) immediately.

Art. 2. The present Act shall extend both to persons subject to special jurisdiction and to persons subject to ordinary jurisdiction; and to civilians as well as to military personnel and members of the Civil Guard, without exception.

JUDICIAL DECISIONS

HABEAS CORPUS—BOLIVARIAN EXTRADITION AGREEMENT, 1911—LAW OF ECUADOR—CONSTITUTION OF ECUADOR

ALFONSO GALLARDO LOZANO *v.* DIRECTOR-GENERAL OF NATIONAL SECURITY

Mayor of San Francisco de Quito (Quito)[1]

2 May 1951

The facts. Dr. Gallardo Lozano, a Colombian citizen, relying on the guarantee contained in the Political Constitution of the Republic of Ecuador concerning the writ of *habeas corpus*, stated that he had been detained by order of the Director-General of National Security in the premises of the Directorate since 26 April 1951 and that there had been no warrant for detention signed by the competent authority.

He contended that the Director-General of National Security had detained him pursuant to an order of the Minister of the Interior. This order reproduced a note, signed by the Under-Secretary of the Ministry of Foreign Affairs on behalf of the Minister, which called for this action on the grounds that the Colombian Embassy in Quito had requested it; the Embassy had offered to submit a formal request for extradition in conformity with the Bolivarian Extradition Agreement, 1911. The petitioner further contended that the Ministry of Foreign Affairs had ordered, or caused to be ordered, the petitioner's detention without requiring prior compliance with the stipulations of the regulations relating to naturalization, extradition and deportation[2] and that the detention conflicted with the provisions contained in articles 180 and 187 of the Constitution,[3] the petitioner being held in custody without having committed any offence. The Directorate of National Security argued, in reply, that it was not detaining Dr. José Alfonso Gallardo Lozano arbitrarily, for it had acted and continued to act in compliance with an order of the Minister of the Interior and the police.

Held: That the petition should be granted. The order of the Minister of the Interior, given at the request of the Ministry of Foreign Affairs, in pursuance of which the petitioner is now being detained, does not satisfy any of the conditions stipulated either in the Bolivarian Extradition Agreement, 1911, or in the regulations now governing naturalization, extradition and deportation, and does not conform to the constitutional and legislative provisions now in force in Ecuador.

Article 1 of the agreement signed by the plenipotentiaries of the Bolivarian Republics (Bolivia, Colombia, Ecuador, Peru and Venezuela) in the city of Caracas on 18 July 1911 (which agreement is relied upon as allegedly authorizing the petitioner's custody) states: "The contracting States agree to deliver to one another, in accordance with the terms of this agreement, persons who, having been prosecuted or sentenced by the judicial authorities of any one of the contracting States as authors, accomplices or harbourers in any of the crimes or offences specified in article 2, within the jurisdiction of one of the contracting parties, seek refuge or are found within the territory of one of them. In order that extradition may be effected, proof of the offence must be such that the laws of the place where the fugitive or sentenced person

[1] Text of the decision received through the courtesy of Dr. José Vicente Trujillo, permanent representative of Ecuador to the United Nations. Summary prepared by the United Nations Secretariat. Under the Constitution of the Republic of Ecuador, the Mayor has the authority to decide *habeas corpus* cases.

[2] See an English summary of the regulations for the application of provisions concerning naturalization, extradition and deportation of 14 June 1950 in *Yearbook on Human Rights for 1950*, p. 73. Spanish text of these regulations in *Registro Oficial* No. 548, of 24 June 1950.

[3] Article 180 reads as follows: "Aliens in Ecuador shall enjoy the same right as Ecuadorians in accordance with the law, with the exception of political rights and the guarantees established by the Constitution in favour of Ecuadorians alone." For article 187, paragraph 4, see the penultimate paragraph of this summary.

is located would justify his detention or committal for trial if the commission of, attempt at, or frustration of the crime or offence had taken place there."

Article 9 of this agreement permits the provisional detention of the fugitive "if a warrant for detention issued by the competent court is produced, through the diplomatic channel"; the provisional detention must cease "if within a period determined according to the distance involved, the request for extradition is not presented in accordance with the provisions of article 8", and this article 8 states: "The request for extradition shall be accompanied by the sentence, if the fugitive has been tried and sentenced; or if he has only been indicted, by the order for detention issued by the competent court, with the exact description of the offence or crime which occasioned it and the date of commission, together with the statements or other evidence by virtue of which the order for detention was issued."

Like the Bolivarian Extradition Agreement, article 23 of the regulations for the application of provisions concerning naturalization, extradition and deportation, issued by the Government of Ecuador on 14 June 1950, states that a request for extradition must be accompanied by the original sentence or warrant for detention, or a certified copy thereof, and must accurately describe the offence which occasioned it; state the penalty applicable and the date of commission of the offence; set forth the steps taken in the proceedings which yielded proof or substantial evidence of the liability of the person whose extradition is requested; and give particulars of his origin or any other particulars or circumstances helping to identify him; and article 27 of the regulations empowers the Ministry of the Interior to order provisional detention if a warrant for detention issued by the competent court is produced through the diplomatic channel.

Article 187 (4) of the Political Constitution in force guarantees to all inhabitants of Ecuador, whether nationals or aliens, the right not to be deprived of their freedom except by an order which must be signed by the competent authority and state the grounds on which he is to be detained, subject to the further stipulation that the only grounds admissible are those expressly mentioned by statute.

In the Republic of Ecuador no person, whether an Ecuadorian national or an alien, may remain under detention, without being charged with an offence, for more than three days, the detaining authority being required by article 166 of the Code of Criminal Procedure to institute criminal proceedings before the expiry of this time limit.

HABEAS CORPUS—BOLIVARIAN EXTRADITION AGREEMENT—LAW OF ECUADOR—CONSTITUTION OF ECUADOR

ALFONSO GALLARDO LOZANO *v.* CHIEF OF POLICE OF PICHINCHA

Mayor of San Francisco de Quito (Quito)[1]

12 July 1951

The facts. Dr. Alfonso Gallardo Lozano complained that he had been under detention in the public prison of Quito since 1 July 1951 by order of the Chief of Police of Pichincha and in consequence of the request for his extradition submitted by the Colombian authorities, who charged him with offences which the complainant said were committed by certain public officials of the Government of Colombia. He therefore applied for a writ of *habeas corpus* under the Constitution of Ecuador, affirming that the detention order was contrary to the constitutional provisions in force in Ecuador and that these provisions took precedence over the Bolivarian Agreement or Treaty signed at Caracas on 18 July 1911 and over the Aliens Regulations, which were relied on to justify the detention.

The applicant claimed that he had not committed any offence which would justify the persecution to which he was being subjected. He added that on 7 April 1951 he was obliged to report irregularities committed by certain officials of the Price Control Authorities in the Department of Cundinamarca, and that the next day he had to leave Bogotá and proceed to Tulcán in order to avoid reprisals by government agents, failing which he would have risked suffering the same fate as Dr. Jaramillo Gomez, head of the Exchange Control Office, another of those who had reported offences committed by officials of the present Colombian Government, who had died of bullet wounds inflicted by a detective employed by that Government.

The Chief of Police of Pichincha affirmed that in issuing the order of 30 June 1951 he had had no intention of imposing any penalty on Dr. Gallardo Lozano, but was acting in compliance with directions contained in treaties and regulations governing the question of extradition, and in conformity with the practice ob-

[1] Text of the decision received through the courtesy of Dr. José Vicente Trujillo, Permanent Representative of Ecuador to the United Nations. English summary prepared by the United Nations Secretariat. Under the Constitution of the Republic of Ecuador, the mayor has the authority to decide *habeas corpus* cases.

served in the other States parties to the Bolivarian Convention concluded at Caracas on 18 July 1911. He stated that he for his part considered that all the requirements laid down in such instruments, applicable to cases like the present, had been fulfilled; and that the general rules did not apply since special legislation was involved—such as, for example, the decree which gives the chiefs of police sole judicial powers in connexion with opium smuggling. In reply to insistent questioning by the court, the office of the Chief of Police stated that it had no knowledge of, and had not in its possession, the official communications from the Colombian Embassy and the Ministry of Foreign Affairs of Ecuador which asked for the arrest of Dr. Gallardo Lozano, who is accused of an offence of bribery, for which, it is argued, a competent court would have imposed a penalty or issued an order of detention.

Held: That in the particular circumstances the order of detention issued against Dr. Gallardo Lozano does not fulfil the requirements of article 187, paragraph 4, sub-paragraph 1, of the Political Constitution[1] in force, nor of article 152 of the Code of Criminal Procedure; and that furthermore it conflicts with the provisions of article 28 of the regulations of 14 June 1950 concerning extradition and deportation[2] and with article 163 of the Code of Criminal Procedure, which take precedence over regulations, conventions or treaties.

On 2 May 1951, in the light of the considerations set forth in the decision of that date, this court ordered the release of Dr. Alfonso Gallardo Lozano on the ground that neither the official communications from the Ministry of the Interior nor the order issued by the Directorate-General of Security was in accordance with the Bolivarian Extradition and Deportation Agreement of 14 June 1950, and because no Ecuadorian or alien may on any account remain under detention in the territory of Ecuador for more than three days. Between the date on which the above-mentioned decision was issued and the present time, the circumstances which led to the decision have not changed.

In the official communication No. 1327-P of 30 June 1951 addressed by the Ministry of the Interior to the Director-General of National Security, there is only a simple reference to an earlier request by the Ecuadorian Ministry of Foreign Affairs and to an application, also submitted previously, from the Colombian Embassy, the presumption being, therefore, that the said request and application are identical with those referred to by this court in its decision of 2 May this year, which led to the order to release the applicant. The office of the Chief of Police of Pichincha has communicated to this court a number of documents relating to the question of the extradition of the Colombian citizen, Dr. Alfonso Gallardo Lozano, consisting of copies of the proceedings against Dr. Gallardo for bribery in the fifteenth criminal court of Bogotá, which ordered his arrest, the date of the order being later than the date on which Dr. Gallardo affirms he left Colombia. The copies are certified only by the Colombian authorities, and were apparently not issued until after the sixth of this month. They have not been certified by the Ecuadorian authorities. Furthermore, whereas the documents required by the Bolivarian Agreement and by our recent regulations concerning extradition and deportation were not prepared in Colombia until after 6 July, the order for the arrest and detention of Dr. Gallardo Lozano had been issued at Quito as early as 30 June, or seven days before, so that it is manifestly proved that, owing to these reasons, too, his arrest was completely unlawful.

[1] See the preceding decision, penultimate paragraph.
[2] See the preceding decision, p. 73, footnote 2.

EGYPT

LEGISLATION

ACT No. 177 OF 1951 RELATING TO THE STATUS OF THE SUDAN[1]

Art. 1. The Sudan shall have a special constitution which shall be prepared by a constituent assembly representative of its inhabitants. It shall come into force after approval and promulgation by the King. The constituent assembly shall likewise prepare the Elections Act, which shall become applicable in the Sudan upon being approved and promulgated.

Art. 2. The composition of the constituent assembly shall be determined by a decree which shall also govern its procedure.

Art. 3. The Constitution referred to in article 1 shall guarantee the following fundamental principles:

(*a*) The establishment in the Sudan of a democratic parliamentary system of government, with either one or two representative bodies, at least one of which shall be constituted entirely by election.

The right of the King to dissolve Parliament, or only the elected body in the event of parliament's being composed of two chambers, and to authorize the holding of new general elections within a short time, in order to ensure the continuity of parliamentary supervision over the executive.

(*b*) The separation of the legislative, executive and judicial powers.

(*c*) The appointment of a council of Ministers composed of Sudanese, through whose agency the King shall exercise his powers. The King shall have the right to appoint and dismiss the Ministers. The Ministers shall be jointly responsible to parliament, or at least to the elected body, for the general policy of the government, and each of them shall be individually responsible for the actions of his department.

(*d*) Parliament shall exercise legislative power, including the power to introduce legislation, jointly with the King. No legislation shall be promulgated which has not previously been adopted by parliament and approved by the King.

The imposition, alteration or abolition of taxes, the issue of public loans, and the establishment of the annual general budget of revenue and expenditure shall require the prior approval of Parliament.

(*e*) The guarantee of the independence of the judiciary and of judges at the different levels of jurisdiction.

(*f*) The guarantee of personal rights and public freedoms—in particular, the freedom of the person, freedom of belief, of opinion and of the Press, freedom of assembly and of association—subject always to the limitations of the law.

Art. 4. The foregoing provisions notwithstanding, questions of foreign policy, and questions relating to defence, the Army and finance shall be exclusively within the competence of the King as regards the entire territory, within the limits laid down in royal rescript No. 42 of 1923, which established the constitutional system of government for the Egyptian State.

[1] French text in *Journal officiel du Gouvernement égyptien* No. 94, of 17 October 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the French text by the United Nations Secretariat.

ASSOCIATIONS ACT[1]

Act No. 66 of 1951

Art. 1. The present Act applies to associations formed to fulfil social, religious, scientific or cultural aims, when their membership exceeds twenty persons. The present Act does not apply to:

(1) Associations whose by-laws have been sanctioned by decree;

(2) Associations engaging in scholastic activities;

(3) Associations governed by particular Acts.

Art. 2. Without prejudice to the provisions of article 55 of the Civil Code, the rules of all associations shall prescribe:

(1) The conditions of admission and expulsion of members;

(2) The rights and duties of members;

(3) The method of financial control;

[1] French text in *Journal officiel du Gouvernement égyptien* No. 36, of 28 April 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the French text by the United Nations Secretariat.

(4) The method of dissolving the association and indication of the bodies to which its assets will be transferred.

Art. 3. The following are debarred from participation in the founding or membership of an association:

(1) Persons convicted of a crime;

(2) Persons convicted of theft, misappropriation of public funds, receiving stolen goods, forgery or uttering a counterfeit, fraud, breach of trust, fraudulent bankruptcy, harbouring criminals, or any other offence contrary to honour or public morality, or of a punishable attempt to commit such offence;

(3) Persons convicted of an offence punishable under the Narcotic Drugs Act;

(4) Vagrants and suspects;

(5) Civil servants and public employees dismissed within the past five years for offences contrary to honour or public morality;

(6) Minors.

Art. 4. The foundation members or their representative must declare the constitution of the association or of its branches within thirty days by registered letter with advice on receipt addressed to the governorship or to the *moudirieh* in which the association has its head office. The declaration shall set forth:

(1) The name, purpose and registered office of the association;

(2) The surname and first names, age, nationality, profession and domicile of each of the foundation members;

(3) The sources of income of the association and the method of disposal of its funds in the event of dissolution.

The declaration, accompanied by the by-laws, shall be signed by all the foundation members.

Art. 5. The governor or *moudir* shall be entitled, by a decision accompanied by a statement of reasons, to oppose the constitution of the association or any of its branches within thirty days of receipt of the declaration. Such opposition is permitted only in the event of failure to observe one of the rules laid down in the present Act. In the absence of such opposition, the association may begin its activities.

[Article 6 deals with the amendment of the by-laws and with the dissolution of the association. Article 7 provides for appeal against opposition by the governor or *moudir* to amendments in the by-laws or to the dissolution of the association. Article 8 lays down that documents, correspondence and registers must be kept at the head office of the association.]

Art. 9. It is forbidden for persons not members of the association to take part in its administration or in the proceedings of the general meeting.

Art. 10. The association's activities must not exceed the purpose for which it has been set up.

Art. 11. The association is forbidden to maintain military or para-military formations.

Art. 12. In case of any breach of article 3, 6, 8, 9, 10 or 11, the Minister of the Interior may request that the association or any of its branches be dissolved, or the offending action rendered null and void, without prejudice to the provisions of article 66 of the Civil Code. The request for dissolution shall be made to the president of the court of first instance in whose area the head office of the association or its branch is situated. The President shall pronounce his decision after examining the evidence.

The Minister or his delegate, and the representative of the association, may appeal against the decision of the president of the court within fifteen days of its notification. The court shall deal with the case promptly, and its decision shall not be subject to appeal. The court, even if it rejects the request for dissolution, may pronounce the offending action null and void.

[The following articles forbid members, directors and employees of a dissolved association to contribute to the continuation of its activities, and prescribe penalties and procedures.]

ACT No. 132 OF 1951 CONCERNING THE PROCEDURE TO BE FOLLOWED IN CASES RELATING TO OFFENCES COMMITTED BY MEANS OF THE PRESS[1]

Art. 1. Cases relating to offences which are committed by means of the Press and which are mentioned in title II, chapter XIV, and in articles 302, 303, 306, 307 and 308 of the Penal Code, shall be brought to trial promptly.

Art. 2. Any such case shall be considered at a hearing to be held two weeks after the date on which an information is laid by the Public Prosecutor or the date on which it is referred to the correctional court or to the assize court, as the case may be.

If an information is laid before, or the case is referred to, the assize court, the presiding judge of the competent court of appeals shall order a hearing within the time limit prescribed in the preceding paragraph.

[1] French text in *Journal officiel du Gouvernement égyptien* No. 98, of 25 October 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the French text by the United Nations Secretariat.

Art. 3. The court of first instance, sitting in chambers, shall be competent to rule on an application for suspension made under article 199 of the Penal Code, where the application is made during the preliminary examination or where the case is to be examined by a judge to whom it has been referred. Where the application is made after the case has been referred to the court of first instance, the assize court or the correctional court, as the case may be, shall be competent to rule on the application.

The ruling concerning this application shall not be open to appeal in any form whatsoever. The ruling on this application shall be given and the hearing at which the application is to be considered shall be fixed in accordance with the provisions of the two preceding articles.

ACT No. 24 OF 1951 TO AMEND ARTICLES 124, 124*a*, 124*b*, 124*c*, 374, 374*bis* AND 375 OF THE PENAL CODE[1]

Art. 124. If any three or more public officials or employees, in accordance with a concerted plan or with a view to achieving a joint purpose, abandon their duties or wilfully omit to carry out any of the duties of their office, each of them shall be liable to a term of imprisonment of not less than three months nor more than one year and to a fine not exceeding £E 100.

The above maximum penalty shall be doubled if the abandonment or omission of duties is such as to endanger the life, health or safety of any person or to cause a disturbance or riot, or has been prejudicial to a public service.

If any public official or employee abandons his duties or omits to carry out any of the duties of his office with intent to impede or disturb the functioning or regularity of the service, he shall be liable to a term of imprisonment not exceeding six months or to a fine not exceeding £E50.

The above maximum penalty shall be doubled if the abandonment or omission of duties is such as to endanger the life, health or safety of any person or to cause a disturbance or riot, or has been prejudicial to a public service.

*Art. 124*a. If any person participates in the commission of any of the offences mentioned in article 124 by inciting another to commit the offence, he shall be liable to twice the amount of the penalties enacted in the said article.

The penalties mentioned in the first paragraph of the said article shall be imposed on any person who in any way whatever incites or encourages one or more public officials or employees to abandon their duties or abstain from carrying out any of the duties of their office, if his efforts to incite or encourage produce no effect.

Any person who defends the commission of any of the offences set forth in the two preceding paragraphs of this article, or in the first paragraph of article 124, shall be liable to the same penalties. A person shall also be deemed to have defended the commission of an offence if, by any of the means mentioned in article 171, he spreads either true or false reports concerning the offences herein referred to.

In addition to the above-mentioned penalties, the principal offender shall, if a public official or employee, be ordered to be removed from office.

*Art. 124*b. If any person, by means of violence, assault, intimidation, threats or any unlawful proceeding, imposes or attempts to impose any restriction, in the manner referred to in article 375 of this code, on the right of a public official or employee to work, he shall be liable to the penalties enacted in the second paragraph of article 124.

*Art. 124*c. For the purposes of the last three preceding articles, any person who is employed for remuneration in any capacity whatsoever by the Government or by a provincial, municipal or village authority, and any person appointed for the performance of a specific task in the service of the Government or the said authorities, shall be treated as a public official or employee.

Art. 374. It shall not be lawful for any salaried or wage-earning employee who is responsible for a public utility service or engaged in a public service or in an undertaking meeting a public need (irrespective of whether or not there exist any special regulations relating thereto) to abandon work or wilfully to abstain from working.

The provisions of article 124 and 124*a* shall apply in such cases.

The penalties enacted in the said two articles shall apply (where appropriate) to the said salaried and wage-earning employees and to any person who instigates, encourages, advocates, or spreads information concerning such acts.

*Art. 374*bis. It shall not be lawful for any contractor or for a person who manages a public service or any of the public utility undertakings referred to in the preceding article to suspend work in such manner as to interfere with the performance or to interrupt the regularity of the public service.

[1] French text in *Journal officiel du Gouvernement égyptien* No. 25, of 19 March 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the French text by the United Nations Secretariat.

The penalties referred to in articles 124 and 124*a* shall apply (where appropriate) to such persons and to any person who instigates, encourages, advocates, or spreads information concerning such acts.

Art. 375. If any person by means of violence, assault, intimidation, threats or by any unlawful proceeding imposes or attempts to impose any restraint—

(1) On the right to work;

(2) On the right to employ or to refrain from employing any person;

(3) On the right of any person to belong to any association;

he shall be liable to a term of imprisonment not exceeding two years and to a fine not exceeding £E100.

This provision shall likewise apply if the violence, intimidation or unlawful proceeding was employed or committed against the wife (or husband) and children of the person concerned.

The following in particular shall be deemed to be unlawful proceedings:

(1) Persistently following the person concerned in his comings and goings or taking up a threatening attitude at or near his home or any other place where he resides or works;

(2) Preventing him from carrying on his work either by hiding his tools, clothes or other articles which he uses, or in any other manner.

Any person who in any way whatsoever incites another to commit any of the offences mentioned in this section shall be liable to the same penalties.

ACT No. 141 OF 1951 CONCERNING CHALLENGES CONTESTING THE VALIDITY OF THE OFFICE OF SENATORS AND DEPUTIES[1]

Art. 1. The Court of Cassation shall be competent to adjudicate any case in which the validity of the office of any senator or deputy is contested.

Art. 2. The court shall declare the election or appointment invalid if any circumstances are present in which the Constitution or the electoral legislation requires the election or appointment to be invalidated.

Art. 3. Any elector may apply for the invalidation of an election held in his electoral district, or of the appointment of any senator, by a petition containing the following particulars: his surname, first names, occupation or position, residence, number in the register of voters and place where registered, and the grounds of the petition. The petition shall be signed, and the petitioner's signature shall be legalized free of charge.

The petitioner shall lodge the petition containing these particulars and setting forth the grounds on which they are based with the office of the clerk of the Court of Cassation within fifteen days after the proclamation of the election or the issue of the decree of appointment. If the petition is not presented in the proper form as described above, it shall be void; the court shall declare it void *ex officio*.

[Articles 4 to 7 deal with procedure.]

Art. 8. The petitions for invalidation referred to in this Act shall be exempted from all charges and no deposit of funds shall be required.

[Articles 9 and 10 deal with procedure and repeal.]

[1]French text in *Journal officiel du Gouvernement égyptien* No. 16, of 15 November 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the French text by the United Nations Secretariat.

ACT No. 120 OF 1951 AMENDING ARTICLES 1 AND 2 OF ACT No. 69 OF 1942 GRANTING RELIEF TO SMALL FARMERS IN THE MATTER OF THE LAND TAX[1]

Art. 1. A taxpayer whose land is taxable at a rate not exceeding four Egyptian pounds (£E4) per annum shall be exempt from the payment of land tax.

Art. 2. A taxpayer whose land is taxable at a rate exceeding £E4, but not exceeding £E20 (twenty) per annum, shall be exempt from the payment of £E4 of the annual tax.

Taxpayers who qualify under the present article shall be exempt from the payment of any balance due from them for the years 1949 and 1950.

[1]French text in *Journal officiel du Gouvernement égyptien* No. 80, of 17 September 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the French text by the United Nations Secretariat. Article 1 of Act No. 120 has superseded articles 1 and 2 of Act No. 69 of 1942, as amended by Acts Nos. 87 of 1944, 55 of 1945 and 33 of 1950.

SECONDARY EDUCATION ACT[1]

Act No. 142 of 1951

Art. 1. Secondary education is that which follows elementary education and prepares pupils completing it to continue their studies at universities and higher institutions or to practise a profession.

Secondary education shall be free, in accordance with this Act, and pupils shall not be required to pay additional fees except by order of the Minister of Public Education.

Art. 5. A pupil who has twice repeated his studies in secondary education may not continue to receive free tuition in a school of secondary scientific education. A pupil who has done so thrice may not remain in the school.

No pupil may repeat the same class more than once.

Art. 6. Arabic shall be the language of instruction in all secondary schools.

[Article 30 indicates the subjects of study in the third, fourth and fifth years of technical secondary schools for agricultural secondary schools, industrial secondary schools, commercial secondary schools, and secondary schools for girls. It also indicates the subjects from amongst which each girl shall select one or more for special study throughout the three years.]

[1] Arabic text in *Official Gazette of the Government of Egypt* No. 85, of 1 October 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the Arabic text by the United Nations Secretariat.

ELEMENTARY EDUCATION ACT[1]

Act No. 143, of 1951

Art. 1. Elementary education shall be the first stage of education and shall be compulsory and free for all children of both sexes between six and twelve years of age. It shall continue to be compulsory until the end of the scholastic year in which the twelfth year of age is completed.

The Minister of Public Education may authorize the admission of children who on the date on which school is to begin are within three months of attaining their sixth birthday.

Art. 2. It shall be the duty of the child's guardian, or, if the guardian is deceased, under disability, imprisoned or periodically absent, of his personal representative, to ensure compliance with the rule of compulsory elementary education.

Exemption from elementary education shall be granted where a child is prevented from regularly attending school by a disease or physical or mental handicap ascertained in accordance with procedure to be determined by order of the Minister of Public Education. Exemption shall also be granted where a child lives two kilometres or more from the nearest school.

The exemption shall continue in force as long as the disease, infirmity or distance remains unchanged, but if a special school for handicapped children is established in the district, the rule of compulsory education shall automatically come into effect and the duty to attend the school shall apply to as many children as it will accommodate.

Art. 3. Any person responsible for ensuring compliance with the rule of compulsory education in accordance with the foregoing article may undertake to educate a child at home or in a private free school, provided in either case that the tuition is equivalent to that given in elementary schools and that he notifies the proper education authority before the beginning of the school year.

The inspector of education of the area shall ascertain whether the tuition received by the child is equivalent to that given in elementary schools.

The Minister of Public Education shall make an order specifying the private free schools giving tuition equivalent to that given in elementary schools and indicating the method of ascertaining the standard of home tuition.

Art. 6. A parent or guardian comitting an offence under the foregoing article shall be punished by a fine not exceeding 100 piastres or by a term of imprisonment not exceeding one week. Before passing sentence the court may set the offender a time limit within which to comply with the provisions of the Act. If he does so within the time limit, the court shall dismiss the charges; but if he does not, it shall enforce the penalty. An offender who repeats the offence shall be sentenced to both imprisonment and fine.

Art. 9. Kindergarten classes shall be attended by boys and girls together, but shall be held in separate premises or in premises annexed to girls' schools. There shall be separate premises for boys and for girls in the other grades, save that if circumstances so require one set of premises may be used for both sexes.

[1] Arabic text in *Official Gazette of the Government of Egypt* No. 85, of 1 October 1951, received through the courtesy of Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo. English translation from the Arabic text by the United Nations Secretariat.

Art. 20. Koran memorization classes shall be instituted in some schools for pupils desiring to memorize the Holy Koran.

The curriculum and syllabus of such classes shall be determined in an order to be made by the Minister of Public Education.

Koran study classes shall be held in elementary schools in the first and last hours of the school day. Non-Moslem children shall be excused from attending instruction in the Holy Koran.

Art. 21. The Minister of Public Education may establish experimental or model elementary schools under regulations to be made by him subject to the curricula and subjects specified in this Act.

Art. 22. The Minister of Public Education may add two or three years of supplementary tuition in elementary schools, mainly in agricultural, industrial or commercial subjects—according to the requirements of the district in which the school is situated—for boys, and in other appropriate subjects for girls, to be attended by boys and girls wishing to do so after completing their elementary studies.

The arrangement, curricula and syllabuses of this supplementary tuition shall be determined in an order to be made by the Minister of Public Education.

JUDICIAL DECISIONS

DECISIONS RELATING TO HUMAN RIGHTS GIVEN BY THE COUNCIL OF STATE (ADMINISTRATIVE SECTION)[1]

PERSONAL LIBERTY

Personal liberty is the essence of all human life; it is not created by legislation, but only organized thereby; it is not made by laws, which only reconcile its various bearings and tendencies for the purpose of common welfare of society and of public interest. Thus, personal liberty cannot admit any restriction save where such restriction tends to this object, and be inspired thereby.

It is incontestable that the act of the commandant of the city police of Alexandria ordering a policeman to have his moustaches shaved constitutes a flagrant and unjustifiable offence against the personal liberty of the plaintiff. The Government alleged that plaintiff had been in contact with the Press and allowed papers to publish his photograph in various positions which are contrary to the respect due to military dignity. If necessary this should have been dealt with through interrogation, but not by resorting to such a despotic measure. The other argument of the Government, that the plaintiff had himself willingly executed the order, is inadmissible owing to the circumstances of the event; but, even if this fact were true, the order would none the less be null and unjust.—Mohamed Ibrahim *v.* Ministry of the Interior. 5 March 1950—Series V No. 164, page 699.

EQUALITY

The principle of equality is guaranteed by the Constitution. This principle is inconsistent with the existence of any prerogatives or rights on behalf of a part of the citizens to the prejudice of the other part; it is also inconsistent with placing an obligation upon certain citizens to fulfil public duties and obligations and exempting others therefrom. Thus, the exemption of Arabs from military service by virtue of article 45 of the khedivial decree of 4 November 1902 is contrary to the principle of equality guaranteed by article 3 of the Constitution.[2] 7 March 1950—Series IV No. 128, page 444.

FREEDOM OF COMMERCE

An *arrêté* has been issued by the Minister of Commerce and Industry *sub* No. 447, in 1947, which authorizes the establishment of federations for the purpose of exporting and importing commodities, and forbids individuals other than members of these federations to undertake the practice of such operations unless these would involve such commercial advantages as to exceed those which would be obtained by any offers to the federation.

The administrative section of the Council of State considered the *arrêté* as being contrary to article 21 of the Constitution, which reads: "Egyptians have the right of association. The law shall lay down rules governing the exercise of this right." Thus the Minister of Commerce is not entitled by an *arrêté* to establish general rules organizing commercial federation, or to impose such restrictions as may limit the activities of individuals and their freedom of contract.—Société d'entreprises générales *v.* Ministry of Commerce and Industry. 18 April 1950—Series IV No. 181, page 579.

[1] This survey was prepared by Dr. Ahmed Moussa, *Premier Substitut au Conseil d'Etat*, Cairo.

[2] See the text in *Yearbook on Human Rights for 1946*, p. 97.

RIGHT TO KEEP OR TO CHANGE RESIDENCE

(1) The Government is entitled to expel undesirable foreigners without being subjected to any control, since its decision in this respect does not involve an arbitrary act or breach of law.—Constantin Apostolidis *v.* Ministry of the Interior. 12 December 1950—Series V No. 60, page 266.

(2) If the fact of forbidding any person from going abroad after having obtained a passport is deemed to be a measure inconsistent with personal liberty as well as with the right of changing residence, this prohibition is not to prevent the police from permanently taking any such measures as they may think necessary for ensuring security and public order as well as for the protection of the social order from any such danger as may threaten it. 22 February 1950—Series IV No. 114, page 402.

INVIOLABILITY OF DOMICILE

If a warrant is issued against any individual, and is executed by entering his domicile and searching therein with a view to arresting him and confining him for a period of three days in the detention room at the police station, on the ground that the maintenance of public security on certain political and other occasions would justify the detention of citizens who might take advantage of absolute liberty by committing acts prejudicing the public interest, such warrant shall nevertheless be deemed to be a breach of law: it is inconsistent with the terms of the Constitution establishing that the personal liberty of Egyptians is guaranteed and that nobody may be arrested, or imprisoned, save in accordance with the provisions of law; that no Egyptian may be compelled to reside in a determined place save in such cases as are prescribed by law and in the manner described therein; and that all Egyptians are equal before the law and are equal also as to the enjoyment of both civil and political rights as well as in respect of their duties and responsibilities. 17 April 1951—Series V No. 219, page 878.

FREEDOM OF THE PRESS

Freedom of the Press is one of the public freedoms guaranteed by the Constitution. Since the effect of the exercise of this freedom is not confined to individuals, but also affects the community, the Constitution did not make it absolute, but subjected it to regulation, provided this were done by virtue of law. It is not allowed, therefore, to suppress newspapers by administrative measures before the legislation providing for such measures has been passed. In the laws passed after the adoption of the Constitution, the Egyptian legislature had not yet wished to make any law allowing the confiscation of Egyptian newspapers by administrative measures, although it is authorized by the Constitution to do so, when necessary, for the protection of the social order; and the same is true as regards the law on assemblies, since the legislature has not authorized any administrative measure for the protection of the social order, but has left the whole matter to the general law; in the present instance, the Penal Code. 26 June 1951—Series V No. 357, page 1099.

RIGHT OF ASSEMBLY

The right of assembly is not a favour which the administration may grant or refrain from granting at its own discretion. On the contrary, it constitutes a major right of the citizens, recognized by law and guaranteed by the Constitution. No application need therefore be submitted by any person for the exercise of this right and no decision whatever need be issued by the administration, since this right arises out of the law. Any person wishing to exercise this right has only to notify the administration of the time and place of the assembly as well as any other particulars stipulated by law. The power conferred on the administration to prohibit an assembly or to dissolve it is an exception, subject itself to the control of the courts for the purpose of considering whether or not the power has been used in accordance with the letter and the spirit of the law. 31 July 1951—Series V No. 371, page 1150.

ETHIOPIA

NOTE ON LAWS CONCERNING PUBLIC HEALTH[1]

Noteworthy progress, in recent years, has been made in the prevention of diseases and the promotion and protection of public health, thereby improving the general living conditions of the people in Ethiopia. Legal notice No. 149/50[2] regarding vaccinations provides that all children in towns that have municipal health services shall be immunized free of charge against smallpox. By legal notice No. 147/50 issued with regard to food, the Minister of Health forbids the offering to the public of any food or vegetables which are contaminated or unsafe for human consumption. Milk from animals suffering from certain diseases is considered dangerous to public health and unsafe for consumption. Employment of persons suffering from infectious or contagious diseases in any shop or establishment dealing with food or vegetables is forbidden. The legal notice also contains rules providing for the hygienic washing of dishes and utensils used in eating places.

Under the Public Health Proclamation, 1942,[3] the Minister of the Interior was given the power to make rules concerning all matters relating to public health and sanitation. Subsequently, however, a Ministry of Health was created by an order which appeared in the *Negarit Gazeta* of 30 March 1948. By proclamation No. 11/50[4] entitled "Public Health (Amendment) Proclamation" of 1950, sub-section (1) was added to the proclamation of 1942. This sub-section gives to the Minister of Health power to make rules and to seize, destroy or prevent the sale of goods dangerous to public health.

By legal notice No. 145/50,[5] styled the "Municipal Public Health Rules, 1950", the Minister of Health makes provision for a public health officer to be appointed in those towns where "municipal public health services have been organized by the Minister and in other towns where medical and sanitary supervision can be arranged to the satisfaction of the provincial health officers", etc. The duty of such officers is to inspect all amusement and eating places and other places of all descriptions to which the public is admitted and to submit a report of their inspection to the Kantiba[6] or town officer.

When the officer reports to the effect "that any condition exists or is likely to exist upon this new establishment, which is dangerous to public health", the licence for the establishment will not be granted; in the case of an old-established place where the officer has made a similar report, the licence will not be extended. Legal notice No. 145/50 does not provide for an appeal against such a decision, but it is a matter for the court to decide whether an appeal lies against an arbitrary decision to the High Court under article 7 of the Administration of Justice Proclamation, 1942.[7]

By legal notice No. 156 of 1951, cited as the Public Health Rules of 1951", provision is made for control and prevention of communicable diseases such as plague, cholera, yellow fever, smallpox, diphtheria, scarlet fever, leprosy, etc. The legal notice contains a comprehensive list of communicable diseases, which have been divided into two categories, and the Ministry of Health may, on the advice of the Medical Advisory Board, declare any other disease to be a communicable disease. Notification of such diseases is compulsory; and medical practitioners, heads of families, managers of lodging establishments, chemists, etc., are required, on receiving information of the occurrence of such cases, to report them to the epidemic authority of the area or to the nearest police station. Extracts from this legal notice are reproduced in this *Yearbook*.

[1] Note based on *The Judicial System and the Laws of Ethiopia*, by Nathan Marein, Advocate-General and General Adviser to the Imperial Ethiopian Government, revised edition, Rotterdam, 1951, pp. 71–75.

[2] Text in *Negarit Gazeta* of 30 September 1950, styled the "Municipal Public Health Rules 1950".

[3] Text in *Negarit Gazeta* of 31 October 1942.

[4] Text in *Negarit Gazeta* of 29 January 1950.

[5] Text in *Negarit Gazeta* of 30 September 1950.

[6] Town officers appointed for Addis Abeba and Gondar are known as *kantibas*.

[7] Text in *Negarit Gazeta* of 30 March 1942.

PUBLIC HEALTH RULES OF 1951[1]

Legal Notice No. 156 of 1951 of 27 August 1951

RULES PROVIDING FOR THE COMBATING OF COMMUNICABLE DISEASES

PART I

GENERAL

4. The Ministry of Public Health shall pay special attention to the occurrence of communicable diseases in the Empire, and it shall on the recommendation of the Medical Advisory Board take proper measures for the preventing of any such diseases from developing or spreading.

The governors and *kantibas* of the towns[2] or the town officers are responsible for such governmental measures against communicable diseases in their respective areas as may be delegated to them by the Minister of Public Health or the provincial public health officer.

5. By this legal notice any compulsory examination, treatment, vaccination, disinfection, disinsectization, segregation, carried out for the purpose of these rules shall be free of charge.

6. To prevent the spreading of the communicable diseases, the Ministry of Public Health shall have the power to take, or cause to be taken by a medical practitioner or his representative, any steps for the following purposes:

(*a*) Inspection and examination of persons and the segregation in hospitals, or otherwise, of persons infected, or suspected of being infected with communicable disease;

(*b*) Inspection and visitation of houses;

(*c*) The inspection of any premises and all installations therein—water-works, wells, latrines, urinals and cesspits—and any measures for sanitation, or destruction, if in his opinion such measures are necessary for the prevention of the occurrence or spread of communicable diseases;

(*d*) Provision of medical aid and accommodation for the people suffering or suspected of suffering from communicable diseases;

(*e*) The control and restriction of movements of foreign persons travelling within Ethiopia;

(*f*) The control and restriction of movements of foreign persons entering and leaving Ethiopia shall follow the rules laid down in the International Sanitary Convention;

(*g*) Disinfection, disinsectization, deratization and vaccination;

(*h*) Funerals and disposal of dead bodies;

(*i*) Such other action as may seem to the Ministry of Public Health to be expedient, including the dispatch of personnel to combat or control the communicable diseases.

. . .

PART II

SPECIAL PROVISIONS FOR INFECTED AREAS

8. (i) When at any time the Minister of Public Health is satisfied that any part of the Empire is visited by, or threatened with an outbreak of dangerous communicable diseases, he may by notice published in the *Negarit Gazeta* or a local newspaper declare such part to be an infected area, and the measures prescribed in these rules shall immediately be adopted for such an area.

(ii) The Ministry of Public Health shall appoint an epidemic authority or authorities for such an affected area.

[Articles 9 and 10 declare as compulsory notification of a dangerous communicable disease and enumerate those persons responsible for sending notice of communicable diseases to the epidemic authority.]

11. (i) If anybody has been declared to be suffering from, or suspected to be suffering from a dangerous communicable disease by a medical practitioner or an epidemic authority, the epidemic authority shall decide if the person shall be subject to special treatment in a hospital, or be segregated in a proper place of reception, or in a hospital, or be required to live elsewhere under special arrangements.

(ii) The epidemic authority shall keep the Minister of Public Health continuously informed of any measures taken under sub-section (i) above.

12. If a medical practitioner or epidemic authority is satisfied that a person is suffering from, or is suspected to be suffering from a dangerous communicable disease, they may have such person removed to a hospital or kept segregated in a place of reception provided for the purpose, free of charge, if necessary by force, and they shall order that such person shall not be discharged or leave such hospital or place of reception until discharged by the officer in charge thereof.

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[1] English text in *Negarit Gazeta* No. 12, of 27 August 1951, pp. 64–67. The text has also been published in *International Digest of Health Legislation*, (published by the World Health Organization), Vol. 4, No. 1, Geneva, 1952.

[2] See the preceding text, p. 83, footnote 6.

PART III

MISCELLANEOUS

14. (*a*) Any person who refuses to comply with or contravenes any of the provisions of these rules; or

(*b*) Wilfully violates any lawful order issued by the Minister of Public Health, a medical practitioner or an epidemic authority under these rules; or

(*c*) Wilfully obstructs any person acting on the authority or in the execution of any such order

shall be guilty of an offence and be liable to the penalties prescribed under article 15 of the Public Health Proclamation (No. 91 of 1947).[1]

[1]This proclamation deals with central, provincial and local health administration. The text of the proclamation is published in *International Digest of Health Legislation* (published by the World Health Organization), Vol. 1, No. 1, Geneva, 1948.—Eth. 1.

FINLAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. LEGISLATION

The following laws promulgated during 1951 are relevant to human rights:

A. Civil Liberties

1. Act No. 471 of 5 September 1951 amending the 17th chapter of the Inheritance Law.[2]

The 17th chapter of the Inheritance Law, which was part of the Civil Code of 1734, determined to what extent a person could dispose of his property by will.

In that respect the law made a distinction between persons living in rural districts and those living in cities.

If the testator lived in a rural district, he was not entitled to dispose of the ancestral land by will, but he could dispose freely of self-acquired personal and real property. If he lived in a city and had children or other direct heirs at law, he was entitled to dispose by will of one-sixth of his estate. If he had only heirs other than those mentioned above, he could dispose of half of his estate. If he had no heirs at all in Finland, he was entitled to dispose of all his property.

This law has been thoroughly changed by the amendment of 1951. The distinction between persons living in rural districts and those living in cities, as well as that between inherited and acquired real property, has been abolished, and a new concept, the so-called "legal share", has been established.

According to the new law, every direct heir at law is entitled to a legal share of the estate of the deceased which is, when the deceased has left no will, half of the calculated amount to which he would be entitled according to the statutory inheritance order.

A will violating the rights of a direct heir at law to his legal share has no effect against him if he notifies the beneficiary of the bequest in accordance with the rules prescribed by law for serving a summons. This notification must be made by the heir within a year from the date on which he is informed of the will.

If the child of a deceased needs funds for his education, he is entitled to support from the estate before its distribution.

If illness or a similar cause prevents the child of a deceased person from maintaining himself, he is entitled to support from the beneficiary under the will to the extent of the value of the property given by will. If the beneficiary himself is a natural heir and entitled to a legal share, he is obliged to give support only to the extent of the value of the property received in excess of his legal share. The law is the same if the deceased has donated property before his death in circumstances which make it clear that the purpose of the donation is equal to a will.

A person can totally disinherit his heir by will if the latter has insulted him or a person close to him by committing a deliberate crime, has deliberately neglected his duty of maintenance towards the testator, or has continuously led a dishonourable or immoral life.

2. Act No. 474 of 5 September 1951 abolishing chapters 2 and 3, and article 3 of chapter 8 of the Land Act.[3]

The purpose of this Act is to abolish the concept of "ancestral land" from the Finnish law.

3. Act No. 4 of 5 January 1951 concerning inebriates committed to a public institution for inebriates.[4]

If temperance supervision[5] is found to be insufficient to restore an inebriate to a temperate and orderly way of life, he shall be committed to a public institution for the treatment of inebriates, after the Ministry of Social Affairs has indicated a place of treatment to which he should be sent.

This Act remained in force until the end of 1952.

B. Economic and Social Rights

1. Ministerial regulation No. 48 of 25 January 1951 concerning the division of the country into districts for the guidance and control of social welfare.

By this regulation, districts for the guidance and control of social welfare are created, with an inspector and, if necessary, an assistant inspector of social welfare in every province.

2. Ministerial regulation No. 53 of 25 January 1951 concerning the control of wages in lumber works.

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[1] Note prepared by the Finnish Branch of the International Law Association.

[2] *Suomen Asetuskokoelma* (Official Gazette of Finland)—henceforth abbreviated *AssK.*—No. 471/1951.

[3] *AssK.* No. 474/1951.

[4] *AssK.* No. 4/1951.

[5] See the summary of the Inebriates (Temporary Provisions) Amendment Act of 29 December 1950 in *Yearbook on Human Rights for 1950*, p. 84.

This regulation fixes daily and hourly rates of pay and lays down rules for payment on a contractual basis in each of the wage districts into which the country is divided. Pay can be reduced by not more than 10 per cent and raised by not more than 15 per cent, depending on the skill of the worker and, in addition, may be varied by the same percentages according to the cost of living in the locality in question.

3. Ministerial regulation No. 81 of 8 February 1951 concerning rent control.

Because of the housing shortage, rent control is still continued. Like the previous regulation, that of 1951 aims to promote housing, regulate rents, and prohibit landlords from terminating leases without the consent of the appropriate authorities, while enumerating those cases in which such consent is not to be withheld.

4. Act No. 125 of 2 March 1951 on the Agricultural Institute of the Invalid Foundation.[1]

The purpose of the Agricultural Institute of the Invalid Foundation is to give invalids, their children, and war orphans theoretical and practical training suitable to conditions in rural areas. The Institute is under the supervision of the Agricultural Office.

5. Act No. 141 of 9 March 1951 concerning general medical care.[2]

In every province, a provincial physician and the necessary number of assistant physicians are placed in charge of general medical care as officials of the State.

The task of the provincial physician, who may not have a private practice, is to supervise general medical care and sanitation in the province, to observe the conditions affecting the state of health of inhabitants, and to take measures to promote general sanitation. Furthermore, he assists the provincial government as an expert in matters concerning medical care and sanitation and gives the authorities his opinion and advice on these questions. He also conducts official autopsies.

For the same purposes, a city physician is employed in every city. Correspondingly, rural communes, either individually or several communes jointly, have a commune physician.

City and commune physicians are supervised by the provincial physician, who, in turn, is subordinate to the medical office and the provincial government.

To maintain these offices, cities and rural communes are entitled to an annual government allocation.

6. Ministerial regulation No. 233 of 12 April 1951 concerning government subsidies for the arrangement of summer recreation for indigent mothers.

An association which maintains a summer home or a similar institution for the recreation of indigent mothers may be awarded a government subsidy on condition that the association arrange at least one week's free maintenance and summer recreation between 1 May and 30 September for indigent mothers who have, or have had, at least three children under sixteen years of age under their care.

7. Act No. 361 of 14 June 1951 concerning vaccination.[3]

Under the terms of this Act, vaccination means inoculating a person with a micro-organism or a substance generated by it in order to create resistance against a disease.

When directed by the covernment, the medical office shall make available general voluntary vaccination for persons who wish to be vaccinated against smallpox, diphtheria, typhoid, typhus, tuberculosis, and other epidemics and contagious diseases.

When such a disease, because of its scope or nature, is likely seriously to endanger public health, or when important reasons warrant such a measure, the Government may order a general compulsory vaccination, either throughout the whole country or in a determined area or among certain groups of people.

8. Act No. 363 of 14 June 1951 concerning the payment of wages to foreign sailors during periods of unemployment.[4]

In accordance with the convention concerning unemployment indemnity in case of loss or foundering of the ship (Convention 8) adopted by the General Conference of the International Labour Organisation in 1920, this Act provides that the same benefits granted to Finnish sailors, are to be extended to foreign sailors working on Finnish ships, on condition that the above-mentioned convention is in force in their own countries.

9. Act No. 374 of 14 June 1951 concerning payments to invalids.[5]

According to this Act, an invalid living in Finland shall receive an annual payment from public funds if his ability to work has decreased by at least two-thirds and if he is working, to the extent that he is able, to maintain himself and his family.

In exceptional cases an invalid whose ability to work has decreased by less than two-thirds but by at least a half may also receive such a payment.

The payment, which is exempt from taxes, shall be granted by the Ministry of Social Affairs.

10. Act No. 395 of 29 June 1951 concerning pension insurance for families of civil servants.[6]

On the basis of family pension insurance, as provided in this Act, the next of kin and other relatives of a

[1] *AsK.* No. 125/1951.
[2] *AsK.* No. 141/1951.
[3] *AsK.* No. 361/1951.
[4] *AsK.* No. 363/1951.
[5] *AsK.* No. 374/1951.
[6] *AsK.* No. 395/1951.

The main provisions of the new law are as follows:

The population of the province of Åland is represented by the provincial Diet in matters within the sphere of autonomy.

The administration of the province is vested in the provincial government set up by the provincial Diet. The chairman of the provincial government is elected by the provincial Diet.

The Finnish Government is represented by a Governor, appointed by the President of Finland in agreement with the chairman of the provincial Diet. In the absence of an agreement, the President is authorized to appoint one of five candidates having the necessary qualifications to discharge the duties of the administration in the province and to attend to the security of the State; these candidates are nominated by the provincial Diet.

If, in the opinion of the President, none of the candidates meets the requirements, the provincial Diet shall be requested to make further nominations.

The duties arising out of the general administration of the State are discharged in the province by the provincial authorities, in conjunction with the central authorities.

Members of the provincial Diet are elected by all men and women over twenty-one years of age by direct and secret ballot and on the basis of proportional representation. The Diet meets annually in regular session. On the instruction of the President of Finland, the Governor can summon the Diet in extraordinary session.

The Governor opens and closes the sessions of the Diet, and transmits the proposals and communications of the President.

The President has the power to dissolve the provincial Diet and to order new elections.

The law enumerates the matters in which the provincial Diet has the legislative power; this power mainly refers to education and social affairs.

The opinion of the provincial government shall be heard, before the President or the Finnish Government issue administrative provisions within the legislative competence of the State, which are to be applied solely in the province of Åland.

After having heard the opinion of the Supreme Court, the President may order the abrogation of a provincial law if, in his opinion, the law enacted by the provincial Diet concerns matters within the legislative competence of the State, or its internal or external security. This power must be used within three months from the time when the President receives notification of the enactment of the provincial law.

The provincial Diet can also adopt resolutions on matters of exclusive concern to the province which fall within the legislative or general administrative competence of the State.

The province of Åland has the right to use for its own needs the income derived from trade and amusement taxes. The provincial Diet is also entitled to order the collection of taxes on income other than those imposed by the Government of Finland.

The expenses incurred by the State administration and by the judiciary are paid from State funds. Other expenses incurred for its needs are paid by the province itself; however, the province is entitled to an allocation from State funds.

In order to acquire real estate and to exercise communal and provincial suffrage, a person must have the "domiciliary right" of the Åland Islands. Only a person who has domiciliary right or who has had his actual residence in the province for five years without interruption is entitled to carry on those trades for which notification or permission is required. A company, a co-operative society, an association, or a foundation has the right to pursue these trades if the members of its management meet the requirements provided for private persons.

If real estate located in the province of Åland is conveyed in any other way than through inheritance or expropriation to a person not having domiciliary right, the province or the community where the real estate is located, or a private person who has the domiciliary right, is entitled to redeem the real estate in question for a price which, if it is not agreed upon, shall be determined by the court in accordance with the prevailing price-level. The same regulations apply to a company, co-operative society, association, or foundation, and to all members of the management not having domiciliary rights.

The provincial government may for a good reason permit the acquisition of real estate in the province without reference to the provisions mentioned above. In that case there is no right of redemption.

Persons who have the domiciliary right of Åland are exempted from compulsory military service. However, they are obliged to serve in the pilot and lighthouse organization or in another civil administration.

The regulations defining the acquisition of the "domiciliary right" are as follows:

A Finnish citizen who is, or who legally should have been, registered in one of the Åland communities, and who has actually resided in the province for at least five years without interruption at the time this law takes effect, has the domiciliary right in Åland. If he has not resided there for five years, he shall, upon notifying the provincial government, be granted the said right on the completion of the five-year period of actual residence.

A Finnish citizen who has moved to the province since this law has taken effect and who has resided there at least five years without interruption shall be granted, at his petition, domiciliary right by the provincial government if there are no weighty reasons against it.

The provincial government can, under special circumstances, grant domiciliary right to a person who has resided in the province for less than five years.

A woman married to a man having domiciliary right automatically acquires the said right.

The domiciliary right of Åland also belongs to a child born in wedlock when the father or mother has the said right, and to a child born outside of wedlock if the mother (or, if he is in the custody of the father, the father) has the domiciliary right.

When the parents acquire this domiciliary right, their unmarried children under twenty-one years of age living in Åland in the custody of their parents acquire the right at the same time. If only one of the parents acquires the domiciliary right, the child in his or her custody receives the right. Under the same conditions, a child born outside of wedlock receives his mother's or, if he is in the custody of the father, his father's right.

A person who becomes a citizen of a foreign country or has permanently resided outside of the province for five years loses the domiciliary right of Åland.

Section 35, dealing with education, sections 37–39, dealing with the use of the Swedish and Finnish languages, and section 45, which maintains the right of the inhabitants of the Åland Islands to participate in the elections of the President and the Diet of Finland, are reproduced below.

CHAPTER 7

EDUCATIONAL INSTITUTIONS

Sect. 35. The county council and the communes of the Åland Islands shall not be required to maintain or contribute towards the maintenance of schools other than those in which the language of instruction is Swedish.

The language of instruction in State educational institutions shall be Swedish.

In elementary schools maintained by or receiving support from the State or a commune, instruction may not be given in a language other than Swedish, without the consent of the commune having jurisdiction.

CHAPTER 8

PUBLIC SERVICES AND LANGUAGE REGULATIONS

. . .

Sect. 37. The official language of State authorities in the province of the Åland Islands and of the delegation from the Åland Islands shall be Swedish. The right of a Finnish-speaking party to proceedings dealt with by a public authority to use and obtain documents in his own language shall be governed, *mutatis mutandis*, by such provisions of the General Language Act as relate to the rights of the Swedish-speaking population in exclusively Finnish-speaking areas.

Sect. 38. The Swedish language shall be used in correspondence between officials of the provincial government and State officials serving in the province of the Åland Islands, and between all such officials and the Council of State, the central authorities and such higher courts and other State authorities as have judicial or administrative jurisdiction over the province of the Åland Islands.

Opinions and judgments of the Supreme Court in all matters affecting the province shall be given in the Swedish language.

Sect. 39. A person may not be employed by the State in the Åland Islands unless be proves that he has complete mastery of spoken and written Swedish.

CHAPTER 10

SPECIAL PROVISIONS

. . .

Sect. 45. This Act shall not modify the right of residents in the province of the Åland Islands to take part in elections for the President of the Republic or for members of the Diet. In any such elections the province of the Åland Islands shall constitute a separate constituency.

FRANCE

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS [1]

An analysis of French juridical activity for the development of human rights in 1951 is difficult because this year has not been marked by any decisions of principle of sufficient importance to be considered as landmarks of philosophical and juridical thought in the sphere of the improvement of human conditions.

Does this mean that nothing has been accomplished in this field, in which France has ever been in the forefront? Certainly not. And that is where the difficulty lies, because although essential decisions marking outstanding developments cannot be pointed to, numerous texts have contributed to the pattern of progress, each of them bringing an improvement of detail and adding a stone to the edifice.

One law must be singled out, however, which has interested French public opinion in a high degree, and which relates to the particularly delicate field of education. It is the so-called Barangé Act, which, by means of a grant to all heads of families responsible for children attending primary schools, has done much to equalize the financial position of those whose children receive instruction at State high schools and colleges and those whose offspring attend the independent schools.

At the political level the debate was pushed beyond the limits of courteous discussion between the advocates of the private school and the representatives of the State School. The former argued that, owing to economic circumstances, freedom of education was nothing but an empty phrase, the equality of citizens being violated in the matter of public education since the State schools were free, in contrast to the independent or denominational schools, which, in order to cover their expenses, were obliged to charge relatively heavy fees to the parents of the children who attended them. This situation, the upholders of the independent school further argued, had the additional effect of making some individuals pay the cost of public education twice, inasmuch as those members of the community who make use of—and pay for—the educational facilities provided by the independent schools nevertheless pay taxes and contributions intended to maintain the public education service from which they derive no benefit.

Against this, the representatives of the non-denominational school urged that the fact that parents were left free to place their children in private schools did not necessarily imply that the State should be burdened with the financing of these schools, since such an attitude would result in a necessary public service being duplicated by a public service of an optional, denominational character.

In the face of these difficulties, which came near to reviving in France the long-standing antagonism which one would have liked to see buried for ever between the "denominationals" and the "laity", Act No. 51-1140 of 28 September 1951 [2] embodies certain compromises. It creates a special Treasury account out of which any head of a family who has children receiving primary education is granted an allowance amounting to 1,000 French francs per child and per term.

In principle, this allowance is granted both to the head of a family with children attending the public schools and to those whose offspring are educated in the independent schools. In either case, it is intended to improve the standard of teaching and education.

For this reason the allowance in respect of pupils attending primary public educational institutions is paid to the departmental school fund administered by the *Conseil général*, which must use this money for the provision, maintenance and equipment of primary public school buildings.

On the other hand, and with the same intention, the allowance for children attending private teaching institutions is remitted direct to the institution's parents' association. That association may apply to such educational purposes as the parents concerned may specify a proportion not exceeding 10 per cent of the sums allotted to the association's funds.

This special Treasury account is financed by an addition of 0.3 per cent to the production tax rate.

No doubt political passions are still far from being calmed in regard to the suitability of this Act, which is regarded as not going far enough by one school of thought and as being uselessly and dangerously extravagant by the other.

None the less, the Barangé Act, cleared of its political dross, is symptomatic of a tendency towards the establishment of a wider freedom of education. Freedom is, in fact, sometimes a mere word and is confined to "freedom of enjoyment" without reaching the fullness of "freedom of exercise", if, in order to be exercised, it calls for pecuniary sacrifices which many individuals are economically and socially unable to make.

[1] This note was prepared by Mr. Marcel Martin, *Maître des requêtes au Conseil d'Etat, Agrégé des Facultés de droit*, Paris. English translation from the French text by the United Nations Secretariat.

[2] *Journal officiel* No. 231, of 30 September 1951.

This problem is not confined to freedom of education. It applies to each of the freedoms we cherish so much. What is freedom to write if what is written is not published? What, indeed, is freedom of thought if everyday cares and the crushing fatigue of daily work make it impossible for a man to find a moment for that meditation and reflexion which are his "spiritual bread"?

Being a compromise, the Barangé Act was likely to dissatisfy both sides, and it did not fail to do so. That, however, is no reason to pass over in silence an endeavour which, without effectively settling the problem at issue, at least has the merit of defining its extent and inviting a solution.

In a similar connexion, Act No. 51–1115 of 21 September 1951[1] opened supplementary credits to the Minister of National Education for the provision of scholarships for the benefit of the most deserving pupils whether attending public or private educational establishments, priority being given, however, to pupils of public educational establishments who had passed the 1951 examination. Here, too, we must recognize two noteworthy efforts—the first in the direction of generalizing and extending the scholarship system, and the second promoting the equal right of all to benefit from the facilities provided by law.

This Act was put into effect by decree No. 51-1225, of 25 October 1951.[2]

While we are on the subject of education, we may mention two interesting innovations in this same field which are designed to promote the spread of education, viz.: the establishment of a foreign section at the French school at Rome,[3] and the institution of French high schools of Franco-Moslem education in Algeria.[4] The first of these two texts once more brings into relief France's traditional sense of hospitality, which treats on an equal footing all men of goodwill who seek a basis for belief and action in the study of her culture. The second illustrates that close collaboration—which some, for reasons of international politics, seek to deny—between Western tradition and Moslem culture that has been sought and organized by our country for very many years and the achievement of which is sometimes disputed—to the amazement of the French people—even by our friends, whom we must assume to be misinformed.

Let us not leave this subject without mentioning one problem which, though a purely material one, is none the less extremely serious. The growth of France's population has placed the Administration in a difficult position in regard to school buildings, which are not big enough to accommodate all the children. Accordingly, article 2 of the aforesaid Act of 21 September 1951 provides special credits and authorizes projects to a total of 12,000 million French francs for the provision of buildings for the various kinds of public education.

If we have, in the first part of this report, given special prominence to questions of education and teaching, we have been prompted to do so, as we have said, not only by their intrinsic importance, but also in view of their profound political repercussions, which during the year 1951 came very close to reviving certain deep-rooted antagonisms which were slumbering in the hearts of Frenchmen.

Turning now to the various human rights which derive from man's very existence and his essential development, these rights have, in 1951 as in the past, been defended by French law and by French judicial decisions, although—regrettably—no essential and fundamental effort has been made in connexion, more particularly, with individual freedom and the responsibility of the judicial services, which have in fact remained too closely tied to the judicial police, though a reaction did manifest itself in 1951 and was followed up in 1952 by circulars issued by the *Garde des Sceaux* concerning hasty and, to say the least, imprudent arrests.

The first human right was the right to life, a right protected from birth in the person of the child. It is logical to study at this point the manifestations of respect for this right as expressed both in the law and in judicial decisions.

In this connexion, steps have been taken to improve the lot of juvenile delinquents by modifying the procedure of the juvenile courts. Act No. 51-687 of 24 May 1951,[5] amending the ordinance of 2 February 1945 relating to juvenile delinquency, humanizes the proceedings before juvenile courts by giving these courts a higher degree of specialization, providing that proceedings shall be held in secret, and appointing in each judicial district a judge specially concerned with the protection of children.

In regard to judicial decisions, these have strengthened the rights of children in relation to their parents. We should like to draw attention in particular to one decision ruling that only absolute indigence or total incapacity for work can dispense parents from their obligation to contribute towards their children's support, and that in consequence it is incumbent on a student who is the father of an illegitimate child either to deduct from the allowance he receives from his family such sums as may be necessary to sustain the life of his child or to undertake some paid work which will enable him to honour his obligations, which, the court says, he cannot evade on the purely personal ground that his future career requires prolonged and expensive study.[6]

[1] *Journal officiel* No. 225, of 23 September 1951.

[2] *Journal officiel* No. 256, of 30 October 1951.

[3] *Journal officiel* No. 242, of 13 October 1951 (decree of 11 October 1951).

[4] *Journal officiel* No. 165, of 14 July 1951 (decree No. 51-906 of 10 July 1951.

[5] *Journal officiel* No. 129, of 2 June 1951. Extracts from this Act are published in this *Yearbook*.

[6] Trib. Civ. de Pontarlier, 12 June 1951, P. *v.* B.—*Sem. Jur.*, ed. G, 5 January 1952.

Similarly, in the case of a divorce, the judges do not hesitate to make use of their powers of discretion to decide whether to award the custody of the children to the father when the mother has shown herself unworthy of the responsibility, even when the children are very young.[1]

Child welfare, moreover, is not the only sphere in which the right to life has been proclaimed and defended. Judicial decisions have been pronounced strictly applying the relatively new provisions of article 63, paragraph 2, of the Penal Code, which make failure to render aid a punishable offence. One judgment rules, in particular, that in this respect no distinction shall be made according to the cause and nature of the danger to which the person needing assistance is exposed. By virtue of this principle, which very strongly implies the "duty of rescue" incumbent on everyone whatever the circumstances, a person was found guilty of an offence for having refused aid to a wounded man who took refuge in his farm, on the pretext that he thought he was a malefactor.[2]

This same category of respect for the right to life includes all provisions or decisions aimed at protecting the health of the individual and of the family.

In this connexion, certain international agreements have been published in France to enable them to be enforced, among them the decree of 30 August 1951 publishing the protocol of 19 November 1948 concerning the international control of narcotic drugs.[3]

Alcoholism, regarded as one of the greatest scourges, was the subject of special provisions in the Acts of 6 January and 24 May 1951 regulating publicity on digestive or appetite-stimulating alcoholic beverages.[4]

A large number of judicial decisions can be quoted on the responsibility of members of the medical profession, in which the principle is accepted, though very cautiously, that errors of diagnosis or therapy may, where the state of health of the patient is thereby worsened, expose the doctor who is at fault to legal proceedings.

Lastly, the decree of 9 July made vaccination with anti-tuberculosis vaccine compulsory.[5]

Traditionally hospitable to foreign refugees, France, by a decree of 6 December, put into effect the arrangement of 30 June 1928 laying down the legal status of refugees.[6]

In the same connexion, the Act of 29 August 1951 defines the aid to be given to foreign refugees.[7]

The extradition rules themselves are very strictly enforced. Thus a Belgian national prosecuted and sentenced for having provoked or assisted propaganda discouraging resistance to the enemy, and for having exposed individuals to investigations, severities and persecutions of the enemy, cannot be the subject of a Franco-Belgian extradition, the case being of an indisputably political nature. Moreover, the same discussion led to the conclusion that since, under the terms of the 1946 Constitution, the validity of international conventions depends compulsorily on their ratification by Parliament, the declaration of reciprocity made by a mere exchange of letters between France and Belgium concerning the extension of the extradition convention to offences against the external security of the State could not serve as a legal basis for an application for extradition.[8]

In the sphere of the public freedoms mention may be made of an order of the *Conseil d'Etat*, dated 22 June 1951, upholding freedom of action and professional freedom. The particular case to be decided was an appeal from an administrative decision prohibiting the exercise of the profession of film-photographer on the public thoroughfares, the grounds of appeal being that the prohibiting authority had exceeded its powers.

The *Conseil d'Etat* ruled that this general prohibition was contrary to public freedom, and quashed the decision.[9]

On the same lines, and in harmony with the traditional jurisprudence of the *Conseil d'Etat*, the freedom of the press was protected during 1951, notably in a decision of 23 November.[10] In this decision the *Haute Assemblée* annulled prefectoral orders absolutely prohibiting the exhibition and sale of newspapers. The *Conseil d'Etat* thereby signified that such a general and absolute prohibition was in contradiction with a freedom guaranteed by the Constitution, and that it was not permissible for the administrative authorities to apply such a prohibition except to the limited extent to which it was necessary in the interest of public order.

Much more important from the point of view of the rights of the individual is a decision of the Court of Cassation[11] in which it may be said to have upheld what might be called the "right to fame".

The decision related to an action in which the litigants were the executors of the great inventor Branly and the author of a history of the radio, who had

[1] Cass. Civ., 3 January 1951, *dame* Lorieux, and Cass. Civ., 5 March 1951, *dame* Desrobert.

[2] Trib. Corr. du Mans, 22 October 1951, Huet and others —*Sem. Jur.*, ed. G., No. 46—18 November 1951: *Jurisp.* No. 6557.

[3] *Bull. Legis. Dalloz*, p. 721.

[4] Acts Nos. 51-37 of 6 January 1951 (*Journal officiel* No. 10, of 11 January 1951) and 51-693 of 24 May 1951 (*Journal officiel* No. 130, of 3 June 1951).

[5] *Bull. Legis. Dalloz*, p. 664.

[6] *Bull. Legis. Dalloz*, p. 940.

[7] *Bull. Legis. Dalloz*, p. 621.

[8] Toulouse, *Chambre des mises en accusation*, 7 June 1951; Pfannenstiel, *Sem. Jur.*, ed. G., 1951, II, 6487.

[9] 1st case: Daudignac; 2nd case: National Federation of Film-photographers case. See *Gazette du Palais*, Paris, 1951, II, p. 38.

[10] *D. Jurisp.*, p. 21.

[11] Cass. Civ., 27 February 1951, Consorts Branly *v.* Turpain, see *Gazette du Palais*, Paris, 1951, I, p. 230.

omitted to mention in his work the name of Edouard Branly. The Court of Cassation considered this omission to constitute an infringement of the inventor's personal rights, and in consequence damages were awarded, a ruling which acknowledged the liability under civil law of historians who maliciously, negligently or malevolently fail, in one of their works, to mention a name of such importance that it cannot properly be disregarded.

This judgment is, however, a double-edged one from the point of view of human rights, since whilst on the one hand it upholds the right of every individual to have his achievements for the benefit of mankind acknowledged, on the other it denies the no less important right of the historian to make a selection in conformity with his own conscience when relating the history of mankind.

For our own part, we do not approve this decision of the Court of Cassation because we hold that the writer's freedom should be respected even more than the right of great men to be acknowledged as such by their fellows.

Lastly, in the field of social welfare mention should be made of decree No. 51-880 of 9 July relating to allowances to offset a rent increase, granted to the indigent.[1]

In the domain of labour, numerous executive and legislative measures have been published to put international agreements into force in France. Examples are the publication of Convention No. 87 on the freedom of association and protection of the right to organize, by the decree of 6 August,[2] Convention No. 98 concerning the application of the principles of the right to organize and to bargain collectively, the decree of 21 November;[3] the Convention of 7 November 1949 on social and medical assistance was ratified by Act No. 51-09 of 4 January.[4] Convention No. 3 concerning the employment of women before and after childbirth was published by decree No. 51-193 of 16 February.[5] Conventions 77 and 78 concerning medical examination of children and young persons for fitness for employment were ratified by the Act of 24 May.[6] Other conventions ratified and published were Nos. 62, 10, and 60, relating to safety provisions in the building industry, the age for admission of children to employment in agriculture, and the age for admission of children to non-industrial employment.

Lastly, the problem of housing cannot be passed over without comment, for it very often determines the conditions of life. In this connexion we should note the very important Act of 24 May 1951 which provides for subsidies and tax reliefs to stimulate house construction.[7]

It is true that a number of the enactments which have just been enumerated might be regarded as unimportant from the point of view of principles, but it should be recognized that sometimes administrative or legislative decisions of an apparently material character are more likely than others of a more philosophical scope to promote the development of human rights. Any legislation the aim of which is to combat poverty or to set in motion a policy of healthy housing is in practice quite as important as a constitutional text guaranteeing this or that freedom.

Indeed, as we pointed out at the beginning of this survey, certain freedoms that have been proclaimed in the most solemn manner and are guaranteed by the law remain unexercised for purely material and economic reasons, whilst the application of provisions of an economic and material character can bring increased well-being and enable that section of humanity that benefits by them to cultivate at greater leisure, and therefore in greater freedom, what we may term their inward personality, the existence and development of which are beyond the control of any legal ruling, but which require at the very least a certain mental freedom that is absolutely incompatible with moral and material distress. We conclude with this observation, which confirms the uselessness of purely philosophical proclamations if they are not followed up by practical measures of implementation.

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[1] *Journal officiel* No. 163, of 12 July 1951.

[2] *Bull. Legis. Dalloz*, p. 88.

[3] *Bull. Legis. Dalloz*, p. 891.

[4] *Journal officiel* No. 5, of 5 January 1951.

[5] *Journal officiel* No. 45, of 21 February 1951.

[6] *Journal officiel* No. 127, of 31 May 1951.

[7] *Bull. Legis. Dalloz*, p. 517.

ACT No. 51-687 AMENDING THE ORDINANCE OF 2 FEBRUARY 1945 ON JUVENILE DELINQUENCY[1]

dated 24 May 1951

. . .

Art. 2. The children's court and the juvenile assize court shall, depending on circumstances, order such measures of protection, assistance, supervision and education as they deem appropriate.

In the case of juveniles over the age of thirteen years, they may, however, if they consider that the circumstances and character of the offender so require, impose a penalty under the provisions of articles 67 and 69 of the Penal Code. In this case, the sentence of imprisonment shall be served under conditions to be defined by public administrative regulations.

In the case of juveniles over the age of sixteen years, they may rule that the mitigating plea of minority is not admissible. Any such ruling by the children's court shall require a special order stating the reasons for the ruling.

Art. 14. Each case shall be tried separately, in the absence of any other accused person.

Only witnesses to the case, close relatives, the guardian or legal representative of the juvenile, members of the Bar, the representatives of welfare societies and of services or institutions dealing with children, and probation officers may attend the proceedings.

The presiding judge may at any time order that the juvenile shall withdraw during all or part of the subsequent proceedings.

The publication of reports of children's court proceedings in books, in the press, by radio broadcasts, by cinematographic films or by any other means is prohibited. It is likewise prohibited to publish, by any of the said means, any writing or illustration relating to the identity and personality of juvenile offenders. Any infringement of these provisions shall render the offender liable to a fine of not less than 10,000 and not more than one million francs; in the event of a second or subsequent offence, the offender shall be liable to imprisonment for not less than two months nor more than two years.

The judicial decision shall be given at a public hearing, the juvenile being present. The decision may be published but the name of the minor may not be indicated, even by an initial, any person contravening this provision being liable to a fine of not less than 10,000 and not more than 100,000 francs.

. . .

[1] French text in *Journal officiel* No. 129, of 2 June 1951. English translation from the French text by the United Nations Secretariat.

ACT No. 51-1078 OF 10 SEPTEMBER 1951 SUPPLEMENTING ARTICLE 38 OF THE ACT OF 29 JULY 1881 CONCERNING THE FREEDOM OF THE PRESS[1]

Sole article. Article 38 of the Act of 29 July 1881 shall be supplemented by the following paragraph, to be inserted between the first and second paragraphs:

"Without prejudice to the provisions of article 378 of the Code of Criminal Procedure,[2] it shall be unlawful, and subject to the same penalty, to publish any reports concerning the proceedings and decisions of the Superior Council of the Judiciary (*Conseil supérieur de la magistrature*). Any information communicated by the President or Vice-President of the said Council may, however, be published."[3]

[1] French text in *Journal officiel* No. 215, of 12 September 1951.

[2] The relevant provisions of article 378 read as follows: "No indication or document relating to the carrying out of the sentence other than the official records may be published in the press under a penalty of 6,000 to 120,000 francs."

[3] Article 38 as so amended reads as follows:

"5. *Prohibited Publications; Immunities of the Defence*

"*Article 38.* It shall be unlawful to publish indictments and any other documents relating to criminal or correctional procedure before they have been read in a public hearing. Offences shall be punishable by a fine of not less than 50 nor more than 1,000 francs.

"Without prejudice to the provisions of article 378 of the Code of Criminal Procedure, it shall be unlawful, and subject to the same penalties, to publish any report concerning the proceedings and decisions of the Superior Council of the Judiciary (*Conseil supérieur de la magistrature*). Any information communicated by the President or Vice-President of the said Council may, however, be published.

"The same penalty shall be applicable on conviction for the publication by any method of photographs, pictures, drawings or portraits purporting to reproduce, wholly or in part, the circumstances of any of the crimes and offences enumerated in sections I, II, III and IV of Book III, Part 2, Chapter I of the Penal Code.

"No offence shall, however, be deemed to have been committed if publication was undertaken at the written request of the investigating magistrate. Such request shall be attached to the file of the investigation."

DEMOCRATIC REPUBLIC OF GERMANY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. FIVE-YEAR PLAN

1. Act of 1 November 1951 concerning the Five-year Plan for the development of the national economy of the Democratic Republic of Germany (1951–1955). Extracts from this Act are published in this *Yearbook.*

II. CIVIL LIBERTIES

2. Act of 11 November 1949 on the remission of punishment and the granting of civic rights to former members and adherents of the Nazi Party and officers of the fascist army. This Act is published in the present *Yearbook.*

3. Decree of 22 February 1951 reorganizing the institutions of higher education. This decree is published in *Official Gazette of the Democratic Republic of Germany* No. 23, of 26 February 1951. It came into force on 1 March 1951. It establishes a State secretariat to centralize all matters pertaining to, and to undertake a thorough reform of higher education. The secretariat directs or co-ordinates all scientific work of academic and technical universities, libraries, museums and related institutions; fosters in all these institutions a progressive scientific attitude for the promotion of peace and the unity of Germany; and stresses these factors in the courses of study, instruction and research. It is responsible for increasing the number of enrolments of workers and peasants in courses of study, raising the qualifications of teachers, providing literature and teaching material for academic institutions, libraries, museums, etc. It supports scholars in the fulfilment of tasks which implement national economic planning.

The secretariat directs and supervises all institutions mentioned in this Act. It is especially responsible for the study of social sciences and languages, the conduct of studies in the direction of progressive scholarship, the unification of the educational structure, by-laws of educational institutions, scholastic examinations and programmes of study; and for unified teaching methods in natural science. The appointment of professors and confirmation of directors of institutions of higher education are likewise the responsibility of the State secretariat.

4. Decree of 31 May 1951 on the manufacturing and publication of geographical and road maps of the Democratic Republic of Germany. This decree is published in *Official Gazette* No. 67, of 8 June 1951, and came into force on the day of its publication. The Ministry of the Interior controls the manufacturing, printing, reproduction, publication and distribution of maps, and is empowered to issue regulations in this field and to supervise their implementation. Maps of any kind cannot be manufactured, printed, published or distributed without previous authorization by the Ministry of the Interior. All licences or permits for the printing of maps are rescinded and new applications are to be submitted. Printing shops require a licence for the printing of cartographic material. Penalties are provided for infractions of this decree.

5. Decree of 16 August 1951 on the development of progressive literature. This decree is published in *Official Gazette* No. 100, of 27 August 1951. It came into force on 1 September 1951. The Act establishes an Office for Literature and Publishing to ensure a strong, carefully planned and systematic orientation to direct the production and distribution of books and magazines. This Office must furthermore develop and encourage publications of all kinds through central co-ordination and direction, in co-operation with certain political, administrative and academic institutions, and raise the quality of literature by examining the works intended for publication and giving advice to publishers. Publishing the literary works of writers of the Soviet Union and the people's democracies, and of progressive authors of other nations, is to be encouraged.

III. ECONOMIC AND SOCIAL RIGHTS

(a) *Protection of Labour*

6. Decree of 12 July 1951 on the powers of labour agencies and the allocation of manpower. This decree is published in *Official Gazette* No. 86, of 18 July 1951. The Act transfers the powers of these labour agencies to departments of labour to be established within the councils of rural and urban districts, and specifies the functions of these departments and of the supervisory organs. The main fields of activity of the departments are planning and statistics; allocation of manpower; protection of labour, collective agreements and wage control.

7. Decree of 25 October 1951 on protection of labour. This decree is published in *Official Gazette* No. 127, of 2 November 1951. It came into force on

[1] This note is based on texts received through the courtesy of the Prime Minister of the Democratic Republic of Germany.

1 November 1951 and implements the Labour Code of 19 April 1950.[1] It deals with hygiene, health protection, safety in factories and plants and hours of work. The legal weekly working time is to be distributed over six days; minors are to be granted at least twelve hours of rest after the end of the working day. The conditions under which the forty-eight-hour week may be exceeded, or when work on Sundays or holidays may be allowed, are defined in this decree. Women and minors are the objects of special protection. Children under fourteen years of age are not permitted to work; minors under sixteen years of age are not to be assigned work between the hours of 8 p.m. and 6 a.m., or to Sunday or overtime work. A schedule is annexed to the Act listing the assignments which may not be given to women unless as a result of production techniques in the plant, their health is not endangered thereby. Provisions protecting pregnant women are included in the Act. Women obliged to care for children under six years of age may not be employed between the hours of 10 p.m. and 6 a.m. unless they themselves so agree. They may be employed, however, if there are sufficient social welfare institutions to care for their children.

(b) *Social Insurance*

8. Decree of 2 February 1950 on obligatory social insurance for students of academic and technical universities and institutes. This decree is published in *Official Gazette* No. 11, of 10 February 1950. It came into force on 1 April 1950. Students are thereby entitled to sickness benefits, hospitalization and maternity benefits, invalidity, old age and death benefits.

9. Decree of 26 April 1951 on social insurance. This decree is published in *Official Gazette* No. 49, of 28 April 1951. It came into force on 1 May 1951. A centrally directed Institute of Social Insurance is established in Berlin. The Free German Trade Union Federation is responsible for the direction and control of the Institute; the trade unions affiliated with this federation fulfil their responsibilities in accordance with instructions from the Federation. The Act regulates the composition of the Central Social Insurance Council, which directs and administers all affairs pertaining to social insurance, and of the social insurance councils to be established in the *Länder* and counties. The social insurance budget is part of the State budget of the Democratic Republic of Germany. The Ministry of Labour exercises supervision over social insurance. The Act also provides for agencies which are responsible for settling labour disputes.

10. Decree of 30 August 1951 increasing social insurance benefits for incapacitated persons. This decree is published in *Official Gazette* No. 105, of 3 September 1951. It provides for payment of cash benefits from the first day of incapacity to work if this incapacity has lasted for at least two weeks.

(c) *Paid Vacations*

11. Decree of 7 June 1951 on paid vacations. Extracts from this decree are reproduced in the present *Yearbook.*

(d) *Care of Children*

12. Order of 30 March 1950 on supplying food in schools. This order is published in *Official Gazette* No. 65, of 17 June 1950. The order provides that from 15 April 1950, on school days, a hot meal shall be served to pupils in all kindergartens and in elementary, secondary and vocational schools. The quantities and types of food required for a meal for each child are listed. The costs are, in the main, to be recovered by contributions from the parents, for which maximal rates are set.

13. Decree of 31 January 1951 implementing article 27 of the Act concerning the protection of mothers and children and the rights of women.[2] This decree is published in *Official Gazette* No. 22, of 22 February 1951, and came into force with retroactive effect to 1 October 1950. It establishes seminars for parents, especially for mothers, to assist them in discharging their duty of raising their children in the spirit of peace and democracy by imparting to them the fundamental educational knowledge enabling them to fulfil this task.

IV. CULTURAL RIGHTS

14. Act of 15 December 1950 concerning compulsory education. Extracts from this Act are reproduced in the present *Yearbook.*

15. Decree of 22 February 1951 reorganizing the institutions of higher education. See paragraph 3.

16. Decree of 5 October 1951 on education of children and adolescents with serious physical or psychic deficiencies. This decree is based on article 7 of the Act of 15 December 1950 on compulsory education (see above) and is published in *Official Gazette* No. 122, of 16 October 1952. It provides for special schools for certain categories of handicapped children.

[1] See *Yearbook on Human Rights for 1950*, pp. 93–95.

[2] See extracts from this Act in *Yearbook on Human Rights for 1950*, pp. 95–96.

ACT CONCERNING THE FIVE-YEAR PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE DEMOCRATIC REPUBLIC OF GERMANY (1951–1955) [1]

dated 1 November 1951

Introductory Note. This Act indicates in its first parts the "main aims of the Five-year Plan"—the development of industry, research and technology, agriculture, hydro-electric installations, forestry, transportation and communications, national reconstruction financing, geological research, availability and improvement of manpower, increase of productivity and wages, decrease of production costs, domestic and foreign commerce, supply of raw materials for the national economy. Other aims are the increase of the national income; encouragement of crafts; development of municipal institutions, of finances and the budget. The text of three articles of the Act is reproduced below: article 16, dealing with the standard of living; article 20, dealing with health; and article 21, dealing with the promotion of cultural and recreational activities for young persons.

Article 16

DEVELOPMENT OF THE STANDARD OF LIVING OF THE POPULATION AND THE VOLUME OF RETAIL TRADE

1. It is one of the main objects of the Five-year Plan to improve the material well-being of the population of the republic. The aim is to reach and considerably surpass the pre-war standard of living of the population.

For this purpose, a rise in production and of wages in industry are essential conditions. The level of income of the rural population must be raised through enhanced productivity and increased production of agricultural goods, and through stable official buying prices for agricultural produce.

2. Simultaneously with the rise in wages, a further decline in the prices of foodstuffs, mass consumption goods and goods used by the rural population of at least 28 per cent below the average price level of the year 1950 and a reduction in the rates of taxation applicable to the working population shall be brought about in the course of these five years.

3. Rationing shall be completely abolished, and free trade in all foodstuffs and industrial goods at uniform prices shall be introduced, at the latest in the year 1953.

4. The consumption of food and industrial goods per head of the population will be increased in 1955, as computed with the 1950 figures, as follows:

	1955 : 1950 (Percentages)
Meat and meat products	191
Milk	217
Eggs	368
Fats	176
Fish and fish products	355
Sugar	166
Textiles of all kinds	230
Leather footwear	376
Knitted outer garments	436
Knitted undergarments	331
Soap	410

Article 20

DEVELOPMENT OF HEALTH

1. For the purpose of ensuring the sound health of the whole population and, consequently, of increasing the productivity of labour, it is necessary in the course of the Five-year Plan to provide more comprehensive health protection, to intensify the use of preventive measures and to ensure equal medical care for the urban and the rural population. The existing hospitals and specialized clinics must be expanded and modernized, for which purpose they shall be equipped with the most modern medical installations and staffed by qualified medical personnel.

2. State budgetary provision, including capital outlay, for health will increase during the period 1951 to 1955 by 155 per cent compared with the figures for 1950.

3. Hospitals, out-patients' clinics and consulting clinics shall be increased in number from 2,350 (1950) to 2,770 (1955). The number of beds shall be increased to ten beds per 1,000 inhabitants and in industrial districts to eleven beds per 1,000 inhabitants . . .

Hospitals and out-patients' clinics shall be amalgamated systematically in organizational units.

Industrial clinics and industrial first-aid stations will be increased in number from 2,430 (1950) to 5,170 (1955).

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[1] German text in *Gesetzblatt der Deutschen Demokratischen Republik* No. 128, of 8 November 1951. English translation from the German text by the United Nations Secretariat.

4. The number of places in sanatoria will be increased from 6,053 (1950) to 10,000 (1955).

5. To ease the tasks of working women, a widespread system of day nurseries shall be set up between 1951 and 1955 and the number of places in these increased from 4,335 to 39,500. Centres for the care of mothers and children shall be expanded, and country clinics shall be amplified by an additional system of mobile dental clinics and X-ray facilities.

6. For the purpose of ensuring the health care of the urban and rural populations, capital resources to the extent of 532 million DM shall be made available in the period 1951 to 1955. With these funds, provision shall be made to ensure the reconstruction and new building of hospitals with 8,800 beds, of tuberculosis sanatoria with 1,900 places, of 470 country clinics and 146 out-patients' clinics and industrial clinics, and of day nurseries with about 35,000 places. In the principal industrial centres maternity clinics and children's departments shall be set up in hospitals. Provision shall be made for the construction of central institutes carrying on anti-cancer and anti-tuberculosis research and research into antibiotics and chemicotherapeutic methods.

7. To improve the social care of the population, the system of convalescent homes in the republic shall be enlarged and the number of places increased to 24,000. Financial resources amounting to 115.5 million DM shall be set aside from the State economy between 1951 and 1955 for investment in facilities to improve the social care of the population. With these funds, provision shall be made to ensure the reconstruction and new building of after-work homes with 10,300 places, of rest homes with 2,800 places and of holiday homes with 24,000 places. Particular attention shall be paid to the improvement of social amenities in industry. Out of the capital funds referred to above, 36 million DM shall be devoted to the development of social amenities in industry.

Article 21

DEVELOPMENT OF CULTURE AND PROMOTION OF YOUTH AND RECREATIONAL ACTIVITIES

1. During the five-year period measures shall be taken to ensure a rise in the cultural level of the urban and rural population. The aspirations of the great masses to widen their knowledge shall be satisfied, and closer contact between science, the arts and the people shall be established.

Greater opportunities shall be extended to the children of workers and farmers to attend universities. Measures shall be taken to foster a new progressive intellectual outlook. The rich experience of the Soviet Union and of the other peace-loving peoples in the creation of a progressive culture shall be popularized and applied on a broad basis.

2. The State budget for popular education and cultural development, inclusive of capital outlay for this purpose, will by 1955 reach a level 48 per cent above that of 1950.

3. The number of schools for general education and of occupational schools (not including industrial occupational schools) shall be increased by 1955 to 12,410. Owing to the consequent increase in the number of classrooms the shift system in teaching will be eliminated, a development which will greatly benefit pupils, parents and teachers. As a result the efficiency of the schools should be enhanced and the general level of education should rise.

4. Additional facilities shall be provided to enable workers and farmers to study at universities, and the number of students in the industrial and agricultural faculties shall be raised from 6,693 (1950) to 12,000 (1955). The number of students at people's universities shall be raised from 305,000 to 1 million.

5. The number of university students will be raised from 26,890 (1950) to 43,600 (1955).

6. Meaures shall be taken to expand the facilities for training teachers for schools giving general education and for occupational schools, the number of teachers to be increased from 88,486 (1950) to 113,820 (1955).

7. To improve education before school age and in the home, and to make provision for the children of working mothers, the number of places in the municipal and industrial day nurseries shall be increased from 337,837 (1950) to 463,000 (1955). Accordingly, the number of instructors in infants' schools and children's homes will be increased from 15,559 to 35,000.

8. For the purpose of raising the cultural level of workers in the republic and acquainting them with the best works of German literature, art and science and of the progressive culture of the Soviet Union and other peoples, broad measures shall be taken during the five-year period with a view to the establishment of clubs and cultural centres or similar premises, the construction of new and the expansion of existing theatres and the creation of a widespread system of people's libraries, and with the object of doubling the publication of scientific, educational and aesthetic literature (40 million volumes in the year 1955).

9. Investments relating to popular education and culture are estimated to amount to 1,304 million DM for the years 1951 to 1955; the plan calls for the reconstruction and new building of infants' schools, children's homes, people's schools, occupational schools, universities and theatres within this five-year period . . .

10. The development of our youth shall be promoted on a generous scale, and every opportunity shall

be given to our young people for work, for the acquisition of qualifications, and for active co-operation in our creative plans.

For the purpose of inculcating the idea of peace in young persons and ensuring their healthy physical development, pioneer houses and pioneer camps, youth homes and youth hostels shall be set up.

11. It is the task of the Free German Youth and of the Young Pioneers to activate the school life in all the educational institutions in our republic through the active co-operation of the pupils and students. This development should spread among all our young people an atmosphere of learning, which is the distinctive feature of our democratic schools.

12. State expenditure for the promotion of youth and recreational activities shall be increased during the five-year period to a level 209 per cent above that of 1950 . . .

ACT CONCERNING THE REMISSION OF MEASURES OF PUNISHMENT AND THE GRANTING OF CIVIC RIGHTS TO FORMER MEMBERS AND ADHERENTS OF THE NAZI PARTY AND OFFICERS OF THE FASCIST ARMY[1]

of 11 November 1949

Art. 1. Persons who were deprived by the judgment of a court or by the decision of a denazification commission of the right to vote owing to their activities on behalf of national socialism or militarism, shall on the commencement of this Act be entitled to vote and shall qualify for elective office.

Art. 2. (1) Persons who were members of the former NSDAP[2] or its branches or served as officers in the fascist army may, in accordance with their technical qualifications, hold public office, be employed in any undertaking, carry on any craft, trade or industry, engage in the liberal professions and be active in democratic organizations. Employment in the internal administration and its organs shall be excluded from the scope of this provision, save in so far as exceptions are permitted by the regulations to give effect to this Act. This provision shall also apply to employment in the judicature.

(2) The general conditions governing appointment shall apply to appointments to public offices; the regulations in force shall govern admission to the crafts, industry and the liberal professions.

Art. 3. (1) No claim to reinstatement in former social and especially professional and economic positions shall be recognized. Certificates of admission, licences or other titles which have been withdrawn shall not revive.

(2) Any confiscations of property shall not be affected by the provisions of this Act.

Art. 4. (1) Articles 1 and 2 of this Act shall not apply to militant Nazis and war criminals who have until now escaped punishment by giving false particulars about themselves, by flight or by other means.

(2) Articles 1 and 2 shall also not apply to persons who have been sentenced by German courts to more than one year's deprivation of liberty for war crimes or other fascist offences. In the case of persons who had not completed their eighteenth year on 8 May 1945 the right to vote and to stand for election shall be restored, irrespective of the length of any term of deprivation of liberty to which they may have been sentenced.

(3) Articles 1 and 2 shall also not apply to any person who has been held guilty of an offence under Control Council directive No. 38, section II, chapters III A III or of a criminal offence, as defined in article 6, paragraph 2, of the Constitution of the Democratic Republic of Germany, committed after 8 May 1949.[3]

Art. 5. The regulations for giving effect to this Act shall be issued by the Ministry of the Interior in consultation with the Ministry of Justice.

Art. 6. This Act shall come into force on promulgation.

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[1] German text in *Gesetzblatt der Deutschen Demokratischen Republik* No. 7, of 18 November 1949, received through the courtesy of the Prime Minister of the Democratic Republic of Germany. English translation by the United Nations Secretariat.

[2] National Socialist German Workers' Party.

[3] Article 6, paragraph 2, provides: "Incitement to boycott democratic institutions and organizations or to murder democratic politicians, the manifestation of hatred against a religion, race or nation, militaristic propaganda and incitement to war as well as all other acts directed against equality of rights are crimes under the Penal Code. The exercise of democratic rights in the spirit of the Constitution is not incitement to boycott."

ACT CONCERNING COMPULSORY EDUCATION IN THE DEMOCRATIC REPUBLIC OF GERMANY[1]

of 15 December 1950

Art. 1. Education shall be compulsory from the beginning of their seventh year for all children and young persons if the persons entitled to claim education for them are domiciled or permanently resident in the Democratic Republic of Germany.

Art. 2. (1) Children and young persons liable to compulsory education shall be required to attend the State schools of the Democratic Republic of Germany.

(2) The Ministry of Public Education, in agreement with the Ministry of Labour of the Democratic Republic of Germany, shall regulate the times and places at which such attendance shall be required.

Art. 3. Compulsory education shall extend to:

(*a*) The eight-year elementary school;

(*b*) The vocational training school until the student passes the graduation examination (technical examination) or until the purposes of the vocational or trade school have been attained. In so far as persons attend secondary schools for general education (ten-year schools, high schools (*Oberschule*)) in the territory of the Democratic Republic of Germany they shall, while attending these schools, be exempt from the duty to attend vocational training schools.

Upon attaining the age of eighteen years persons shall cease to be liable to compulsory education.

Art. 5. (1) Persons entitled to bring up children shall see to it that they attend school as required. The same shall apply to the owners of undertakings who are entitled to train their apprentice workmen and to all other persons responsible for the training and supervision of apprentice workmen in undertakings.

(2) Enforcement measures may be applied to secure the attendance at school of persons liable to compulsory education.

Art. 6. Physically and mentally handicapped children and young persons liable to compulsory education shall fulfil the education requirement by attending State schools prescribed for them in accordance with the directives issued by the Ministry of Public Education in agreement with the Ministry of Health of the Democratic Republic of Germany.

Art. 7. The Ministry of Public Education of the Democratic Republic of Germany shall issue the necessary regulations to give effect to the present Act in agreement with the Ministry of the Interior of the Democratic Republic of Germany and with the other competent ministries.

[1] German text in *Gesetzblatt der Deutschen Demokratischen Republik* No. 142 of 22 December 1950, received through the courtesy of the Prime Minister of the Democratic Republic of Germany. English translation from the German text by the United Nations Secretariat.

ORDINANCE CONCERNING REST LEAVE[1]

of 7 June 1951

I. GENERAL

Art. 1. Every wage-earning and salaried employee under contract of employment or in vocational training shall be entitled to leave with pay for the purpose of rest, pursuant to article 16 of the Constitution of the Democratic Republic of Germany[2] and in conformity with article 34 of the Labour Act of 19 April 1950.[3]

Art. 2. 1. The leave year shall be the calendar year.

2. If leave cannot be granted during the leave year without prejudice to the undertaking's programme under the planning legislation, leave must be granted before 31 March of the following year.

Art. 3. Only working days shall count as days of leave. It shall not be permissible to deduct from leave:

(*a*) Any working days for which a medical certificate is produced showing unfitness for work owing to industrial accident, sickness or pregnancy;

(*b*) Working days on which the employee is excused from work for the purpose of enabling him, for example, to attend educational or vocational training courses or to exercise or perform his rights or duties as a citizen.

Art. 4. 1. Leave shall be granted according to a leave plan to be drawn up in each undertaking at the beginning of the leave year by the management in consultation with the works union committee. The wishes of wage-earning and salaried employees shall be respected as far as possible in the preparation of the leave plan.

[1] German text in *Gesetzblatt der Deutschen Demokratischen Republik* No. 69, of 14 June 1951, received through the courtesy of the Prime Minister of the Democratic Republic of Germany. English translation from the German text by the United Nations Secretariat. The ordinance came into force with retroactive effect to 1 January 1951.

[2] See *Yearbook on Human Rights for 1949*, p. 74.

[3] *Idem for 1950*, p. 94.

2. To ensure adequate rest, leave shall be granted in principle for an uninterrupted period.

II. LENGTH OF LEAVE

Art. 5. 1. Basic sick leave shall amount to twelve working days for wage-earning and salaried employees over the age of eighteen years.

2. Leave shall be computed at the rate of:

(*a*) Eighteen to twenty-four working days for employed persons engaged in heavy work or work injurious to health. Leave shall be calculated on the basis of the degree of heaviness or injuriousness to health of the work. The length of leave shall be decided by the management of the undertaking in consultation with the works union committee and the labour protection committee in conformity with the schedule of heavy work and work injurious to health contained in the annex[1] to this ordinance;

(*b*) Eighteen to twenty-four working days for persons employed in responsible positions, in particular managers, engineers, head foremen, divisional chiefs, head book-keepers and other persons employed in occupations of like nature, as agreed with the works union committee;

(*c*) Twenty-four working days for persons employed in managerial positions, especially heads of autonomous services, institutions and entities under public law, groups of nationalized undertakings, and nationalized undertakings;

(*d*) Eighteen working days for young persons who have not reached the age of eighteen years on 1 January of the leave year;

(*e*) Twenty-one working days for young persons who have not reached the age of sixteen years on 1 January of the leave year.

3. Recognized victims of the Nazi regime (*VVN*), disabled persons whose earning-power is reduced by 50 per cent or more through some physical injury, and persons suffering from tuberculosis who are under the current observation of the tuberculosis clinic, shall receive three days' additional leave. Additional leave shall not be granted more than once for any of these reasons.

4. Where a claim to additional leave is based on particular Acts or ordinances enacted for the benefit of specified persons or occupational groups (e.g., railway workers), such a claim shall be admitted without prejudice to a claim to additional leave under paragraph 3. Additional leave may be granted under a works collective agreement in particular branches of production to works employees with several years of uninterrupted service. The Ministry of Labour of the Democratic Republic of Germany shall issue the necessary regulations for the application of this provision.

[1] Not reproduced in this *Yearbook*.

Art. 6. Leave in excess of that provided for in article 5 may be allowed to persons whose employment is governed by an individual contract.

Art. 7. If leave has to be interrupted for urgent industrial reasons, a non-recurring extension of leave may be granted up to two working days, though the total leave shall not exceed twenty-four working days. The further particulars shall be settled by the management of the undertaking in consultation with the works union committee.

. . .

IV. LEAVE PAYMENT

Art. 12. The wages due during the period of leave (leave payment) shall be paid on request before the commencement of leave.

Art. 13. 1. Leave payment shall be based on the average earnings of the last three months preceding the commencement of leave. If the date on which leave commences was preceded by leave of absence owing to sickness or pregnancy, the average earnings of the last three months before the commencement of such absence shall be taken as the basis of payment.

2. If the contract of employment is short-term, the payment shall be based on the average earnings during employment up to the date of commencement of leave.

3. Bonuses awarded individually, payments for special services, overtime and separation allowances shall be disregarded in the calculation of average earnings.

Art. 14. Cash payment in lieu of leave shall not be permitted.

V. LEAVE ON TERMINATION OF CONTRACT OF EMPLOYMENT

Art. 15. 1. If, on the termination of a contract of employment by proper notice or by the expiry of the period of employment, no leave had been granted for the leave year, then the wage-earning or salaried employee shall be entitled to one-twelfth of the annual leave for each month of employment during the leave year.

2. Such partial leave shall be granted in the form of time off prior to the termination of the contract of employment.

3. The remainder of his annual leave shall be granted, proportionately, to the wage-earning or salaried employee by the undertaking in which he continues to work under a new contract of employment.

Art. 16. If the contract of employment or the vocational training is terminated by the summary dismissal, the claim to leave shall *ipso facto* be forfeited.

Art. 17. On the conclusion of the term of the contract of employment a special note shall be entered in the work-book, or in the certificate in lieu thereof, stating whether, and for what period, rest leave has been granted in the current leave year in pursuance of this ordinance.

FEDERAL REPUBLIC OF GERMANY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. FEDERAL LEGISLATION

1. Act establishing the Constitutional Court, of 12 March 1951. This Act is published in *Bundesgesetzblatt* 1951, Part I, No. 17.

It is part of the duties of the Federal Constitutional Court to uphold the basic rights guaranteed in the Basic Law of the Federal Republic, the contents of which coincide in many respects with the human rights proclaimed by the General Assembly of the United Nations on 10 December 1948. The procedure for dealing with complaints alleging violation of basic rights is laid down in articles 90 to 95 of this Act. The Federal Constitutional Court was set up on 5 September 1951 in pursuance of this Act. Extracts from the Act are reproduced in this *Yearbook*.

2. Act concerning the legal status of stateless aliens in the federal territory, of 25 April 1951. This Act is published in *Bundesgesetzblatt* 1951, Part I, No. 19.

This Act guarantees comprehensive legal protection to stateless aliens living in the Federal Republic who are unable or unwilling to return to their country of origin. In particular they are assured of equal status with German nationals with respect to both independent occupations and employment, and in the matter of social and welfare benefits. Extracts from the Act are reproduced in this *Yearbook*.

3. Act providing for reparation of wrongs caused to members of the public service by the National-Socialist regime, of 11 May 1951. This Act is published in *Bundesgesetzblatt* 1951, Part I, No. 21.

Members of the public service who suffered damage as a result of National-Socialist persecution may claim reparation. Articles 1 and 5–15 set forth the essential provisions of the Act. Article 1 provides reparation for all members of the public service who suffered wrongs in service, in labour relations or pension rights as a result of National-Socialist measures of persecution or oppression, because of their political convictions, race, creed or philosophical ideas. This reparation also extends to surviving family members with regard to pension rights. The Act disqualifies for reparation any members of the public service who suffered damage but were members of the National-Socialist Party or one of its affiliated organizations or promoted national socialism or have been sentenced to a penalty which would have had as a consequence the termination of their service or work. Reparation may be granted to purely nominal members of the National-Socialist party, or of one of its affiliated organizations, if they accepted membership because of previous national socialist measures of persecution or oppression and to persons who, though party members, fought national socialism actively and were persecuted for this reason.

4. Act concerning the protection of personal liberty, of 15 July 1951. This Act was published in *Bundesgesetzblatt* 1951, Part I, No. 33. The amendment introduced into the Penal Code by this Act became necessary so that the increase in the number of kidnappings for political reasons could be curbed by an effective threat of punishment. This Act is reproduced in the *Yearbook*.

5. Criminal Law Amendment Act, of 30 August 1951. Extracts from this Act are published in this *Yearbook*.

II. LEGISLATION OF THE *LÄNDER*

Provisional Constitution of Lower Saxony, of 13 April 1951. Extracts from this Constitution are published in this *Yearbook*.

[1] Note received through the courtesy of the Foreign Office of the Federal Republic of Germany, Bonn. English translation from the German text by the United Nations Secretariat.

Federal Legislation

ACT CONCERNING THE FEDERAL CONSTITUTIONAL COURT[1]

of 12 March 1951

PART I

CONSTITUTION AND COMPETENCE OF THE FEDERAL CONSTITUTIONAL COURT

Art. 1. (1) The Federal Constitution Court shall be a court of law of the Federation independent and autonomous with respect to all other constitutional organs.

(2) The seat of the Federal Constitutional Court shall be decided by enactment.

Art. 13. The Federal Constitutional Court shall pass judgment in the cases prescribed in the Basic Law—i.e.,

1. On the forfeiture of basic rights (article 18 of the Basic Law);

2. On the unconstitutionality of parties (article 21, paragraph (2), of the Basic Law);

. . .

12. If it is doubtful whether a rule of international law forms part of federal law and whether it directly creates rights and duties for the individual, on application by the court (article 100, paragraph (2), of the Basic Law);

. . .

PART III

SPECIAL PROCEDURAL PROVISIONS

Section 1

PROCEDURES IN CASES UNDER ARTICLE 13, PARAGRAPH (1)

Art. 36. An application for a decision under article 18, paragraph (2), of the Basic Law[2] may be made by the Federal Diet (*Bundestag*), the Federal Government or a *Land* Government.

Art. 37. The Federal Constitutional Court shall give the respondent an opportunity to be heard within a time limit to be determined and shall then decide whether the application shall be rejected as inadmissible or insufficiently grounded or whether the proceedings shall be completed.

Art. 38. After the application is lodged, the Federal Constitutional Court may order a seizure or search in accordance with the provisions of the Code of Criminal Procedure.

Art. 39. (1) If the application is found to be well grounded, the Federal Constitutional Court shall state which basic rights the respondent has forfeited. It may limit the forfeiture to a determined period of not less than one year. It may impose restrictions, strictly specified with regard to manner and duration, on the respondent, provided that they do not impair basic rights other than those forfeited. The authorities shall require no further legal grounds for proceeding against the respondent in that respect.

(2) The Federal Constitutional Court may deprive the respondent of the right to vote, the right to be elected and the capacity to hold public office during the period for which the basic rights are forfeited and, in the case of legal persons, order their dissolution.

Art. 40. If the forfeiture is not limited to a determined period or if it is for a period exceeding one year, the Federal Constitutional Court may, on the expiry of two years from the date of the forfeiture, suspend it wholly or in part, at the request of the former applicant or respondent, or may curtail its duration. The application may be repeated after one year has elapsed since the last decision by the Federal Constitutional Court.

Art. 41. Once the Federal Constitutional Court has given a substantial decision on an application, such application may be lodged again with respect to the same respondent only if it is supported by new facts.

Art. 42. Any person who wilfully contravenes a decision of the Federal Constitutional Court or measures taken to give effect to a decision shall be liable to imprisonment for a period of not less than six months.

Section 2

PROCEDURES IN CASES UNDER ARTICLE 13, PARAGRAPH (2)

Art. 43. (1) An application for a decision whether a party is unconstitutional (article 21, paragraph (2) of

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[1] German text in *Bundesgesetzblatt* No. 17, of 16 April 1951, received through the courtesy of the Foreign Office of the Federal Republic of Germany. English translation from the German text by the United Nations Secretariat. According to article 107, the Act came into force the day after its promulgation.

[2] Article 18 reads: "Whoever abuses freedom of expression of opinion, in particular the freedom of the press (article 5, paragraph (1)), the freedom of teaching (article 5, paragraph (3)), the freedom of assembly (article 8), the freedom of association (article 9), the secrecy of the mail, post and telecommunications (article 10), property (article 14) or the right of asylum (article 16, paragraph (2)), in order to attack the free democratic basic order shall forfeit these basic rights. The forfeiture and its extent shall be pronounced by the Federal Constitutional Court."

the Basic Law)[1] may be made by the Federal Diet (*Bundestag*), the Federal Council (*Bundesrat*) or the Federal Government.

(2) A *Land* Government may make an application only against a party whose organization is confined to the territory of its *Land*.

Art. 44. The representation of a party shall be determined in accordance with the statutory provisions and additionally in accordance with its by-laws. If its authorized representatives cannot be ascertained or are not available or have changed since the application was lodged with the Federal Constitutional Court, the persons who last actually conducted the party's affairs during the activities which gave grounds for the application shall be deemed to be its authorized representatives.

Art. 45. The Federal Constitutional Court shall give the authorized representatives (article 44) an opportunity to be heard within a time limit to be determined and shall then decide whether the application shall be rejected as inadmissible or insufficiently grounded or whether the proceedings shall be completed.

Art. 46. (1) If the application is found to be well grounded, the Federal Constitutional Court shall declare the political party unconstitutional.

(2) The declaration may be limited to any legally or organizationally autonomous section of a party.

(3) The declaration shall be accompanied by an order that the party or autonomous section of the party shall be dissolved and the formation of any substitute organization prohibited. The Federal Constitutional Court may also in such cases order the confiscation of the property of the party or autonomous section of the party for use by the Federation or *Land* for purposes of public utility.

Art. 47. The provisions of articles 38, 41 and 42 shall have equivalent effect.

Section 12

PROCEDURES IN CASES UNDER ARTICLE 13, PARAGRAPH (12)

Art. 83. (1) The Federal Constitutional Court shall state in its decision in cases falling under article 100, paragraph (2), of the Basic Law[2] whether the rule of international law forms part of federal law and whether it directly creates rights and duties for the individual.

(2) The Federal Constitutional Court shall give the Federal Diet (*Bundestag*), the Federal Council (*Bundesrat*) and the Federal Government an opportunity to be heard previously within a time limit to be determined. They may intervene at any stage of the proceedings.

. . .

Section 15

CONSTITUTIONAL COMPLAINTS

Art. 90. (1) Any person may lodge a constitutional complaint with the Federal Constitutional Court alleging that he has been injured by the public authorities in respect of one of his fundamental rights or of one of the rights conferred on him by articles 33, 38, 101, 103 and 104 of the Basic Law.[3]

(2) If redress through the ordinary courts is available, the constitutional complaint may not be lodged until the remedies available through the ordinary courts have been exhausted. The Federal Constitutional Court may, however, give an immediate decision on a constitutional complaint before the remedies available through the ordinary courts have been exhausted if the complaint is of general importance or if the complainant would suffer serious and unavoidable hardship if he was first required to take his case to the ordinary court.

(3) The foregoing shall be without prejudice to the right to lodge a constitutional complaint with the constitutional court of the *Land* in accordance with the provisions of the Constitution of the *Land*.

Art. 91. Municipalities and associations of municipalities (*Gemeindeverbände*) may lodge constitutional complaints alleging that a legal enactment by the Federation or the *Land* contravenes the provisions of article 28 of the Basic Law.[4] A constitutional complaint to the Federal Constitutional Court shall not be admissible if a complaint against the violation of the right of self-government can be lodged with the constitutional court of the *Land* in accordance with the provisions of the law of the *Land*.

Art. 92. The right which is alleged to have been violated and the act or omission of the organ or authority by which the complainant deems himself to have been injured shall be stated in the brief supporting the complaint.

Art. 93. (1) The constitutional complaint shall be lodged within one month from the date on which the final decision of the court, accompanied by a statement of the reasons on which it is based, is given.

(2) If the constitutional complaint is directed against a legal enactment or other act of State for which the

[1] Article 21, paragraph (2). reads: "Parties which, according to their aims and the conduct of their members, seek to impair or abolish the free and democratic basic order or to jeopardize the existence of the Federal Republic of Germany shall be unconstitutional. The Federal Constitutional Court shall decide on the question of constitutionality."

[2] Article 100, paragraph (2), reads: "If, in litigation, it is doubtful whether a rule of international law forms part of federal law and whether it directly creates rights and duties for the individual (article 25), the court shall obtain the decision of the Federal Constitutional Court."

[3] See *Yearbook on Human Rights for 1949*, pp. 82–83.

[4] *Ibid.*, p. 82.

ordinary courts provide no redress, the constitutional complaint must be lodged within one year from the entry into force of the legal enactment or the promulgation of the act of State.

(3) If an enactment came into force before 1 April 1951, the constitutional complaint may be lodged before 1 April 1952.

Art. 94. (1) The Federal Constitutional Court shall give the constitutional organ of the Federation or of the *Land* whose act or omission is contested in the constitutional complaint an opportunity to be heard within a time limit to be determined.

(2) If a Minister or authority of the Federation or of a *Land* committed the act or omission, the responsible Minister shall be given an opportunity to be heard.

(3) The Federal Constitutional Court may give persons not parties to the proceedings an opportunity to be heard.

Art. 95. (1) If a constitutional complaint is upheld, the decision shall state which provision of the Basic Law was violated and by what act or omission. The Federal Constitutional Court may also state that any repetition of the measure complained of would violate the Basic Law.

(2) If the constitutional complaint is upheld against a decision of a court of law, the Federal Constitutional Court shall annul the decision. In cases under article 90, paragraph (2), sub-paragraph 1, it shall refer the matter back to a competent court.

(3) If the constitutional complaint is upheld against a legal enactment, that act shall be declared null. The same shall apply if the constitutional complaint is upheld in accordance with paragraph (2), since the annulled decision rests on an unconstitutional legal enactment.

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PART IV

FINAL PROVISIONS

Art. 106. In so far as the Basic Law holds good for Berlin or the competence of the Federal Constitutional Court is established by a Berlin Act in consonance with this Act, this Act shall also apply to Berlin.

. . .

ACT CONCERNING THE LEGAL STATUS OF STATELESS ALIENS IN FEDERAL TERRITORY [1]

of 25 April 1951

PART I

GENERAL PROVISIONS

Art. 1. (1) For the purposes of this Act, any foreign national or alien without nationality shall be deemed to be a stateless alien, who:

(*a*) Furnishes proof that he is under the protection of an international organization entrusted with the care of refugees and displaced persons by the United Nations, and

(*b*) Is not a German within the meaning of article 116 of the Basic Law,[2] and

(*c*) Had, on 30 June 1950, his residence in the territory to which the Basic Law is applicable or in the western sector of Berlin or had acquired the status of a stateless alien in pursuance of the provisions of article 2, paragraph (3).

(2) Subject to the approval of the Federal Council, the Federal Government is empowered to enact legislative decrees placing other refugee aliens on the same footing as the persons specified in paragraph (1) in order to spare them undeserved hardship.

(3) Persons deriving their nationality from a stateless alien or from a person placed on the same footing as a stateless alien in pursuance of the provisions of paragraph (2) shall enjoy the same status as a stateless alien for the purposes of this Act.

Art. 2. (1) A stateless alien shall lose his status if, after 30 June 1950, he acquires a new nationality or establishes his habitual residence outside the territory to which the Basic Law is applicable or the western sector of Berlin.

(2) A stateless alien who ceases to have his habitual residence in the territory to which the Basic Law is applicable or in the western sector of Berlin may re-establish his habitual residence there, provided that the change of residence is made within two years from the date of leaving the territory to which the Basic Law is applicable or the western sector of Berlin. He shall reacquire his status as a stateless alien upon his return.

(3) A foreign national or an alien without nationality who satisfies the conditions set forth in sub-paragraphs

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[1] German text in *Bundesgesetzblatt* No. 19, of 27 April 1951, received through the courtesy of the Foreign Office of the Federal Republic of Germany. English translation from the German text by the United Nations Secretariat. According to article 28, the Act came into force the day after its promulgation.

[2] See *Yearbook on Human Rights for 1949*, p. 83.

(*a*) and (*b*) of paragraph (1) of article 1 and who, after 1 July 1948, had his habitual residence in the territory to which the Basic Law is applicable or in the western sector of Berlin, but who subsequently transferred his residence from that territory or the western sector of Berlin, may acquire the status of stateless alien if, within a period of two years from the date of leaving the territory to which the Basic Law is applicable or the western sector of Berlin, he returns there for the purpose of establishing his domicile or permanent residence.

Art. 3. (1) A stateless alien shall not suffer discriminatory treatment on account of his ancestry, race, language, country, origin, beliefs or because he is a refugee.

(2) A stateless alien may practise his religion freely

Art. 4. (1) A stateless alien is subject to the laws and regulations in force in the territory to which the Basic Law is applicable or in the western sector of Berlin and to measures taken for the maintenance of public order.

(2) He is subject to the jurisdiction of the German courts.

Art. 5. Rights and privileges not usually accorded to nationals of foreign States except on condition of reciprocity shall not be withheld from stateless aliens, even where reciprocity is not guaranteed.

Art. 6. Exceptional measures which may be taken against nationals of his country of origin shall not be applied to a stateless alien.

Art. 7. Where the acquisition or exercise of a right is dependent upon the period of residence in the territory to which the Basic Law is applicable or in the western sector of Berlin, due account shall be taken of any period between 1 September 1939 and 8 May 1945 which a displaced person may have been compelled to spend outside this territory or the western sector of Berlin.

PART II

PROVISIONS OF CIVIL LAW

Art. 8. If, before the entry into force of this Act, a stateless alien has acquired certain rights in pursuance of provisions other than those of German law, he shall retain those rights, provided that the legal instrument relating thereto has been duly drawn up in compliance with the local laws. This provision shall apply in particular to marriages contracted before the entry into force of this Act.

Art. 9. A stateless alien may acquire titles to property and any other rights pertaining to immovable or movable property on the same conditions as German nationals.

Art. 10. A stateless alien shall enjoy the treatment accorded to nationals of the most favoured nation in regard to the protection of author's rights and of the copyright of literary, artistic and scientific works and the protection of industrial property.

Art. 11. A stateless alien shall have the same status as a German national in regard to all proceedings before the German courts. He shall be entitled to legal assistance on the same conditions as German nationals and shall be exempt from any obligation to furnish security which may be imposed on foreign nationals and on aliens without nationality.

PART III

PROVISIONS OF PUBLIC LAW

Art. 12. A stateless alien shall be assimilated to a German national in respect of the right to select a place of residence and to travel freely within the frontiers of the federal territory.

Art. 13. (1) A stateless alien shall be placed on the same footing as a German national in regard to the right to form associations for cultural, social, philanthropic, insurance or other similar purposes. This provision does not, however, apply to the formation of associations for political purposes.

(2) Stateless aliens shall have the right to form trade unions or to apply for membership in trade unions of German workers.

Art. 14. (1) Stateless aliens shall have access, on the same conditions as German nationals, to all elementary schools, institutions for secondary and higher education and advanced centres of instruction in the sciences and fine arts. They shall enjoy the remission of fees and other privileges accorded to gifted students by the regulations of the *Länder*.

(2) Stateless aliens may take State examinations on the same conditions as German nationals.

(3) The right to establish private schools for stateless aliens is guaranteed in pursuance of article 7, paragraphs (4) and (5) of the Basic Law.[1]

Art. 15. (1) Diplomas of foreign universities held by stateless aliens shall be recognized in the federal territory if recognized as equivalent to the corresponding national diplomas.

(2) The higher authorities of the *Länder* shall decide which diplomas of foreign universities shall be recognized as equivalent to national diplomas.

Art. 16. Stateless aliens who have passed the examinations referred to in article 14 or whose university diplomas have been recognized as equivalent in accordance with the provisions of article 15 shall be permitted to practise a liberal profession in the federal territory on the same conditions as German nationals.

Art. 17. (1) A stateless alien shall be placed on the same footing as a German national in regard to the right to engage in wage-earning employment.

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[1] See *Yearbook on Human Rights for 1949*, p. 80.

(2) A stateless alien shall be placed on the same footing as a German national in respect of the right to self-employment in agriculture, industry, handicrafts and commerce and to the establishment of commercial or industrial enterprises in his own name or in the form of a company. This provision shall not, however, apply to peddling or to street trading, the exercise of which activities by stateless aliens shall continue to be governed by the provisions of the Commercial Code relating to aliens (articles 56d and 42b, paragraph 4).

Art. 18. Stateless aliens shall enjoy the same treatment as German nationals in regard to social and unemployment insurance and assistance to the unemployed.

Art. 19. Stateless aliens shall receive the same public assistance benefits as German nationals.

Art. 20. Stateless aliens shall be liable to taxes, duties and charges in accordance with the provisions applicable to German nationals.

PART IV

MEASURES OF PUBLIC ADMINISTRATION

Art. 21. The general provisions relating to naturalization shall be applied to a stateless alien. In considering his application for naturalization, regard shall be had to his special circumstances. In determining the fees payable, the financial position of the applicant shall be taken into account.

Art. 22. A stateless alien may not be prohibited from returning to his country of origin or from emigrating.

Art. 23. (1) A stateless alien may not be expelled save on grounds of security or public order. A stateless alien who is the subject of an expulsion order, may appeal to the courts. In such case, the execution of the expulsion order shall be suspended until the decision has received force of law.

(2) In the case of expulsion, the person concerned must be allowed a reasonable period within which to apply for admission to another country.

(3) A stateless alien may not be extradited, expelled, deported or returned to a country where his life or freedom would be endangered on account of his race, ancestry, origin, beliefs, religious sentiments or political opinions.

(4) The present provisions shall be without prejudice to the application of law No. 10 relating to the expulsion of undesirable persons adopted by the Allied High Commission on 27 October 1949.

PART V

LEGAL PROTECTION

Art. 24. (1) Subject to the approval of the Federal Council, the Federal Government is authorized to issue orders:

(*a*) Guaranteeing to stateless aliens the protection and assistance normally furnished to aliens by the official representatives of the countries of which they are nationals;

(*b*) Providing for the delivery of all documents and certificates normally delivered to aliens by the authorities of the countries of which they are nationals.

(2) Documents and certificates so delivered shall have the same validity as would be accorded to similar instruments delivered to aliens by the authorities of the countries of which they are nationals.

(3) Stateless aliens of reduced means shall be accorded exceptional treatment in regard to the delivery of such documents and in no case shall a stateless alien be required to pay a higher fee than a German national.

PART VI

TRANSITIONAL AND CONCLUDING PROVISIONS

. . .

Art. 27. This Act shall apply to stateless aliens who have or had their domicile or permanent residence in the western sector of Berlin, if the authorities of that sector adopt similar legal provisions and assume the obligations incumbent upon the *Länder* under the provisions of this Act.

. . .

THE PROTECTION OF PERSONAL LIBERTY ACT[1]

of 15 July 1951

ARTICLE I

AMENDMENT OF THE PENAL CODE

The Penal Code shall be amended as follows:

1. The following provision shall be inserted as article 234 *a*:

*Article 234*a

"Any person who, by ruse, threat or force, conveys another person to a place outside the territory to which this Act applies, induces him to go to such a place, or prevents him from returning therefrom, thereby exposing him to the danger of political persecution and, in contravention of the fundamental principles of a constitutional State, to injury to life or limb, loss of personal liberty or serious impairment of his professional or economic standing in consequence of coercive or arbitrary measures, shall be liable to penal servitude for abduction.

"If there are extenuating circumstances, the penalty shall be imprisonment for not less than three months.

"Any person who does anything preparatory to such an act shall be punished by imprisonment."

2. The following provision shall be inserted as article 241 *a*:

*Article 241*a

"Any person who, by denouncing or arousing suspicion against another person, exposes that other person to the danger of political persecution and, in contravention of the fundamental principles of a State governed by the rule of law, to injury to life or limb, loss of personal liberty, or serious impairment of his professional or economic position in consequence of coercive or arbitrary measures, shall be liable to imprisonment for making false political charges.

"Any person who gives or lays information against another person and thereby exposes him to the danger of political persecution referred to in paragraph 1 shall be liable to the same punishment.

"Any attempt to commit such offence shall be punishable.

"If in denouncing, or arousing suspicion against or disseminating information concerning another person, a person makes false allegations, or if such action is taken with a view to bringing about one of the consequences referred to in paragraph 1, or if the case is otherwise of special gravity, a penalty of up to ten years' imprisonment may be imposed."

3. In paragraph 1 of article 139 the words "kidnapping, abduction or a major crime against public safety" shall be substituted for the words "kidnapping, or a major crime against public safety".[2]

. . .

[1] German text in *Bundesgesetzblatt* No. 33, of 18 July 1951, received through the courtesy of the Foreign Office of the Federal Republic of Germany. English translation from the German text by the United Nations Secretariat. According to article 2, this Act came into force the day after its promulgation.

[2] Article 139, paragraph 1, of the Penal Code previously reads as follows:

"Whoever acquires credible knowledge of a scheme to commit high treason, treason, damage to means of national defence, a major crime against life, counterfeiting, robbery, kidnapping, or a major crime against public safety, and fails to make timely report to the authorities or to the threatened person, shall be liable to imprisonment. If the act was not attempted, the penalty may be waived."

CRIMINAL LAW AMENDMENT ACT[1]

of 30 August 1951

CHAPTER 1

PROVISIONS RELATING TO THE OFFENCES OF HIGH TREASON, ENDANGERING THE STATE AND BETRAYAL OF THE COUNTRY[2]

Section 2 (as added in 1951)

ENDANGERING THE STATE

Art. 88. For the purposes of this section an act will be construed as calculated to prejudice the existence of the Federal Republic of Germany if its object is to bring the Federal Republic of Germany or any part thereof under foreign domination, or otherwise to deprive it of its independence or to detach any

[1] German text in *Bundesgesetzblatt*, Part I, No. 43, of 31 August 1951, received through the courtesy of the Foreign Office of the Federal Republic of Germany. English translation from the German text by the United Nations Secretariat.

[2] High treason (*Hochverrat*) is an offence against the internal security of the State; betrayal of the country (*Landesverrat*) is an offence against the external security. [*Translator's note.*]

part of the federal territory. Participation in any association of States or in any international institution to which the Federal Republic of Germany transfers sovereign rights or in favour of which it limits sovereign rights shall not be deemed to constitute an act prejudicing the existence of the Federal Republic of Germany as defined in this section.

In any context in this section where reference is made to constitutional principles, the reference shall be construed as being to:

1. The right of the people to exercise the authority of State in elections and votes and through special organs of the legislature, executive and judiciary, and to elect the representatives of the people by universal, direct, free, equal and secret elections;

2. The conformity of the legislation with the constitutional order and the conformity of the executive and the judiciary with law and justice;

3. The right under the Constitution to form and exercise a parliamentary opposition;

4. The responsibility of the Government to parliament;

5. The independence of the judiciary;

6. The exclusion of all forms of rule by force or arbitrary means.

Art. 89. Any person who undertakes, by the abuse or assumption of authority,

1. To prejudice the existence of the Federal Republic of Germany, or

2. To set aside or invalidate any of the constitutional principles enumerated in article 88,

shall be guilty of a treasonable offence against the Constitution (*Verfassungsverrat*) and punishable by rigorous imprisonment. In especially serious cases the offender may be sentenced to rigorous imprisonment for life.

Any person who undertakes a particular act preparatory to the commission of a treasonable offence against the Constitution shall be liable to rigorous imprisonment for a term not exceeding five years. If there are extenuating circumstances, he may be senrenced to imprisonment for not less than six months.

The provisions of article 82 concerning active repentance shall apply *mutatis mutandis.*

Art. 90. If any person, with the object of prejudicing the existence of the Federal Republic of Germany, or of setting aside, invalidating or subverting any of the constitutional principles enumerated in article 88, or of promoting any attempt to accomplish any of these purposes, by employing a lock-out, strike, means of interference or any other act not punishable under articles 316*a* and 317, prevents the partial or entire functioning of, or diverts from their proper purposes—

1. Any railway, the postal service or any undertakings or installations serving public transport;
2. Any installation employed in the public telecommunications service;
3. Any installation employed for supplying the public with water, light, heat or power or any enterprise supplying essential services to the public; or
4. Any office, equipment, installation, or object used for the purposes of public order or security,

that person shall be liable to imprisonment. It shall be a punishable offence to attempt the commission of any of the aforesaid acts.

The provisions of article 49*a* concerning the penalties applicable to the unsuccessful incitement of others and to other acts preparatory to the commission of an offence shall apply *mutatis mutandis.*

In especially serious cases the offender may be sentenced to rigorous imprisonment for a term not exceeding five years.

The penalty may be remitted in the case of participants who are culpable in a minor degree and whose participation in such an offence is of subsidiary importance.

*Art. 90*a. If any person forms an association the objects or activities of which are directed against the constitutional order or against the idea of international understanding, or if any person acts as ringleader or instigator to further the aims of any such association, that person shall be liable to imprisonment.

In especially serious cases the offender may be sentenced to rigorous imprisonment for a term not exceeding five years. In addition, police surveillance may be ordered.

If the association is a political party within the territory to which this Act applies, proceedings shall not be instituted for any activity as aforesaid until the Federal Constitutional Court has declared the party in question to be unconstitutional.

Art. 91. If any person exerts his influence on any official of an authority or of an organ of public security with a view to undermining the duty to be ready to protect the existence or security of the Federal Republic of Germany or to uphold the constitutional order of the Federation or of a *Land*, that person shall be liable to imprisonment.

Any attempt to commit this offence shall be punishable.

In especially serious cases the offender may be sentenced to rigorous imprisonment for a term not exceeding five years.

Art. 92. If any person, with the object of prejudicing the existence or security of the Republic of Germany, or of setting aside, invalidating or subverting any of the constitutional principles enumerated in article 88, or of promoting any at tempt to accomplish

any of these purposes, collects, or operates, employs or supports any information service for the purpose of collecting, on behalf of any office, party or other association outside the territory to which this Act applies or on behalf of a prohibited association or of any of its intermediaries, information relating to offices, enterprises, establishments, installations, associations or persons within the territory to which this Act applies, that person shall be liable to imprisonment.

Any attempt to commit this offence shall be punishable.

In especially serious cases the offender may be sentenced to rigorous imprisonment for a term not exceeding five years.

Art. 93. If any person not being thereunto duly authorized introduces into the territory to which this Act applies, for the purpose of distribution, any writings, sound recordings, images or pictorial representations the contents whereof are calculated to lead to or to further activities having the object of prejudicing the existence of the Federal Republic of Germany or of setting aside, invalidating or subverting any of the constitutional principles enumerated in article 88, that person shall be liable to imprisonment.

Any person not being thereunto duly authorized who distributes, or stores with a view to distribution, in the territory to which this Act applies any writings, sound recordings, images or pictorial representations introduced in violation of the provisions of the foregoing paragraph shall be liable to a like penalty.

Any attempt to commit these offences shall be punishable.

Art. 94. If any person commits an act which is a punishable offence under the provisions relating to:

Attacks against the exercise of the rights of the citizen or to resistance to public authority (articles 106 to 122*b*),

Attacks against public order (articles 123 to 139),

Disturbance of religious services (article 167),

Bodily injury (articles 223 to 229),

Preparation for kidnapping, deprivation of liberty, coercion, threats or casting political suspicion on another (articles 234*a*, paragraph 3, 239 to 241*a*),

Accessories after the fact (articles 257, 257*a*),

Forgery (articles 267 to 275, 281),

Damage to property (articles 303 to 305),

Acts endangering the public safety (articles 308, 311, 315, 316*a*, 317, 321, 324), or

Breach of official duties (articles 332 to 336, 340 to 355, 357)

with the object of prejudicing the existence of the Federal Republic of Germany, or of setting aside, invalidating or subverting any of the constitutional principles enumerated in article 88 or of promoting any attempt to accomplish any of these purposes,

that person may, in so far as he is not liable to more severe penalties, be sentenced to rigorous imprisonment for a term not exceeding five years or to imprisonment, or, if the offence would have been a crime even without the imposition of this heavier penalty, to rigorous imprisonment for a term not exceeding fifteen years.

If an act covered by the provisions contained in the foregoing paragraph is prosecuted only upon application, then, if the circumstances described in the said paragraph are present, the requirement that the application shall be submitted by the injured party shall be waived.

Art. 95. Any person who in an assembly or by distributing writings, sound recordings, images or pictorial representations, publicly insults, or incites others to insult, the President of the Federation, shall be liable to imprisonment for not less than three months.

If there are extenuating circumstances, the court may impose a more lenient sentence, unless the conditions for the imposition of a heavier penalty under article 187*a* are present.

If the act constitutes defamation or if it is committed with the object of furthering activities prejudicial to the existence of the Federal Republic of Germany or to any of the constitutional principles enumerated in article 88, the penalty shall be imprisonment for not less than six months.

The offence shall not be prosecuted except with the authorization of the President of the Federation.

Art. 96. If any person in an assembly or by distributing writings, sound recordings, images or pictorial representations publicly

1. Brings into disrepute, or maliciously brings into contempt, the Federal Republic of Germany or any of its *Länder* or its constitutional order, or

2. Holds up to scorn its colours, flag, coat of arms or national anthems, or incites others to do so,

that person shall be liable to imprisonment.

Any person who removes, destroys, damages, defaces or otherwise degrades a publicly displayed flag of the Federal Republic of Germany or of any of its *Länder* or any symbol of the authority of the Federal Republic of Germany or of any of its *Länder* publicly affixed by an official, shall likewise be liable to imprisonment. Any attempt to commit any of these offences shall be punishable.

If the offender committed any of the offences referred to in paragraphs 1 and 2 with the object of promoting activities prejudicial to the existence of the Federal Republic of Germany or to any of the constitutional principles enumerated in article 88, he shall be liable to imprisonment for not less than three months.

Art. 97. If any person in an assembly or by distributing writings, sound recordings, images or pictorial representations publicly insults, or invites others to insult publicly, an organ of the legislative power, the Government or the constitutional court of the Federation or of any *Land* as a whole or in the person of one of their members as a constitutional authority, in a manner likely to endanger the dignity of the State and with the object of promoting activities prejudicial to the existence of the Federal Republic of Germany or to any of the constitutional principles enumerated in article 88, that person shall be liable to imprisonment for not less than three months, in so far as he is not liable to a more severe penalty under other legislative provisions.

The offence shall not be prosecuted except with the authorization of the State authority or member concerned.

Art. 98. The following additional penalties may be imposed for offences punishable under this section:

In addition to the penalties under article 89, a fine of unlimited amount;

In addition to the penalties under articles 90 to 97, a fine;

In addition to imprisonment for not less than three months, disqualification for public office for not less than one and not more than five years, the loss of the right to elect and vote, disqualification for elective office and the loss of rights acquired by public elections;

In addition to any penalty of imprisonment under articles 89 to 94, police surveillance may be ordered.

Article 86 shall apply *mutatis mutandis.*

CHAPTER 2

OTHER AMENDMENTS TO THE CRIMINAL CODE

. . .

Art. 129 (as amended in 1951). Any person who forms an association the objects or activities of which are directed towards the commission of punishable offences, and any person who becomes a member of, assists, or invites others to form any such association, shall be liable to imprisonment.

If the offender is one of the ringleaders or instigators, or if the case is especially serious owing to other circumstances, he may be sentenced to rigorous imprisonment for a term not exceeding five years. In addition, police surveillance may be ordered.

The penalty may be remitted in the case of participants who are culpable in a very minor degree or whose participation is of subsidiary importance.

If a person prevents the continued existence of such an association or in due time notifies an authority of its existence so that the commission of a punishable offence corresponding to its objects can be prevented, that person shall not be liable to the penalties applicable under these provisions. The foregoing shall likewise apply to any person who voluntarily and in good faith endeavours to prevent the continued existence of the association or the commission of a punishable offence corresponding to its objects, if the association ceases to exist, or the commission of an offence as aforesaid is prevented, owing to some circumstance extraneous to his endeavours.

Art. 129a (as added in 1951). If the Federal Administrative Court (*Bundesverwaltungsgericht*) or the Administrative High Court of a *Land* has ruled that an association is prohibited under article 9, paragraph (2), of the Basic Law,[1] any person who continues its existence, or continues to maintain its organizational structure in any other form, or becomes a member thereof or otherwise supports it, shall be liable to imprisonment, in so far as he is not liable to a more severe penalty under other legislative provisions.

Article 129, paragraphs 3 and 4, shall apply *mutatis mutandis.*

The Federal Administrative Court shall give its decision upon application by the Federal Government, the Administrative High Court of a *Land* upon application by the *Land* Government.

5. Article 135 is hereby repealed.

Art. 187a (as added in 1951). If any person publicly brings into disrepute [*üble Nachrede*][2] [article 186] a person in public political life, in an assembly or by distributing writings, sound recordings, images or pictorial representations, for motives which are connected with the public position of the injured party and if the act is likely to make the said party's public activites appreciably more difficult, then the person committing this act shall be liable to imprisonment for not less than three months.

The penalty for defamation [*Verleumdung*][2] [article 187] in the same circumstances shall be imprisonment for not less than six months.

CHAPTER 6

PROTECTION OF THE *LAND* OF BERLIN

The penal provisions contained in this Act for the protection of the Federation and *Länder* of the Federal Republic, its constitutional order, organs of State and their members shall also apply for the protection of the *Land* of Berlin, its constitutional order, its constitutional organs of State and their members.

This Act shall also have effect in Berlin as soon as the *Land* of Berlin decides under article 87, paragraph 2, of its Constitution[3] that it shall apply to Berlin.

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[1] See *Yearbook on Human Rights for 1949*, p. 80.

[2] *Üble Nachrede* is a defamatory statement which cannot be shown to be true; *Verleumdung* is a defamatory statement known to be untrue. [*Translator's note.*]

[3] See *Yearbook on Human Rights for 1950*, p. 108.

Legislation of the Länder

PROVISIONAL CONSTITUTION OF LOWER SAXONY[1]

of 13 April 1951

Section 1

THE BASIS OF STATE POWER

Art. 1. (1) The *Land* of Lower Saxony, comprising the former *Länder* of Hanover, Oldenburg, Brunswick and Schaumburg-Lippe, is a republican, democratic and social State based on law (*Rechtsstaat*) within the Federal Republic of Germany.

. . .

Art. 2. (1) All the power of the State emanates from the people. It is exercised by the people in elections and through special organs of the legislature, executive and judiciary.

(2) The legislature is bound by the constitutional order of the Federation and of the *Land*; the executive and judiciary are bound by law and justice.

Section 2

THE DIET (*Landtag*)

Art. 3. (1) The Diet is composed of representatives elected by the people. They represent the whole people, are not bound by mandates and instructions, and shall obey only their conscience.

(2) The Diet exercises the legislative power and supervises the exercise of the executive power in accordance with this Constitution.

Art. 4. (1) The representatives shall be elected by universal, direct, free, equal and secret suffrage. A person shall possess the status of representative immediately upon accepting the election.

(2) Every German within the meaning of the Basic Law of the Federal Republic of Germany who has attained the age of twenty-one years and is resident in the *Land* of Lower Saxony shall be entitled to vote; any elector who is over the age of twenty-five years is also qualified to stand as a candidate for election.

(3) Detailed regulations shall be prescribed by statute. The said statute may in particular make the right to vote and eligibility contingent on the fulfilment of conditions stipulating that a person must have been a national and resident for a specified period. It may provide that any candidate receiving less than 10 per cent of the votes shall not be entitled to a seat.

. . .

Section 5

AMENDMENTS TO THE CONSTITUTION

Art. 37. Any amendment to the Constitution which conflicts with the fundamental principles laid down in article 1, paragraph 1, and article 2 is inadmissible.

. . .

Section 6

THE ADMINISTRATION OF JUSTICE

Art. 39. (1) The judicial power is exercised on behalf of the people by lawfully constituted courts.

(2) The members of the courts shall be appointed full-time judges and in the cases specified by statute, lay judges.

(3) The judges are independent and subject only to the law.

Art. 40. (1) If a judge, whether in the exercise of his office or otherwise, violates the fundamental principles of the Basic Law of the Federal Republic of Germany,[2] or of this Constitution, the Federal Constitutional Court[3] may, on the application of the Diet, order, by a two-thirds majority, that the judge shall be transferred to other functions or retired. In the case of a wilful violation, the said court may order the judge to be removed from office. The Diet may not resolve to make such an application except with the concurrence of the majority of the representatives.

(2) Subject to conditions analogous to those described in paragraph 1, the Federal Constitutional Court may revoke the appointment of judges serving in an honorary capacity.

. . .

[1] German text in *Niedersächsisches Gesetz- und Verordnungsblatt* of 13 April 1951. English translation from the German text by the United Nations Secretariat. According to article 61 this Constitution came into force on 1 May 1951; according to the same article, it will expire one year after the date on which the German people freely adopts a new Constitution. Lower Saxony is in the United Kingdom zone of occupation. See the provisions on human rights of the Constitutions of the German *Länder* in the French, Soviet and United States zones of occupation in *Yearbook on Human Rights for 1946*, pp. 119–131; *idem for 1947*, pp. 100–126; and *idem for 1948*, pp. 74–85. The provisions on human rights of the Constitutions of two *Länder* in the British zone of occupation, North-Rhine–Westphalia and Schleswig-Holstein, are to be found in *Yearbook on Human Rights for 1950*, pp. 100–104, and of the *Land* of Berlin, *ibid.*, pp. 106–108.

[2] See the part on Basic Rights in the Basic Law of the Federal Republic of Germany in *Yearbook on Human Rights for 1949*, pp. 79–81.

[3] See the Act concerning the Federal Constitutional Court, pp. 105–107 of this *Yearbook*.

GREECE

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

1. Constitution of 22 December 1951. Extracts from the Constitution are reproduced in the present *Yearbook.*

2. Legislative decree No. 1846, of 14 June 1951, concerning social insurance. This legislative decree preceded by an introduction is reproduced in the *Official Journal* No. 179, of 21 June 1951. Its purpose is to strengthen the existing social insurance scheme and to reorganize the Social Insurance Institute.

3. Legislative decree No. 1623 of 4 January 1951 suspending proceedings for certain offences, granting conditional release to convicts and amending certain provisions of the Penal Codes. A summary of this decree is published in the present *Yearbook.*

4. Act No. 1817 of 23 April 1951 granting measures of leniency to persons committing offences related to the repression of the revolt. A summary of this Act is published in the present *Yearbook.*

[1] This note is based on texts and information received through the courtesy of Mr. Alexis Kyrou, Permanent Representative of Greece to the United Nations.

CONSTITUTION OF GREECE[1]

of 22 December 1951

CONCERNING RELIGION

Sect. 1. The established religion in Greece is that of the Eastern Orthodox Church of Christ. Every other known religion is tolerated, and the forms of its worship are carried out without hindrance under the protection of the laws, proselytism and all other interference with the established religion being prohibited.

Sect. 2. The Orthodox Church of Greece, acknowledging for its head Our Lord Jesus Christ, is indissolubly united in doctrine with the Great Church in Constantinople and with every other church of Christ holding the same doctrines, steadfastly observing, as they do, the holy apostolic and synodal canons and holy traditions: it is autocephalous, exercising its sovereign rights independently of every other church, and it is administered by a Holy Synod of bishops. The ministers of all recognized religions are subjected to the same superintendence on the part of the State as the ministers of the established religion.

The text of the Holy Scripture is maintained unchanged: the rendering thereof in another form of language, without the previous sanction of the Autocephalous Church of Greece and of the Great Church of Christ in Constantinople, is absolutely prohibited.

Liberty of conscience is inviolable.

The performance of religious duties is unrestricted, but may not be so practised as to be dangerous to public order or morality.

No person may be exempted from performing his duties to the State, nor refuse to submit to the laws of the country on the ground of his religious convictions.

CONCERNING THE PUBLIC RIGHTS OF THE GREEKS

Sect. 3. Greeks are equal in the eye of the law and contribute without distinction to the public burdens according to their ability; and only Greek citizens are admissible to all public employments, save in the special exceptions introduced by special laws. Citizens are those who have acquired or shall acquire the qualifications of citizenship in accordance with the laws of the State. Titles of nobility or distinction are neither conferred on Greek citizens nor recognized in them. Every Greek capable of bearing arms is required to contribute to national defence according to the provisions of the law.

Sect. 4. Personal liberty is inviolable: no man may be prosecuted, arrested, imprisoned, or otherwise confined, except when and as the law provides.

[1] Greek text in *Official Gazette*, Part I, No. 2, of 1 January 1952, received through the courtesy of Mr. Alexis Kyrou, Permanent Representative of Greece to the United Nations. A complete English translation in: Interparliamentary Union, *Constitutional and Parliamentary Information* (published by the Autonomous Section of Secretaries-General of Parliaments), Geneva, 1 April 1952. Permission to reproduce this translation was granted by Mr. Emile Blamont, President of the Autonomous Section of Secretaries-General of Parliaments, whose courtesy is gratefully acknowledged. The Constitution was adopted by the Greek Parliament on 22 December 1951 and promulgated on 23 December 1951.

Sect. 5. Except when taken in the act, no man may be arrested or imprisoned without a judicial warrant stating the reason, which must be served at the moment of arrest or detention. Any person who is detained on being taken in the act or on a warrant of arrest must be brought without delay before the competent examining judge, within twenty-four hours of his arrest at the latest, or, if the arrest occurred beyond the limits of the district of the examining judge, within the time absolutely necessary for his conveyance. The examining judge must, within at the most three days of his appearance, either release the person arrested or deliver a warrant for his imprisonment. This term may be extended to five days at the request of the person so appearing or in the case of unforeseen circumstances the existence of which is immediately recognized by order of the competent judicial council. In the event of either of these terms having passed without such action, every jailer or other person, civil or military, charged with the detention of the arrested person must release him instantly. Those who violate the above provisions are punished for illegal detention, and are obliged to make good any loss sustained by the injured party, and further to indemnify him in a sum of money fixed in accordance with the provisions of the law. The maximum duration of detention and the conditions in which compensation may be granted by the State to persons wrongfully detained or condemned, shall be determined by law.

Sect. 6. In the case of political offences, the council of the judges of the court of misdemeanours can always, on the demand of the person detained, allow his release under bail fixed by a judicial order, against which an appeal is allowed. In the case of these offences, preliminary detention can never be prolonged beyond three months.

Sect. 7. No offence can exist, and no punishment may be inflicted, unless previously fixed by law, nor may a penalty be inflicted greater than the maximum penalty in force when the act was committed.

Sect. 8. No one may be withdrawn without his consent from the [jurisdiction of the] judge assigned to him by law. Judicial commissions and special courts may not be established under any title whatsoever.

Sect. 9. Each individual or many together possess the right, on conforming with the laws of the realm, to address petitions in writing to the public authorities, who are bound to take prompt action and to furnish the petitioner with an answer in writing, in accordance with the provisions of the law. Only after the final decision of the authority to whom the petition was addressed, and by leave of that authority, may inquiry be made as to responsibility on the part of the petitioner for offences contained in the petition.

Sect. 10. Greeks have the right to meet quietly and unarmed: only at public assemblages the police may be present. Assemblages in the open air may be prohibited if danger to public security is imminent from them.

Sect. 11. Greeks possess the right of association, conforming with the laws of the State, and in no case can the laws subject this right to previous permission on the part of the Government.

An association cannot be dissolved for infractions of the provisions of the laws except by judicial decision.

The right of association may in certain respects be restricted by law in the case of civil servants and persons employed by corporations and statutory organizations. Such persons are forbidden to strike.

Sect. 12. The dwelling is inviolable. Domiciliary searches can be made only when and as the law directs.

Offenders against these provisions are punished for abuse of authority, and are bound fully to indemnify the injured party, and further to compensate him in a sum of money fixed in accordance with the provisions of the law.

Sect. 13. The life and liberty of every person within the limits of the Greek State is protected absolutely, without respect to the nationality, religion or language of the person concerned. Exceptions may be made in accordance with the provisions of international law.

Sect. 14. Everyone may publish his opinions by speech, by writing, or by printing, observing the laws of the realm. The press is free. Censorship and every other preventive measure are prohibited. The seizure of newspapers and other printed treatises, whether before or after publication, is likewise prohibited. Exceptionally, seizure after publication is permitted (*a*) on account of insult to the Christian religion or indecent publications manifestly offending public decency; (*b*) for an offence against the person of the King, the Diadoch, their wives or their children; (*c*) if the publication contains matter which, under the terms of the law, is of such a nature as to reveal facts about militarily important movements of the armed forces or about the fortifications of the country, to be manifestly subversive, or to be a danger to the country or to constitute an incitement to commit high treason. In such a case, however, the public prosecutor must, within twenty-four hours after the seizure, submit the case to the judicial council, and the council must, within the next twenty-four hours thereafter, decide whether the seizure is to be maintained or withdrawn; otherwise the seizure is *ipso jure* raised. Appeal is allowed against the order only to the publisher of the article seized, and not to the public prosecutor. After three convictions involving seizure have been imposed for offences by means of the press, the court shall order the permanent or temporary suspension of the publication concerned and, in serious cases, may prohibit the person convicted to continue to exercise the profession of journalist. Such suspension or prohibition shall be valid as from the moment at which the sentence imposed becomes final. The use by any person whatsoever of the title

of a suspended publication is prohibited for ten years after the imposition of permanent suspension. The commission of an offence through the press shall render the person committing it liable to be taken in the act of commission.

Only Greek citizens in full possession of their political rights are allowed to publish newspapers. The manner in which the press shall make reparation for inaccurate publications and the conditions and qualifications required for the exercise of the profession of journalist shall be determined by law. Special repressive measures may be taken by law to combat literature dangerous to the characters of the young.

The provisions for the protection of the press contained in this article do not apply to the cinema, to public spectacles, to gramophones, to broadcasting or to other means of the transmission of speech or of performance. The publisher of a newspaper and the author of a reprehensible publication relating to private life, in addition to the penalty imposed according to the terms of the criminal law, are civilly and conjointly liable fully to redress any loss occasioned, and to indemnify the injured party in a sum of money fixed in accordance with the provisions of the law.

Sect. 15. No oath may be imposed except in the form provided by law.

Sect. 16. Education, which is under the supreme supervision of the State, is conducted at the expense of the State or at that of the local administrative organizations.

The instruction imparted in all secondary and primary schools shall aim at the moral and intellectual education of the young and at the development of their national conscience in accordance with the ideological principles of Hellenic-Christian civilization.

Primary education is obligatory for all and is given free by the State. The period of compulsory school attendance is determined by law, and may not be less than six years.

The higher educational institutions are responsible for their own administration under the supervision of the State, and their teachers are public servants.

Private persons in full possession of their political rights and corporations are allowed, with the permission of the authority concerned, to establish private schools conducted in accordance with the Constitution and the laws of the realm.

Sect. 17. No one may be deprived of his property except for the public benefit duly proven, when and as the law directs and always after indemnification. The indemnification is always fixed through the judicial channel. In case of urgency it may be provisionally fixed judicially after the beneficiary has been heard or summoned, and the beneficiary may be obliged, at the discretion of the judge, to give a proportionate guarantee in the manner defined by law. Until the final or provisional indemnification fixed is paid, all the rights of the proprietor are maintained intact, dispossession not being permitted.

Special laws settle the details respecting the proprietorship and disposal of mines, quarries, archaeological treasures, and mineral and running waters.

Special laws shall also settle the details respecting the proprietorship, use and management of fishing rights in lagoons and large lakes.

Special laws shall settle the methods according to which requisitioning may be carried out to meet the needs of the armed forces in time of war or mobilization or to meet an immediate social need which might endanger law and order or public health.

Sect. 18. Torture and general confiscation are prohibited. Civil death is abolished. The penalty of death for purely political offences is abolished, except for political offences which also involve common offences.

Sect. 19. No previous permission of the administrative authority is required to prosecute public or municipal officials for their punishable acts connected with their service, except in the case of ministers, for which special provisions are laid down.

Sect. 20. The secrecy of letters and of every other form of correspondence is absolutely inviolable.

CONCERNING THE HOUSE OF REPRESENTATIVES

. . .

Sect. 59. No tax can be imposed or collected without a law. Exceptionally, in the case of imposition or increase of an import duty, the collection of it is permitted from the date of the presentation to the House of the project concerning it, upon the express condition of the publication of the law at the latest within ten days of the close of the parliamentary session.

No delegation to the committee of legislative powers may be made in respect of the object of the tax, the revenue factor involved, or the exemptions or exceptions from the tax, nor in respect of the granting of pensions.

Sect. 61. No salary, pension, allowance, or remuneration is inscribed in the budget of the State, nor is granted, without an organic or other special law.

Sect. 66. The House of Representatives is composed of representatives chosen by the citizens having the right to elect by direct, universal, and secret suffrage.

The parliamentary elections are ordered and carried out simultaneously throughout the realm.

Sect. 70. To be elected representative, it is necessary to be a Greek citizen, to have completed the twenty-fifth year, and to be lawfully qualified to elect.

A representative who loses these qualifications is, *ipso jure*, deprived of the character of representative. Should doubt arise upon this point, the House of Representatives decides.

[Section 71 deals with incompatibilities between the office of a representative and other public office, military posts or positions in commercial companies enjoying special privileges or a regular subvention in virtue of a special law.]

. . .

CONCERNING THE JUDICIAL POWER

. . .

Sect. 91. In time of war or of mobilization because of external dangers or serious disorders or manifest menace to public order and the security of the country originating from internal danger, the King may, on the proposal of the ministerial council, by royal decree, suspend in the whole State or in part thereof articles 5, 6, 8, 10, 11, 12, 14, 20, 95 and 97 of the Constitution, or any of them, and putting into force the law on state of siege applicable on each occasion, set up exceptional tribunals. This law may not be amended during the labours of the House which is called upon to apply it. All measures taken on the basis of this article are communicated forthwith to the House at its first sitting after their promulgation, in order that they may be either approved or rescinded. If meaures of this kind are taken at a time when the House is not meeting, the House shall, under the penalty of the invalidation of such measures, by the same royal decree, be convoked within ten days, even if the legislature has come to an end or the House has been dissolved. In each case, the House decides whether to uphold or rescind the royal decree.

The parliamentary immunity of article 63 commences from the publication of the royal decree.

The application of the above royal decrees is extended, in the case of war, no longer than the termination of it. In every other case, it is automatically raised after two months, if in the meantime their validity has not been extended by further consent of the House of Representatives.

Sect. 92. The sittings of the courts of law are public, except when publicity would be injurious to good morals or public order; but then the courts must issue a decision to that effect.

Sect. 93. Every judgment must be specially reasoned, and must be pronounced in public sitting.

Sect. 94. The jury system is maintained.

Sect. 95. Crimes, political crimes and press offences which do not affect private life and other offences designated by law are tried before a jury. Provision may be made by law for the trying of the press offences mentioned above by mixed tribunals composed of ordinary magistrates and of jurors, who must be in the majority. Offences which, up to now, have by law and by special resolutions been referred to courts of appeal will continue to be tried by those tribunals, provided that they have not been by law transferred to the sphere of trial by jury.

Sect. 97. The details concerning courts martial, naval or air force courts, piracy, barratry, and prize courts are regulated by special laws.

Private individuals may not be brought before courts martial, or naval or air force courts, except for punishable offences against the security of the armed forces.

. . .

ADMINISTRATION OF THE STATE

Sect. 99. The administrative organization of the State is founded upon decentralization and autonomous legal administration as defined by law. The election of the municipal and communal authorities shall be performed by universal suffrage.

Sect. 100. The public servant must give loyalty and devotion to his country and to the national ideals. He is the executor of the wishes of the State, and the servant of the people. Ideologies which aim at the violent overthrow of the institutions of the country or the social order are inconsistent with the holding of public office.

. . .

TEMPORARY PROVISIONS

Sect. 104. For the purpose of establishing farmers and small cultivators on the land, the forcible expropriation of rural properties in the categories mentioned below shall notwithstanding the provisions of article 17 of the Constitution, as shall be prescribed by law, be permitted during three years from the coming into force of these provisions:

(*a*) Open areas belonging to individual persons or private corporations of a size greater than 500 stremmes[1] when cultivated by the owner, and of 250 stremmes when not cultivated by him, or leased to each proprietor or co-proprietor;

(*b*) Cultivated or cultivable areas, as well as areas reserved for stock-breeding or plantations belonging to public corporations of every kind, and in the case of communes or communities after the views of the latter have been expressed. All real estate belonging to institutions the aims of which are educational or philanthropic is excepted from every kind of forcible expropriation under the provisions of this article;

(*c*) Areas reserved for stock-breeding greater than 1,000 stremmes or, if the owner is a stock-breeder, greater than the size necessary to provide for his present needs or his needs prior to 1940, as shall be specified by law.

A special law shall regulate for the present the expropriation and compulsory farming of fields, areas of woodlands and pastures belonging to the estates of the Church. Olive groves, vineyards and gardens belonging to the estates of the Church and to urban Church

[1]The stremme is equivalent to a decare or 1,000 square metres.

properties are excepted from the expropriation and compulsory farming under this article.

Compensation is fixed in terms of metal drachmas, and in every case through legal proceedings. It is never less than one-third of the value of the property expropriated at the time of the occupation, and it is paid either before or after expropriation, either in instalments or in bonds as fixed by law.

Laws promulgated hitherto relating to the re-purchase of properties on long lease, to exemption from landlord's produce charges or other charges on the land and to compulsory farming of estates in favour of farmers and stock-breeders without land are considered as not being contrary to the Constitution.

Notwithstanding the provisions of article 17 of the Constitution, provision may be made by legislation for the regulation and annulment of landlord's produce charges or other still existing charges on the land, for the re-purchase of ownership without usufruct by the tenants of properties on long lease, for the abolition and the regulation of relationships entered into by private estate law and for the taking of measures against the splitting up of property and for the reconstitution of small landed properties which have been unduly split up.

Sect. 105. All laws and decrees, in so far as they are in contradiction with the present Constitution, are repealed.

GENERAL PROVISIONS

. . .

Sect. 107. The official language of the State is that in which the texts of the Constitution and of the Greek legislation are drawn up: any attempt to corrupt it is prohibited.

Sect. 108. The revision of the whole of the Constitution is not permitted.

The provisions of this Constitution which lay down that the form of government shall be that of a royal democracy and the fundamental provisions are never revised. Revision of the non-fundamental provisions is permitted whenever the House of Representatives shall so request by a vote of two-thirds of the total number of members, by means of a particular measure which shall set out the provisions to be revised, and which shall be voted upon in two successive votes separated by an interval of not less than one month.

. . .

Sect. 109. Co-operative organizations, both rural and urban, enjoy the protection of the State, which applies itself systematically to their development.

LEGISLATIVE DECREE No. 1623 SUSPENDING PROCEEDINGS FOR CERTAIN OFFENCES, GRANTING CONDITIONAL RELEASE TO CONVICTS, AND AMENDING CERTAIN PROVISIONS OF THE PENAL CODES[1]

dated 4 January 1951

SUMMARY

Minor offences (except forgery, usury, adultery and certain other offences specified in the decree) for which a fine or imprisonment for not more than a year is provided by law and which were committed before the publication of this decree are declared no longer punishable. Sentences imposed for such offences before the publication of this Act are cancelled, and persons serving them are to be released from prison.

Sentences of imprisonment for less than a year for offences for which according to law heavier penalties could have been imposed are to be conditionally suspended. Persons under twenty-one or over seventy years of age sentenced to imprisonment for more than a year, or persons who have served one-third of their sentence are to be conditionally released, unless they are sentenced to imprisonment for more than three months within five years of their release or have committed certain specified offences.

Other articles of the legislative decree contain procedural matters, amend certain articles of the Penal Code and the Code of Criminal Procedure and provide for the establishment of an advisory committee, in accordance with article 56 of the Penal Code, for the study of penal law, prevention of crimes, etc.

[1] Greek text of the legislative decree in *Official Gazette* No. 3, of 4 January 1951. Summary by the United Nations Secretariat.

ACT No. 1817 GRANTING MEASURES OF LENIENCY TO PERSONS COMMITTING OFFENCES RELATED TO THE REPRESSION OF THE REVOLT[1]

dated 23 April 1951

SUMMARY

Offences committed by persons who either individually or as members of armed groups took an active part in the repression of the revolt are declared no longer punishable, and judgments passed by courts on such offenders are declared void provided that the offenders have presented themselves voluntarily to the competent authorities or do so within one month from the entry into force of this Act. This measure of leniency applies to punishable acts connected with the fight against banditry and committed between the liberation of the country from enemy occupation and the publication of this Act. It also applies to members of the army, navy, air force, police and various semi-military groups who on the date of publication of the Act are accused of or have been sentenced for offences related to the repression of the revolt or the fight against communism.

The district criminal court which grants the measure of leniency may subject persons affected by the Act to supervision by the police or to forced residence. In the case of military personnel, the military tribunal of the district is competent to pronounce the measure of leniency.

[1] Greek text of the Act in *Official Gazette* No. 148, of 26 May 1951. Summary by the United Nations Secretariat.

GUATEMALA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. RATIFICATION OF INTERNATIONAL CONVENTIONS

By decree No. 805, of 9 May 1951, the Congress of the Republic of Guatemala approved the Inter-American Conventions on the granting of civil and political rights to women, signed by the representatives of Guatemala on 2 May 1948 in Bogotá at the ninth Inter-American Conference. This decree was promulgated by the President of the Republic on 14 May 1951. The President ratified the two Conventions on 17 May 1951.

In the preambular part of the decree, it is stated that the civil and political rights of women have been recognized by the Constitution of the Republic, the Charter of the United Nations, and the Civil Code of Guatemala.

Article 2 of the decree contains a reservation referring, with regard to the political rights of women, to article 9, paragraph 2, of the Constitution.[2]

By decree No. 842, of 7 November 1951, the Congress of the Republic of Guatemala approved the Convention on the declaration of death of missing persons, adopted on 6 April 1950 by the United Nations Conference on Declaration of Death of Missing Persons, to which Guatemala adhered, *ad referendum*, on 25 May 1951. The decree was promulgated by the President of the Republic on 21 November 1951. The President ratified the Convention on 30 November 1951.

In the preambular part, the decree states that the "racial, religious, political and national persecutions have caused, during the second world war, the disappearance of persons whose death could not be established with certainty".

By decree No. 844, of 7 November 1951, the Congress of the Republic of Guatemala approved the inter-American Convention on the copyright of literary, scientific and artistic works, signed by the representatives of Guatemala in Washington on 22 June 1946. This decree was promulgated by the President of the Republic on 21 November 1951. The President ratified the Convention on 30 November 1951.

II. JUDICIAL DECISIONS

Decision of the Supreme Court of 25 January 1951 relating to the right to work.

Decision of the Supreme Court of 26 January 1951 relating to the right of property.

Summaries of these two decisions are published in the present *Yearbook*.

[1] This note is based on texts and information received through the courtesy of the Government of Guatemala.

[2] Article 9, paragraphs 1 and 2, of the Constitution of Guatemala, read as follows:

"Citizens are:

"1. Male Guatemalans who have attained eighteen years of age;

"2. Guatemalan women who have attained eighteen years of age and know how to read and write."

JUDICIAL DECISIONS

FREEDOM OF WORK—WORK AS A RIGHT OF THE INDIVIDUAL AND A SOCIAL OBLIGATION—REASONS FOR LIMITATION OF THIS RIGHT—INFRINGEMENT OF THIS RIGHT BY GOVERNMENT ORDER—LIMITATIONS PERMISSIBLE BY STATUTORY LAW ONLY—CONSTITUTION OF GUATEMALA

ANGEL ESTRADE GONZALES AND OTHERS *v.* THE PRESIDENT OF THE REPUBLIC

Supreme Court of Justice[1]

25 January 1951

The facts. The Court was requested to consider and to give its ruling upon an action brought against the President of the Republic under the Injunction Proceedings Act (*Ley de Amparo*) by Angel Estrade Gonzales and others (hereinafter called "the appellants"), who asked for a declaration to the effect that article 1 of the government order of 25 October 1950 is not applicable to them. They claim that this order of the Executive restricts the freedom of work in that it requires them to close their barber shops at seven o'clock in the evening; and that, since their barber shops are in category III, they are patronized mostly by clerical employees, manual workers and day labourers in the hours after seven o'clock in the evening—that is to say the time when they are required by the aforesaid order to close their shops. They aver that the said order violates the constitutional guarantee which establishes freedom of work without any limitations other than those imposed by the Constitution itself and that which establishes the protection of work by the State as a right of the individual; and they refer to articles 21, 22, 25, 56 and 97 of the Constitution.[2] Their application was accompanied by a printed sheet containing the text of the said order, article 1 of which provides that barber shops, hairdressers' establishments and beauty parlours shall be open only from eight o'clock in the morning till seven o'clock in the evening, except on Saturdays, when they shall remain open until ten o'clock at night.

Held: That the provisions of article 1 of the government order of 25 October 1950 are not applicable to the appellants in so far as the said provisions require barber shops to be closed at seven o'clock in the evening. Under article 55 of the Constitution of the Republic, work is a social guarantee, for it provides that work is a right of the individual and a social obligation; and in establishing this right of the individual, the authors of the Constitution, by stating in the same article that vagrancy is punishable, also established the penal liability of any person who infringes this right. In accordance with the provisions of article 97 of the Constitution, freedom of work may be limited for economic, fiscal or social reasons; but in such cases the limitation must be embodied in an Act. In the present case, however, the provision which imposes the obligation to close the establishments concerned at a specified time, and which therefore involves a limitation of this social guarantee, is contained in the said order, which was not issued "to give due effect" to an Act, as required by article 137, paragraph 2, of the Constitution of the Republic, in which the President's power to issue orders is defined; and since in the said paragraph 2 it is stipulated that regulations, orders and ordinances issued by the Executive must not impair the spirit of any Act, the existence of Acts is naturally presupposed. In the case in question, although articles 274 and 275 of the Labour Code were referred to, they bear no technical legal relationship to the contents of the article of the order the validity of which is challenged by the present proceedings.

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[1] Spanish text of the decision transmitted through the courtesy of the Government of Guatemala. English summary by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1946*, pp. 135, 139 and 143.

ASSETS OWNED BY GUATEMALAN CHAMBER OF COMMERCE AND INDUSTRY —RIGHT TO PROPERTY—FREEDOM TO DISPOSE OF PROPERTY—INFRINGEMENT OF THIS FREEDOM BY GOVERNMENT ORDER—CONSTITUTION OF GUATEMALA

CHAMBER OF COMMERCE AND INDUSTRY *v.* MINISTRIES OF ECONOMICS AND LABOUR

Supreme Court of Justice[1]

26 January 1951

The facts. The court was asked to consider and to give its ruling upon an appeal for an injunction lodged by Julio Vielman Taracena, in his capacity as President and legal representative of the Guatemalan Chamber of Commerce and Industry, "against the government order, which was issued on 17 August last (1950) by the President of the Republic and by the Minister of Economic Affairs and Labour". The appellant declared: that this order arbitrarily disposes of the property of the said Chamber, having been issued in pursuance of the order issued on 28 July last which deprived the said Chamber of Commerce and Industry of legal personality; that by the said order the Executive directed that the assets of the Guatemalan Chamber of Commerce and Industry were vested in the Federation of Guatemalan Chambers of Commerce to be established and that, pending the organization of the said Federation, these assets were to be administered by the Department of Trade, Industry and Controls, the said department being at the same time made responsible for winding up the appellant body; that this government order "is in flagrant violation" of the constitutional provision which prohibits the undue confiscation, expropriation and disposal of the property of others, articles 21, 23, 24, 28, 32, 42, 52 and 90 of the Constitution[2] being cited by the appellant in support of his contention.

Held: The appeal for an injunction should be allowed. It is inadmissible that the government order in question should cause prejudice to the legal person against which it was issued.

In issuing the government order of 17 August 1950, which provides that the movable assets "formerly owned by the Guatemalan Chamber of Commerce and Industry shall be vested in the Federation of Guatemalan Chambers of Commerce to be established", the responsible authority exceeded the powers conferred upon it by statute, and in particular contravened article 28 of the Constitution of the Republic, for this article provides that all persons may freely dispose of their property, subject only to the proviso that any such disposal shall not contravene the law. And if the Guatemalan Chamber of Commerce and Industry, on the date of issue of the government order depriving it of its legal personality, held assets of this kind, there can be no doubt that they should, as soon as the Chamber was deprived of legal personality, have become the private property of the members, or alternatively, the property of the person or persons expressly designated in its articles of association; but in no case were these assets *bona vacantia*, as they were described in the report of the Minister of Economic Affairs, for the order itself refers to the legal person by which they were owned, these assets being, accordingly, private property within the meaning of article 386 of the Civil Code. The constitutional guarantee referring to freedom to dispose of property was therefore infringed by the aforesaid government order, since, although the property of the Chamber of Commerce, the movable assets of the Chamber were directed by the order to be transferred to another body—namely, the Federation of Chambers of Commerce—of a nature similar to the body which has been wound up, whereas the Constitution vests this right exclusively in the owner.

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[1] Spanish text of the decision transmitted through the courtesy of the Government of Guatemala. English summary by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1946*, pp. 135–138 and 142.

HAITI

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. LEGISLATION

Two Acts and one order affecting human rights were promulgated during the year. They are:

(1) The Act of 15 September 1951 setting up a body known as the Workers' Housing Authority (*Office d'administration des cités ouvrières*—OACO); published in the *Moniteur*, No. 85, of 27 September 1951. A summary of the Act is published in this *Yearbook*.

(2) The Act of 19 September 1951 organizing social insurance and attaching the Social Insurance Institution (*Institut d'assurances sociales d'Haïti*—IDASH) to the Department of Labour, endowing the said Institution with its own legal personality (*Moniteur*, No. 98, of 29 October 1951). A summary of the Act is published in this *Yearbook*.

(3) The order of 20 January 1951 establishing a Superior Wage Board (*Moniteur*, No. 7, of 22 January 1951).

II. RATIFICATION OF INTERNATIONAL CONVENTIONS

During 1951 Haiti ratified nine important conventions concerning human rights, viz:

(1) Decree of 23 August 1950 by the Government Council ratifying the International Convention for the safety of life at sea which was signed in London on 31 May 1929 (*Moniteur*, No. 7, of 22 January 1951);

(2) Decree of 23 August 1950 by the Government Council, ratifying the Convention on the prevention and punishment of the crime of genocide which was signed in Paris on 11 December 1948 (*Moniteur*, No. 8, of 25 January 1951);

(3) Decree of 23 August 1950 by the Government Council, ratifying the Charter of the Organization of American States (articles 5, 28 to 31—*Moniteur*, No. 15, of 19 February 1951);

(4) Decree of 23 August 1950 by the Government Council, ratifying the Protocol amending the agreements and conventions on narcotic drugs which was signed by Haiti at Lake Success on 11 December 1946 (*Moniteur*, No. 16, of 22 February 1951);

(5) Decree of 4 September 1951, ratifying the Convention concerning the regulation of hours of work in commerce and offices which was signed at Geneva on 28 June 1930 (*Moniteur*, No. 96, of 22 October 1951);

(6) Decree of 4 September 1951, ratifying the Convention concerning the application of the weekly rest in industrial undertakings, signed at Geneva on 25 October 1921 (*Moniteur*, No. 97, of 25 October 1951);

(7) Decree of 4 September 1951, ratifying the Inter-American Convention on Political Asylum which was signed at Montevideo on 25 December 1933 (*Moniteur*, No. 102, of 8 November 1951);

(8) Decree of 4 September 1951, ratifying the Convention concerning labour inspection in industry and commerce which was signed at Geneva on 11 July 1947 (*Moniteur*, No. 112, of 6 December 1951);

(9) Decree of 4 September 1951, ratifying the Inter-American Convention fixing the rules for the granting of asylum which was signed at Havana on 20 February 1928 (*Moniteur*, No. 118, of 27 December 1951).

[1] This note was prepared by Dr. Clovis Kernisan, professor in the Faculty of Law of the University of Port-au-Prince. English translation from the French text by the United Nations Secretariat.

ACT SETTING UP A WORKERS' HOUSING AUTHORITY[1]

dated 15 September 1951

SUMMARY

This authority (called in French *Office d'administration des cités ouvrières—OACO*), set up by the Act of 15 September 1951, is to administer housing estates for workers. Its headquarters are at Port-au-Prince. Regional offices will be set up in the provinces as circumstances allow. The Authority is managed by a director and a board of five members, one of whom is an engineer. The director and the members of the board are appointed by the President of the Republic.

[1] French text in *Le Moniteur*, No. 85, 27 September 1951. Text received through the courtesy of Dr. Clovis Kernisan, Professor at the University of Port-au-Prince. The Act was adopted by the Chamber of Deputies on 10 September and by the Senate on 12 September 1951 and promulgated by the President of the Republic on 15 September 1951.

The director is responsible in particular for the Authority's operations and for initiating any requests likely to promote the social and moral welfare of the inhabitants of the housing estates. The board's function is to assist the director and, in particular, to approve the selection of the families who are to live on the estates, to investigate or to give rulings on complaints lodged by the occupants and to approve the regulations governing the Authority's operations.

The conditions governing the occupancy of dwellings in the workers' housing estates are laid down in agreements concluded by the Authority with the workers, whether in public or private employ or non-wage-earning but carrying on a recognized trade. A medical examination is required before a worker becomes eligible for accommodation in these estates. Any occupant who contracts a contagious disease will be placed in a suitable institution by the Authority. The occupants are required to make monthly payments by way of rent or as instalments towards the purchase of the premises, these instalments being spread over a term of fifteen to twenty years. If they are unable to pay these instalments, they remain in occupation simply as tenants on lease for so long as they are unable to pay. In such cases, the rent is deducted from the amount already paid by way of purchase instalments. When this amount is exhausted, the agreement is cancelled.

A house may not be attached for the purpose of levying distraint once it has become the occupant's property, nor may it form the subject of any transfer or other dealings as between the beneficiary and the Authority. If the beneficiary dies, the surviving spouse or heir may not acquire title to the house unless he fulfils all the conditions formerly fulfilled by the deceased; for this purpose it is mandatory to consult the board, and the latter's recommendation is subject to the approval of the Secretary of State for Labour. Any tenant or owner of a house is required to occupy it in person with his family. In no circumstances may he sublet or let it or any part thereof; nor may he share it with other persons without the director's consent. If the beneficiary should die before acquiring the ownership of the house, his heirs may apply for the cancellation of the agreement entered into with the Authority. Moreover, any party to an agreement may apply to the board for the termination thereof.

The proceeds from the rents and purchase instalments are applied, *inter alia*, towards the salaries of the Authority's staff, repairs to premises, improvements and expansions of workers' housing estates and carrying out a programme of recreational activities for workers.

ACT ORGANIZING SOCIAL INSURANCE AND ATTACHING THE SOCIAL INSURANCE INSTITUTION TO THE DEPARTMENT OF LABOUR[1]

dated 19 September 1951

SUMMARY

The Act establishes the Social Insurance Institution attached to the Department of Labour and to be known as the "Social Insurance Institution of Haiti" (abbreviated title in French: "IDASH"). The Institution has a separate legal personality and has its principal place of business in Port-au-Prince. The social insurance system established by this Act covers sickness, maternity, and employment injury. The governing body of the Institution may, with the agreement of the Secretary of State for Labour, introduce compulsory insurance for public officials, and wage and salary earners employed by agricultural, industrial and commercial undertakings, and all manual and non-manual employees giving their services to an employer for remuneration under an express or implied contract of employment. The same is provided for teachers and teaching assistants in private educational establishments and domestic personnel paid in kind or in cash.

The Institution is assisted in its administration by a governing body composed of nine members—namely, three representatives of the Government appointed by the President of the Republic, three representatives of the employers and three representatives of the workers to be likewise appointed by the President of the Republic from two lists presented by the existing employers' organizations and the legally recognized labour union federations and non-federated labour unions. The President also appoints the Director of the Institution. The powers and duties of the governing body include, *inter alia*, approving the plans for developing and executing the programme of the Institution, adopting the balance sheet and expense estimates, and presenting an annual report on the work of the Institution to the Secretary of State for Labour. The Director manages and administers the Institution, prepares the annual budget, makes all arrangements for the registration of employers and workers, the

[1] French text of the Act in *Le Moniteur*, No. 98, of 29 October 1951. Text received through the courtesy of Dr. Clovis Kernisan, Professor at the University of Port-au-Prince. English summary by the United Nations Secretariat. An English translation of the complete Act is to be found in: International Labour Office, *Legislative Series*, 1951—Hai. 2. The Act was adopted by the Chamber of Deputies on 10 September and by the Senate on 12 September 1951 and promulgated by the President of the Republic on 19 September 1951.

levying of contributions, etc. He moreover prepares an annual detailed report on the financial operations, the employment of the funds obtained, the number of insured persons and statistics of the recorded cases of illness and employment injury among the insured persons.

Part IV of the Act deals with resources, financial arrangements and investments. Part V is devoted to employment injury insurance. Cases which shall not be regarded as employment injuries giving rise to the payment of benefits are accidents to an employee who was in a state of drunkenness at the time, accidents intentionally provoked by the victim, etc.

Employment injury insurance is payable entirely by the employers, who, during the first three years of operation of the Institution, shall make a contribution of 1 per cent of the total wages paid. Subsequently, the rate of the employer's contribution may be raised. Where an employment injury involves incapacity for work, the insured person is entitled in addition to medical benefit, to a daily allowance equal to two-thirds of the basic wage for each working day from the fourth day after the accident. If the incapacity for work is permanent, the insured person is entitled to a monthly pension proportional to the degree of incapacity. Where the employment injury results in the death of the insured person, benefits such as a funeral grant and a pension for the widow and the children of the insured person are provided.

All persons who are subject to employment injury insurance are compulsorily insured against sickness and maternity if their basic monthly wage does not exceed 500 gourdes. The rate of contribution to sickness and maternity insurance is 4 per cent of the insured person's basic wage, half being payable by the employer. When insurance is extended to the dependants, the insured person shall pay a supplementary contribution equal to 3 per cent of the wage. Medical benefit shall be provided from the first day of sickness for a maximum period of twenty-seven weeks. In the event of sickness involving incapacity for work, an insured person is entitled to a cash allowance equal to 50 per cent of his basic wage for each working day. This allowance is paid from the eighth day of incapacity for the whole period of incapacity; however, this period shall not exceed twenty-six weeks in any one year.

In respect of pregnancy and confinement, the Institution grants insured women the same medical benefit as provided for employment injury insurance, and cash benefit as provided for sickness insurance. It is payable to an insured woman regardless of the legal status of the child.

The Act provides for penalties for employers and insured persons who contravene its provisions. The fines shall be imposed administratively by the management of the Institution. Appeals against fines imposed by the management of the Institution must be lodged within five days of notification of the imposition of the fine and shall be brought before the civil court having jurisdiction over the employer. An appeal shall also lie to the civil court having jurisdiction over the employer against every decision of the Institution regarding liability to insurance, the rate of contribution, the rights of insured persons, benefits and the amount thereof, and also in the event of disagreement between employers and insured persons.

HONDURAS

POLITICAL CONSTITUTION OF THE REPUBLIC OF HONDURAS OF MARCH 28 1936 AS AMENDED BY DECREE No. 15 OF 19 DECEMBER 1951 [1]

TITLE II

NATIONALITY AND SOVEREIGNTY

Chapter II

CONCERNING ALIENS

Art. 15. Aliens are required from the time of their arrival in the territory of the Republic, to respect the authorities and to comply with the laws.

Art. 16 (as amended in 1951). Aliens shall enjoy all the civil rights of Honduran nationals, *subject to the restrictions established by law.*[2]

Art. 17. They may acquire any kind of property in the country, in accordance with the law, and are liable to all the ordinary and special obligations of a general character to which Honduran nationals are liable.

Art. 18. They may not make claims or require any compensation from the State, except in the form and in the cases in which Honduran nationals may so do.

They may not, on pain of expulsion, hold any public office or employment, including office or employment under any of the religions established in the country. They may, however, hold employment in education and in the arts and in any other occupation not covered by the prohibition.

Art. 19. Aliens may not have recourse to the diplomatic channel except in cases of denial of justice. For this purpose, denial of justice shall not be construed to mean an enforceable judgment which is unfavourable to the claimant.

If, in contravention of this provision, claims are not settled amicably and injury is caused to the country, the alien concerned shall lose the right to live in the country.

Art. 20. Extradition shall be granted only in virtue of laws or treaties for serious offences against the ordinary law. It shall never be granted for a political offence, even if an offence against the ordinary law has been committed in consequence of such offence.

Art. 21. The laws shall establish the manner and cases in which aliens may be refused entry to the national territory or their expulsion therefrom ordered as dangerous aliens.

Art. 22. The laws and treaties shall govern the use of, but may not modify these guarantees.

Art. 23. The provisions of this chapter shall not modify the treaties in force between Honduras and other nations.

TITLE III

CONCERNING RIGHTS AND GUARANTEES

Chapter III

CONCERNING LIBERTY

. . .

Art. 62 (as amended in 1951). Industry and commerce are free, *subject to the limitations imposed by law.*[3] Alcohol, *aguardiente*, saltpetre, gunpowder, firearms, munitions of war and explosives used for military purposes may be monopolized for the benefit of the State.

Traffic in narcotic or dangerous drugs shall be regulated by law and by international conventions.

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[1] Spanish text of decree No. 15 in *La Gaceta* No. 14592, of 9 January 1952. The decree was adopted and promulgated on 19 December 1951. It came into force on the day of its publication in *La Gaceta*. The decree amends articles 16 and 62 of the Political Constitution of Honduras. Article 16 deals with the status of aliens; the entire chapter II (articles 15–23) of title II relating to aliens is reproduced in this *Yearbook*. Article 62 is part of chapter III of title III "Concerning Liberty". From chapter III, only the amended article 62 is published in this *Yearbook*. The other articles of this chapter, as reproduced in the *Yearbook on Human Rights for 1946*, pp. 146–147, remained unchanged.

[2] Words in *italics* added in 1951.

[3] Words in *italics* added in 1951.

HUNGARY

ACT AMENDING THE CONSTITUTION OF THE HUNGARIAN PEOPLE'S REPUBLIC[1]

approved by the National Assembly on 8 December 1950

SECTION SIX
THE JUDICATURE

. . .

Art. 39. 1. In the Hungarian People's Republic all judicial offices are filled by election and the elected judges may be recalled.

2. The judges of the Supreme Court are elected for a period of five years, the judges of the district and county courts for a period of three years.

3. The president and the judges of the Supreme Court are elected by the National Assembly.

4. The judges are accountable to their electors in respect of their activities.

5. The election of the judges of the district and county courts is regulated by the rules laid down in a special Act of Parliament.

[1]Hungarian text in *Magyar Közlöny*, Budapest, 1950. English text in *Constitution of the Hungarian People's Republic*, Budapest, 1950. The provisions on human rights of the Constitution of the Hungarian People's Republic of 20 August 1949 were published in *Yearbook on Human Rights for 1949*, pp. 94–96. The Act of 8 December 1950 creates several new ministries, amends article 24 of the Constitution, which enumerates the ministries of the Hungarian People's Republic, abolishes the high courts and modifies articles 36 and 39, which are part of the section on the courts. The new article 39 is reproduced here. The amended text omits the provisions for the election of the judges of the now abolished high courts.

DEFENCE OF THE PEACE ACT[1]

(Act No. V of 1950)

The Parliament of the Hungarian People's Republic, aware that war is a source of unlimited suffering for mankind;

Recognizing that to remove the growing danger or war is in the common interest of mankind, irrespective of ideological convictions, and that peace can be secured only by the co-operation of all peace-loving peoples of the world;

Having considered the appeal of the second World Congress of the Partisans of Peace, associates itself with the statement that war propaganda gravely endangers the peaceful co-operation of nations.

For this reason the Parliament of the Hungarian People's Republic has resolved, in order to defend the peace, to punish with the utmost rigour of the law all those who promote war propaganda and all others who endanger the peace among the peoples.

(1) Any person who by speech, writing, press, radio, film or any other means promotes war or otherwise spreads or helps to spread war propaganda, commits a crime against the peace of the peoples.

(2) Any person guilty of a crime as defined in paragraph (1) shall be punished by imprisonment up to fifteen years and by confiscation of property.

[1]Hungarian text in *Magyar Közlöny* (Hungarian official gazette) of 10 December 1950. English text based on the translation received through the courtesy of the Legation of the Hungarian People's Republic, Washington.

ACT No. 1 OF 1951 CONCERNING THE ESTABLISHMENT OF THE STATE OFFICE OF CHURCH AFFAIRS[1]

Sect. 1. (1) For the administration of affairs between the State and the denominations—particularly for the execution of conventions and agreements concluded with each denomination and for the assistance of the denominations by the State—a State Office of Church Affairs shall be established.

(2) The State Office of Church Affairs is placed under the general control of the Council of Ministers. The Council of Ministers exercises its right of general control through one of its members.

Sect. 2. (1) The organization, the authority and the functioning of the State Office is regulated by decree of the Council of Ministers.

(2) The covering of personal and material expenses relating to the organization and functioning of the State Office shall be provided for by the budget of the State under a special heading.

Sect. 3. With the establishment of the State Office, the authority relating to religious affairs of the Ministry of Religious Affairs and Public Education shall be abolished, and the reference in the name of the Ministry concerning its religious sphere of activities shall be deleted.

Sect. 4. The execution of the present Act is the duty of the Council of Ministers.

[1] Hungarian text in *Magyar Közlöny* No. 77, of 19 May 1951. English text based on the translation received through the courtesy of the Legation of the Hungarian People's Republic, Washington.

The following motivation of the Act was published:

"The Constitution has provided for the separation of Church and State in order to secure freedom of conscience and the free exercise of religion.

"In order to achieve this purpose and to secure the co-operation of the organs of the State and the denominations, a State Office of Church Affairs shall be established by the present Act, which will function beside the Council of Ministers of the Hungarian People's Republic.

"In consequence of this measure, only the tasks concerning public education shall remain within the sphere of the Ministry of Religious Affairs and Public Education. Therefore, the Ministry will be able to accomplish its real purposes more completely and to an increased extent."

LABOUR CODE[1]

Decree-law No. 7 of 1951

SUMMARY

In January 1951, the Presidential Council of the Hungarian People's Republic gave statutory force to provisions governing the rights of labour, in a decree-law known as the Labour Code. This code regulates the labour conditions of Hungarian workers in the spirit of the Constitution of the Hungarian People's Republic.

The preamble of the Labour Code establishes the basic principles of the rights of Hungarian labour; it ensures to every citizen of the Hungarian People's Republic the rights to work and to due compensation. Workers are also entitled to rest and to recreation. The Hungarian People's Republic safeguards the physical well-being and health of the workers and aids them in the event of incapacity. Women enjoy equal rights with men, and the law provides increased protection for maternity.

The Right to Work and to Due Compensation

The Labour Code came into existence during a period when the programmes of the Three-year Plan (1947–1949) and the subsequent Five-year Plan (1950–1954), which were designed to industrialize the country and to develop its agriculture, had eliminated for ever the problem of unemployment in Hungary. The Three-year Plan increased the number of employed persons by 390,000, and upon completion the Five-year Plan will have increased them by 650,000. By the end of 1952, in Hungary, a country with a population of 9.5 million, the number of workers and other employed persons had reached 2,950,000. In prescribing that every citizen of the Hungarian People's Republic shall be assured employment possibilities commensurate with his training and skills, the Labour Code confirms a situation which already exists.

The Hungarian People's Republic makes possible appropriate compensation for the quantity and quality of labour performed by increasing earned wages, by the widespread distribution of bonuses and by increased special consideration for superior work and for high qualifications.

Equal wages are due for equal work. In determining wages there shall be no differentiation between men and women or between youth and adults (Labour Code, article 58, section 59).

Statistical data testify that the rights ensured by law for the appropriate compensation of labour performed are realized in practice. Labour's total income from wages, the national wage fund, increased by 22.4 per cent in 1951.

[1] Hungarian text in *Magyar Közlöny* Nos. 17–18, of 31 January 1951. English summary received through the courtesy of the Legation of the Hungarian People's Republic, Washington.

Working Hours, Rest Periods, Vacations

In the Hungarian people's economy the work day consists of eight hours. In labour that requires heavy physical effort, the work day may be shorter. Overtime work may be performed only in unusual cases. Those working overtime or on the night shift are entitled to supplementary compensation in addition to their regular wages.

The Labour Code guarantees each worker at least half an hour of rest a day, one day of rest a week and a number of paid vacation days in the course of a year.

A worker's annual paid vacation consists of two parts: basic and supplementary rest days. The basic vacation each year is two weeks long. Supplementary vacation days are granted in accordance with the age, type of work and length of service of the worker.

Industrial apprentices—i.e., young workers up to the age of sixteen—are guaranteed two weeks' vacation, and those up to the age of eighteen, one week's supplementary vacation in addition. Supplementary vacations ranging from one to two weeks are given to all those performing work that is especially taxing physically—e.g., miners, foundry workers, blast furnace operators, etc. Qualified intellectual workers engaged in scientific or pedagogical pursuits may receive up to six weeks' supplementary vacation.

Every worker is entitled to supplementary vacation also according to the number of years spent on the job: for each three years of service his paid vacation is extended by one day.

The Hungarian People's Republic assures the workers and their families vacations wholly free of charge or at greatly reduced rates. Free vacations are extended to workers suffering from occupational diseases and to those recommended for preventive rest cures. Likewise, free vacations are extended to apprentices, young workers, Stakhanovites and shock workers. Other workers may enjoy special vacation concessions, the State defraying 80 per cent, the workers 20 per cent of the costs. Persons benefiting are also entitled to a 60 per cent discount on travel expenses.

The Protection of Labour

"In our social order man is the supreme asset. Therefore, by organizing labour safeguards, by the creation of safe working conditions and by constant hygienic care, the Hungarian People's Republic protects the health and physical soundness of the workers" (Labour Code, article 81).

In Hungary today the transfer of plants, the setting up of new shops within plants and the manufacture of new types of machinery may be initiated only after preliminary inspection by the authorities responsible for labour safeguards. Management is obliged to provide modern, fully equipped dressing rooms and sanitation facilities sufficient to meet the needs of the number of workers employed. Workers performing labour that especially soils their clothing are entitled to free work-clothes. Health hazards incidental to the job are eliminated by ventilators, air conditioners and other protective installations. In gaseous or humid work areas the workers receive protective nutriments.

Observance of the health rules prescribed by the Labour Code is supervised jointly by the Ministry of Health and the National Council of Trade Unions. Within the plants, special sub-committees of the shop committees, elected by the workers to look after labour safeguards, check to make certain that management fulfils the necessary requirements. These sub-committees can compel management to take further safety measures; they also hold the discretionary right to suspend operations in a whole plant or in sections thereof.

Health Safeguards for the Workers

Before their employment begins, workers undergo physical examinations in the plant dispensary. It is on the basis of these examinations that new workers are assigned to jobs suited to their physiques and states of health. Plant physicians check the workers' health regularly: each worker is examined at least once a year; those on special jobs are examined once every six months or even every three months. On the basis of medical diagnoses, workers may be placed under treatment, sent to recreational centres or transferred to other jobs.

The Labour Code accords special protection to the health of working women. Women are prohibited from working on physically injurious jobs. Pregnant women are transferred to lighter jobs upon request, but their incomes cannot be reduced. Pregnant or nursing mothers are entitled to three months', or in case of premature birth four months', maternity leave, and they receive compensation during this period. The obligations of working mothers are greatly lightened by an extensive network of plant nurseries and day-care homes. Mothers are permitted to nurse their infants during paid working hours. These infants remain under expert care while the mothers are at work. The capacity of the nurseries in present-day Hungary is twelve times that of before the war.

Within the province of social security provided by the trade unions, Hungarian workers and their dependants enjoy free medical care, including medicine, hospitalization and treatment; maintenance in the event of incapacitation; and old-age pensions. Trade union social security pays supplementary benefits for each member of the family, and provides assistance in case of birth or death. In 1938 the number of those covered by social security was 2.8 million; now it has risen to 5,040,000. Before the liberation, 50 per cent of the cost was borne by the workers. Today, however, it is all borne by the State.

Collective Bargaining and Settlement of Labour Disputes

The Labour Code sets forth in general terms the working relations of labour, which apply to the entire country. On the basis of provisions in the Code, individual plants and enterprises enter into collective agreements which, taking into account concrete local conditions and occupational demands, regulate the labour relations of each particular plant. Collective contracts are entered into between shop (trade union) committees, elected by the workers, and the management of industry. Upon the drafting of a contract, all the workers of a plant assemble to discuss publicly the terms of the contract. Thereafter the instrument, modified and revised in accordance with criticisms and suggestions of the workers, is signed by members of the shop committee and management.

If disagreements arise later between labour and management over the determination and application of working conditions, questions are submitted to a board of arbitration composed of representatives of labour and management, against whose decision appeal may be made to a second board of arbitration. In more important labour disputes the courts of the Hungarian People's Republic may be called upon to render a decision.

The first four sections of chapter I of the Labour Code, which is entitled "The Principles of the Code", are reproduced hereunder:

Sect. 1. (1) For every citizen capable of working it is a right, a duty and a matter of honour to work according to his abilities.

(2) The workers serve the cause of the construction of socialism by their work; by their participation in labour competition; by strengthening labour discipline; and by improving labour methods.

(3) By this code the Hungarian People's Republic strives to realize the principle of socialism: "From each according to his abilities; to each according to his work."

Sect. 2. The Hungarian People's Republic assures to its citizens a remuneration corresponding to the quantity and quality of the work which has been accomplished.

Sect. 3. (1) The worker has a right to rest and leisure.

(2) The Hungarian People's Republic protects the health of the worker and supports him or her in case of incapacity for work.

(3) A broad network of social and cultural institutions contributes to the raising of the material and cultural levels of the workers.

Sect. 4. (1) Women enjoy the same conditions of work as men. The law protects women to a greater extent and provides institutions for the benefit of working mothers.

(2) The law pays particular attention to the development, the education and the protection of working youth.

DECREE-LAW No. 30 OF 1951 CONCERNING UNIFORM PENSIONS OF SOCIAL INSURANCE FOR THE WORKERS[1]

The Hungarian People's Republic grants the right to work to its citizens and in case of their incapacity for work provides for the working people by means of State social insurance.

This decree-law regulates the pensions of workers uniformly; enforces the socialist principle of payment for work in accordance with its quality; gives special consideration to workers doing difficult and dangerous work; takes into consideration the period of time spent at work; and rewards fidelity to the place of work.

PRINCIPLES

Sect. 1. (1) Every worker who has been working for a period of time determined by law is entitled to a pension on reaching the age qualifying him for a pension.

(2) A disabled worker is also entitled to a pension.

Sect. 2. The State provides for the maintenance of the surviving members of the deceased worker's family who are disabled on account of age or state of health.

Sect. 3. (1) Those who have been pensioned before the first of January 1952 will continue to receive pensions according to former regulations. This refers likewise to the maintenance of the surviving members of the family.

(2) The amount of allowances granted before the first of January 1952 on the basis of the regulations concerning social insurance will be increased from the first of January 1952. The extent of the increase will be regulated by decree of the Council of Ministers.

OLD-AGE PENSIONS

Sect. 5. Men who have completed their sixtieth year and women who have completed their fifty-fifth year are entitled to old-age pensions, provided they have spent at least ten years in service.

[1] Hungarian text in *Magyar Közlöny* No. 160, of 11 September 1951. English text based on the translation received through the courtesy of the Legation of the Hungarian People's Republic, Washington.

Sect. 6. (1) The worker who has the right to a pension, but requests that it be paid five years after he has reached the age at which he is entitled to a pension, shall receive an increase in his old-age pension.

(2) An increase in the old-age pension shall be granted to:

(*a*) The male worker who has worked underground or in unhealthy places of work for twenty-five years and who has completed his fifty-fifth year;

(*b*) The female worker who has worked underground or in unhealthy places of work for twenty years and who has completed her fiftieth year;

(*c*) The male worker who has completed twenty years' service and has worked in an atmosphere of high pressure for at least fifteen years and who has completed his fifty-fifth year.

Sect. 7 (1) Underground or unhealthy places of work are defined by decree of the Council of Ministers.

(2) The special considerations due to workers assigned to underground or unhealthy places of work can be extended to workers in other places of work by decree of the Council of Ministers.

DISABILITY PENSIONS

Sect. 8. (1) A disability pension shall be granted in case of invalidity to the worker who has worked for the period of time necessary to receive the pension and whose disability cannot be expected to cease before the lapse of one year.

(2) The following minimum time of service is necessary in order to qualify for the disability pension:

Age	*For males*	*For females*	*When work done underground or in unhealthy places*
(*Years*)	(*Years*)	(*Years*)	(*Years*)
Up to 22	3	2	2
22 to 25	4	3	3
25 to 30	6	4	4
30 to 35	8	5	5
35 to 40	10	7	6
Over 40	10	9	7

(3) A disability pension shall be granted, regardless of the years of service, to the worker who has been disabled through an industrial accident or occupational disease.

(4) A disability pension shall begin from the date of the medical certificate of invalidity and shall continue throughout the period of disability.

ACCIDENT ALLOWANCES

Sect. 10. (1) An accident allowance shall be granted, regardless of the time of service, to the worker whose working capacity has been reduced more than 15 per cent as a result of an occupational disease. If the worker's loss of working capacity does not exceed 25 per cent, the accident allowance shall be granted for a maximum of two years.

(2) A temporary allowance shall be granted from the date on which the financial assistance payable in case of an industrial accident or occupational disease ceases until such time as the condition of the injured person has become chronic. If the loss of working capacity is less than 67 per cent, an accident allowance shall be established.

WIDOWS' PENSIONS

Sect. 13. (1) Every widow is entitled to a widow's pension for one year from the date of her husband's death, provided that the deceased husband had spent the time of service necessary for the disability pension (section 8, paragraph 2) or died as a result of an industrial accident or occupational disease. The widow of a deceased pensionary is also entitled to a widow's pension.

(2) A widow's permanent pension shall be granted the widow of a person entitled to a pension, provided that:

(*a*) She has completed fifty-five years of age at the time of the death of her husband, or she is disabled; or

(*b*) She provides for the maintenance of two children entitled to orphans' allowances; or

(*c*) Her husband died as a result of an industrial accident as a miner working underground.

(3) From the viewpoint of her right to a widow's pension, a woman is regarded as disabled if she has lost at least two-thirds of her working capacity as a result of her health being ruined or of some infirmity.

(4) Any widow who had completed forty years of age at the time of her husband's death, but was not then entitled to a widow's permanent pension, is entitled to such a pension on completing the age of fifty-five years or if she is disabled. If the widow becomes disabled within ten years after her husband's death, she is entitled to a widow's permanent pension even if she had not completed the age of forty years at the time of her husband's death.

Sect. 17. A widowed husband incapable of working is entitled to a widower's pension if the wife supported her husband, incapable of working, mainly on her own earnings and in her household for at least one year prior to her death, and provided that:

(*a*) She had completed the time of service necessary for the pension; or

(*b*) She died as a result of an industrial accident or occupational disease; or

(*c*) She received an old-age or a disability pension.

ORPHANS' ALLOWANCES

Sect. 19. (1) The child, stepchild or adopted child of a deceased worker and a deceased pensionary is entitled to an orphan's allowance, after the fulfilment of the time of service necessary for the disability pension. A child born out of wedlock is entitled to an orphan's allowance in accordance with the father's rights, provided that the worker or pensionary has recognized the paternity or the court has established the paternity. A foster-child, brother, or grandchild is also entitled to an orphan's allowance, provided that the child has been supported in the household of the worker or pensionary and has no relatives who are obliged and able to keep him/her.

(2) The child of a worker killed in an industrial accident or by occupational disease is also entitled to an orphan's allowance, regardless of the time of service of the worker.

(3) From the viewpoint of claiming an orphan's allowance, the disappearance of the father shall be considered as equivalent to his death, provided that the disappearance has been finally established by the court.

(4) An orphan's allowance shall be granted until the child completes the age of sixteen years, or, in the case of further education, eighteen years. If the child continues to be incapable of work on account of mental or physical infirmity when he/she completes the age of sixteen years and is dependent on others for support, he shall be entitled to the orphan's allowance for the duration of this state, regardless of age.

(5) If an orphan claims an allowance on more than one ground, he is entitled to an orphan's allowance at the highest rate applicable.

(6) A claim for an orphan's allowance is not affected if the widowed parent of the orphan enters into a new marriage.

PARENTS' ALLOWANCES

Sect. 20. (1) A parent's allowance shall be granted the parent or grandparent whose child or grandchild respectively has died after the fulfilment of the time of service necessary for the disability pension, provided that the worker has supported him/her because of his/her disability wholly or in greater part for a period of one year prior to his/her death. A parent's allowance shall be granted, regardless of the time spent in service, to the parent or grandparent of the worker or the pensionary (to the person entitled to the allowance) who died as a result of an industrial accident or occupational disease.

(2) From the viewpoint of a claim for the parent's allowance, the disappearance of the child or grandchild supporting the parent shall be considered as equivalent to his death, provided that the disappearance has been established by the court.

(3) The parent's allowance shall be granted as long as the parent or grandparent is dependent on the support.

ADDITIONAL ALLOWANCES FOR CHILDREN'S EDUCATION

Sect. 21. (1) An additional children's education allowance shall be granted the pensionary for every child who, in case of the death of the pensionary, would be entitled to an orphan's allowance. An additional children's education allowance shall not be granted if an orphan's allowance has been given to the child.

(2) An additional children's education allowance shall be granted the child on a single ground, primarily the right of the father.

ALLOWANCE FOR HUSBANDS AND WIVES

Sect. 22. An allowance for husband or wife shall be granted the pensionary after his/her spouse completes the age of sixty years, if the pensionary provides for his/her maintenance and if the spouse has no pension or other income, provided that in case of the decease of the pensionary the spouse would be entitled to a widow's allowance.

THE AMOUNT OF ALLOWANCES

Sect. 25. The amount of the pension and of the accident allowance is fixed on the basis of wages earned. The rules for taking account of the wages are the subject of a decree of the Council of Ministers.

Sect. 34. (1) The pension shall be paid even if the pensionary is working.

(2) If a person has more than one ground for claiming a pension or accident allowance, the allowance shall be paid at the highest rate applicable.

EXCEPTIONAL PENSIONS

Sect. 36. (1) The Council of Ministers may fix for workers having gained outstanding merits in the building of socialism, or for their relatives respectively, pensions of an amount exceeding that due according to law.

(2) In exceptional cases deserving special appreciation, the Minister of Finance, on the proposal of the authoritative Minister, may grant an allowance within the limits fixed by the budget of the State, even if the conditions required by the present decree-law are not present.

CONTRIBUTION TO THE PENSIONS

Sect. 37. (1) In order to cover the pensions and/or accident allowance, the employer must contribute to the pensions. The workers are not required to pay any contributions.

(2) The contribution to a pension must be paid on the basis of wages.

(3) The regulation of the amount of the contribution to the pension and of its payment shall be the subject of a decree of the Council of Ministers.

Sect. 38. The income from the contributions to the pensions and the expenses necessary for the payment of the pensions and/or accident allowances will be provided by the State budget for social insurance; the pensions and allowances will be charged to the State budget for social insurance.

DECREE-LAW No. 9 OF 1951 CONCERNING THE CONFERRING OF THE ORDER OF MERIT AND MEDAL OF MERIT FOR MATERNITY AND THE REWARDING OF MOTHERS OF MANY CHILDREN[1]

Sect. 1. (1) The "Order of Merit for Maternity" and "Medal of Merit for Maternity" are founded for the distinction of mothers who have given birth to and brought up six or more children and have hereby contributed to the increase of our population and the reinforcement of our State.

(2) The Order of Merit for Maternity has two classes: I and II.

(3) The Medal of Merit for Maternity has four classes: I, II, III and IV.

Sect. 2. (1) The first class of the Order of Merit for Maternity can be conferred upon mothers having eleven or more living children, the second class upon mothers having ten children, provided that the youngest child has passed his/her first year of age.

(2) The first class of the Medal of Merit for Maternity can be conferred upon mothers of nine children, the second class upon mothers of eight children, the third class upon mothers of seven children, the fourth class upon mothers of six children; in each case only living children can be taken into account, and the youngest child must have passed his/her first year of age.

Sect. 3. (1) The Order of Merit and Medal of Merit for Maternity will be conferred on the proposal of the President of the Council of Ministers by the Presidium of the People's Republic.

(2) The Order of Merit and Medal of Merit for Maternity will be conferred every year on one occasion: on the eighth of March, International Women's Day. In the year 1951 the day of the conferring will be fixed by the Council of Ministers.

Sect. 4. (1) Mothers having seven or more living children, provided that the youngest living child was born after the eighth of March 1951, shall receive a pecuniary award. The sum of the pecuniary award will be:

(*a*) 1,000 forints for mothers of seven children;

(*b*) 1,200 forints for mothers of eight children;

(*c*) 1,400 forints for mothers of nine children;

(*d*) 1,600 forints for mothers of ten children;

(*e*) 2,000 forints for mothers of eleven or more children.

(2) The award is to be made after the birth of the mother's youngest child.

(3) The Secretary of the Presidium of the People's Republic provides for the payment of the pecuniary award.

[1]Hungarian text in *Magyar Közlöny* Nos. 37–40, of 3 March 1951. English text based on the translation received through the courtesy of the Legation of the Hungarian People's Republic, Washington.

DECREE-LAW No. 15 OF 1951 OF THE PRESIDIUM OF THE PEOPLE'S REPUBLIC CONCERNING THE COMPULSORY SCHOOLING PROGRAMME AND THE GENERAL SCHOOL[1]

CHAPTER ONE

COMPULSORY SCHOOLING

Sect. 1. (1) Every child is required when he has completed six years of age to attend a general school for eight school years without interruption.

(2) In the general schools, education is entirely free, and the pupils therefore pay no matriculation, school or other fees.

(3) Children of working people may receive financial aid for their studies if they need it and merit it. The method whereby such aid shall be granted, and the amount thereof, shall be fixed by the Minister of Public Education.

. . .

[1]Hungarian text in *Magyar Közlöny* No. 82, of 27 May 1951. English text based on the translation received through the courtesy of the Legation of the Hungarian People's Republic, Washington. According to information received from Dr. Péter Kos, Chargé d'Affaires *ad interim* of the above-mentioned Legation, "general schools" in Hungary are attended by all children from the age of six to fourteen years.

ICELAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. LEGISLATION

Act No. 27 concerning procedure in "public cases"[2] was adopted on 5 March 1951. This Act contains various provisions regarding human rights: the rights of accused persons shall not be set aside; nor shall they be subjected to unnecessary and uncalled-for hardships. The Act lays down definite conditions under which premises may be searched for persons or objects for the purpose of investigating a criminal case. There are also provisions concerning the arrest and remand into custody and other controls over accused persons, the right of accused persons to have counsel appointed for their defence, compensation for accused persons, etc.

The most important provisions of the Act dealing with this matter are shown below. For the most part they confirm earlier legal provisions and judicial practice. Some of them may, however, be described as entirely new. These provisions are of course in keeping with the relevant provisions of the Constitution (cf. in particular articles 65 and 66[3]) which they are intended to amplify and to implement in greater detail.

[1] Note prepared by Professor Olafur Jóhannesson, University of Iceland, Reykjavik.

[2] See the next footnote.

[3] These articles read as follows:

Art. 65. Anyone who is arrested must without delay be brought before a judge, and should he not be discharged immediately, the judge shall decide within twenty-four hours, giving his reasons for the finding, whether the person arrested shall be imprisoned. Should it be possible to liberate him on bail, the nature and the amount of the security shall be decided in the award.

Appeal against the judge's award can at once be made to a higher court; with regard to notification and appeal, the procedure is the same as in criminal cases.

No one can be kept under remand for an offence which incurs only a fine or ordinary imprisonment.

Art. 66. A man's dwelling is inviolable. Domiciliary search, seizure and examination of letters and other papers can take place only in accordance with a judicial decision or pursuant to special legal authority.

II. INTERNATIONAL AGREEMENTS

An international agreement touching on human rights in the social field was concluded between Denmark, Finland, Iceland, Norway and Sweden concerning reciprocal assistance to indigent persons; it was published in *Stjórnartidindi* (Official Gazette) of 20 June 1951 as notice No. 77; an agreement concerning the reciprocal payment of children's allowances was concluded between Finland, Iceland, Norway and Sweden; it was published in *Stjórnartidindi* of 31 December 1951 as notice No. 126.[4]

[4] See the texts of these agreements on pp. 505 and 507 of the present *Yearbook*.

ACT No. 27 CONCERNING PROCEDURE IN PUBLIC CASES[1]

of 5 March 1951

SECTION V

POLICE AND INVESTIGATION PROCEDURE

. . .

Art. 38. The police shall take care, in carrying out their duties, that no person shall be put to any loss, inconvenience or humiliation that can be avoided in the circumstances. They may not subject an accused person to any arbitrary treatment beyond what is necessary to overcome his resistance to lawful measures, or otherwise to unlawful coercion by word or deed, as by threats and the like.

If a person considers that he has suffered unlawful arbitrary treatment at the hands of a police officer, he may appear before the superior of the police officer as soon as possible and make a complaint to him.

Art. 40. It shall be pointed out to an accused person who is interrogated by a police officer that he is not bound to answer questions relating directly to the offence of which he is suspected, and also that his silence may be interpreted to his disadvantage.

Questions put by the police shall be clear, short and unambiguous. The police may not attempt in any way to confuse a person with untruths or otherwise so that he may be made uncertain how to answer, or be caused to answer uncorrectly. The police may not make to

[1] Icelandic text in *Stjórnartidindi* (Official Gazette), 1951, pp. 44. Text received through the courtesy of Professor Olafur Jóhannesson, University of Iceland, Reykjavik. The Act deals with criminal procedure and with procedure in a certain number of other cases—for example, in cases of declaration of death of missing persons, annulment of marriages, forfeiture of the right of inheritance, etc.

an accused person any promise concerning advantage or benefit in return for a confession; such promises shall be unlawful, and the police shall have no power to make them.

A person may not be examined for longer than six hours consecutively, and in addition must obtain sufficient sleep and rest. The time of commencement and ending of each examination shall be recorded.

Police officers shall question each person alone, apart from other accused persons or witnesses, until joint examination is required later in the investigation.

Where a child below the age of sixteen is to be questioned, the Child Welfare Board shall if possible be notified thereof, and may send its representative to be present at the interrogation.

If a person to be examined does not know Icelandic, or if a document requires to be translated from Icelandic into a foreign language or vice versa, an authorized court interpreter or document translator shall if available be called upon for necessary assistance. Otherwise the best-qualified person shall be called.

A police officer shall make an accurate written report of his investigation and attest it before the court as directed by the judge.

. . .

Section VI

SEIZURE

. . .

Art. 47. Where the security of the realm so demands, or in a serious criminal case, the judge may order the accused person's telephone or one he may be expected to use to be tapped.

Section VII

SEARCH

Art. 48. Where a crime punishable either by a fine of 20,000 kronur or by a fine and confiscation of property is being investigated, a house, store or ship or other means of transport belonging to an accused person may be searched for objects that ought to be seized, or otherwise for the purpose of obtaining incriminating evidence.

A search may be carried out on premises of a person other than the accused on which a crime as aforesaid has been committed or an accused person has been arrested, or on which there are good grounds to suppose that objects that should be seized or other incriminating evidence, including books, letters, and other documents, are to be found.

Art. 49. Search for a person who is to be arrested or brought before an examining magistrate or a judge may be made in the house of that person, or in the house of another person in which there is good reason to suppose that he is to be found.

Art. 50. Premises open to the public and houses frequented by vagrants and criminals may if necessary be searched even though the conditions laid down in articles 48 and 49 are not fulfilled.

Art. 51. A search in accordance with articles 48 and 49 shall be ordered by the judge. The police may, however, carry out a search of their own motion in any case which to wait for the judge's order would jeopardize the conduct of the case.

Art. 52. The person having charge of a house or place being searched shall if possible be permitted to be present. If he is absent, his relatives, servants or other persons living with him shall be called upon for this purpose.

Art. 53. In case of urgency a search may be conducted on any day and at any time of the day or night.

Art. 54. A person accused of an offence punishable by a fine of 20,000 kronur or by fine and confiscation of property, may be searched and subjected to physical inspection. A specimen of his blood may be taken and he may be subjected to any other examination which can be performed on him without endangering his health.

Art. 55. Where the offence being investigated is punishable by a fine of 20,000 kronur or a fine and confiscation of property, a person other than the accused may be searched if there is reason to suppose that he has on him articles which ought to be seized, or that information may be obtained in the search for evidence.

Art. 56. The order for a search or physical examination in accordance with articles 54 and 55 shall be made by the judge. A police officer may, however, order such a search if it cannot be postponed until the judge's order has been obtained.

A woman shall be searched or physically examined by a woman or, if necessary, by a medical practitioner.

Art. 57. Pictures and finger-prints of persons may be taken for the purposes of a public investigation.

Art. 58. The special rules of law concerning the searching of premises and persons and physical examinations shall be observed.

Section VIII

ARREST

Art. 59. A judge may at any time order the arrest of a suspected person in any case where to do so appears necessary for the investigation of the case. The judge may make such an order in any case where a person fails without good reason to comply with a summons to appear before a police officer or judge.

The judge may issue a warrant of arrest, publish it, and call upon all concerned to put it into effect:

1. If an arrested person escapes from control or imprisonment or if a person breaks bounds set him by the judge or evades supervision imposed upon him by the judge;

2. If nothing is known of the whereabouts of a person accused of an offence punishable by a fine of 20,000 kronur or six months' imprisonment.

Art. 60. A private person may make an arrest:

1. If the judge has ordered arrest under article 59, sub-paragraph 2;

2. If he finds a person committing an act punishable by imprisonment and subject to public prosecution;

3. If a person loses control of himself or causes a nuisance in a public place; the arrested person shall forthwith be brought before a police officer or judge.

Art. 61. The police shall be bound to arrest a person in accordance with the order of a judge. They may also arrest a person without an order of a court:

1. If they find him committing a punishable act calling for public prosecution;

2. If the person is suspected of an offence and does not give a policeman particulars of his name and place of residence, or is wandering homeless;

3. If to do so appears necessary for the protection of the suspected person or of others;

4. If to do so appears necessary to prevent the suspected person from destroying incriminating evidence, or going out of the jurisdiction, or otherwise hindering the investigation of the case, and it appears hazardous to await an order of a judge;

5. If the person has escaped from detention or evaded supervision lawfully imposed upon him;

6. If, not being unavoidably prevented, the person has not complied with a police officer's summons to give information in a public case;

7. If the person loses control of himself or causes a nuisance in a public place, or does not possess a permit to remain in Iceland.

The police officer shall on each occasion judge whether it is necessary to effect an arrest immediately —for example, because of the risk of suppression of evidence, flight of the accused person, continuance of the punishable behaviour, etc.

Members of parliament may not be arrested while parliament is in session unless found *in flagrante delicto.*

Art. 62. Police officers may, with a view to arrest, seek a person in his home, in his own house or vessel, or in a house open to the public, or in any other house or vessel, without any order of a court if he has been pursued thither or if there is a risk that he may destroy evidence or escape if an order of a court is awaited.

Art. 63. A person who has been arrested shall be brought before the judge without delay, unless he is immediately released or returned to custody imposed upon him under an order of a court. If an arrested person accused of a punishable act is not immediately brought before a judge, and his detention and isolation are necessary for the investigation of the case, or there is a risk that he may have dealings with accomplices or witnesses, destroy or suppress incriminating evidence, or himself escape, he may be detained until a judge can be found.

If the police have arrested a man who is not accused of a punishable act (cf. article 61, sub-paragraph 7), the judge shall be notified without delay of the arrest and shall then take the appropriate action as soon as possible.

Art. 64. The police should so far as possible ensure, *inter alia*, while searching a person without an order of a court, that a person who has been arrested cannot do harm to himself and that he has such accommodation as will not endanger his health or life while he is in custody. Sick persons, pregnant women or nursing mothers may not be put into ordinary prisoners' cells, but must be provided with suitable accommodation. The same treatment shall ordinarily be given to children under sixteen years of age.

The provisions of article 38, second paragraph, shall apply.

Art. 65. The police may place suspected persons under control without arrest, and for that purpose may order them to remain temporarily within bounds or may depute other persons to supervise them.

Section IX

REMAND IN CUSTODY AND OTHER CONTROL OVER AN ACCUSED PERSON

Art. 66. A judge before whom an arrested person has been brought shall, unless the accused has already been released, within twenty-four hours rule, with reasons, whether the accused shall be placed in custody or not. If the accused has not been arrested, the judge may order at the preliminary investigation that he shall be taken into custody. The judge may also order at any stage in the investigation that custody shall be employed, and may likewise release the accused from custody as soon as he considers that there is no reason to keep him longer in custody. Remand in custody shall always be subjected to a specified time limit, which the judge may, if it does not appear possible to release the accused, shorten or extend by fixing another limit.

Art. 67. A person may be remanded in custody only if there appears to be reason to suppose that he is guilty of a punishable act. Remand in custody shall normally be used:

1. If it may be presumed that the accused, if not restrained, will hinder the investigation of the case for example, by destroying traces of or connected with the offence, concealing objects or other evidence bearing on the offence, or influencing witnesses or accomplices;

2. If the accused has fled, gone into hiding or broken bounds, or attempted to do so, or appears likely to do so, or has disregarded the judge's summons;

3. If the accused is wandering at large and has no known settled home or abode, or appears to be incapable of lawfully providing for himself, or is an alien and there is no trustworthy information regarding him or his place of residence;

4. If it may be presumed that his offence is punishable by at least two years' imprisonment;

5. If it may be presumed that he will continue to commit the offence if released before his case is concluded;

6. If detention appears necessary in order to protect other persons from attack by the accused, or vice versa.

A person who has threatened another may be taken into custody if to do so appears necessary in order to protect others from attack by the person accused thereof.

Art. 68. If an accused person is before a court when an order concerning remand in custody is made, he shall forthwith be notified of the order. Otherwise a police officer shall be instructed to notify him immediately of the order and, if necessary, to arrest him and place him in custody. A copy of the order shall be produced on request as soon as possible and not later than twenty-four hours afterwards.

Art. 69. Remand in custody may not be used:

1. If the offence is not punishable at law by a heavier penalty than fines or detention;

2. If the accused is a member of parliament, while parliament is in session or while meetings are adjourned for a period not exceeding fourteen consecutive days; this provision shall not apply if the house of which he is a member gives leave for his remand in custody or if he has been found *in flagrante delicto*;

3. If the accused is less than sixteen years of age: instead of detention, he shall be committed by order to the care of the child welfare board (school board), which shall place him in a good home or procure other suitable care for him as required;

4. In respect of a sick person, pregnant woman or nursing mother, who shall after consultation with a medical practitioner be admitted by order to a hospital or other suitable place in such a way as to safeguard the person's health.

Art. 70. Persons remanded in custody shall receive such treatment as is necessary to ensure effective control over them and to maintain order in custody; but care shall be taken where possible not be treat them with harshness or severity.

The following rules shall also apply to control over such persons:

1. Persons remanded in custody shall not be worse fed than prisoners serving a sentence. They may themselves procure and receive food and other personal requirements, including clothing, to an extent consistent with security and order in custody;

2. Persons remanded in custody shall ordinarily be confined alone, and not confined against their will in the company of persons serving terms of imprisonment. Persons under eighteen remanded in custody shall not be confined in the company of older prisoners;

3. The judge shall decide whether and to what extent a person remanded in custody may communicate with persons other than a warder and what supervision shall be arranged if such communication is allowed; and care shall always be taken to ensure that a person remanded in custody is not allowed to communicate with others if to do so would be likely to jeopardize the investigation of the case. The desire of a person remanded in custody to communicate with a doctor or priest may if possible be granted;

4. The judge shall order letters, telegrams or other documents from or addressed to a person remanded in custody to be examined and seized if to do so appears necessary for the investigation of the case or if their contents are unseemly; the person sending the communication shall if necessary be notified of its seizure;

5. A person remanded in custody may be required to clean and tidy his cell according to the judge's instructions;

6. Persons remanded in custody may procure for themselves work compatible with security and good order. They may also, with the approval of the warder, obtain books for themselves.

The judge may deprive a person remanded in custody of privileges granted to him in accordance with the provisions of this article, if he abuses them or commits a disciplinary offence.

A person remanded in custody may present a complaint to the judge regarding his treatment at the hands of a warder.

Art. 71. If the judge has decided to remand an accused person in custody, the accused person may, if the judge considers it sufficiently safe, partly or wholly retain his freedom against security given by him, or by or on the guarantee of other persons ordinarily resident in Iceland, and considered by the judge to be valid. The judge shall enter a note of the security or guarantee in the court records and shall cause the persons concerned to sign the entry or to make special written declarations. If security is given, the judge

should take the necessary steps in conformity with the law to protect it with regard to the accused person and others. If objects are surrendered as security, the judge should keep them in a safe place.

The value of the security or guarantee shall be assessed at a definite sum of money, and it shall be stipulated that this sum shall be forfeited to the Treasury if the accused person goes outside the bounds set him by the judge without the judge's permission.

If the accused person disobeys the judge's orders to remain within specified bounds, such damages as he has been condemned to pay shall, if necessary, be paid out of the money provided as security or guarantee. If the accused person appears voluntarily before the judge within a month from the time when he disobeyed the judge's orders, the judge may decide that the security or guarantee shall not be forfeited, except in so far as the person's disobedience has caused specific expense.

Security provided by an accused person shall be discharged if he elects to submit to remand in custody. A security or guarantee provided by another person shall be discharged at his request if the accused person has not broken the bounds set him by the judge. Security or guarantee shall also be dispensed with if the judge decides to remand the accused person in custody, or the accused person dies, or if the investigation is concluded without prosecution, and when the final judgment on the case has been pronounced.

The judge shall decide any dispute concerning security or guarantee, and such decision may be taken on objection, or with an appeal against the public case, to a higher court.

Art. 72. Whether or not security or guarantee has been provided, the judge may instruct the accused person to remain within specified bounds (an administrative parish, village, area of jurisdiction, etc.) or place him for purposes of residence and control in a specified home with greater or lesser restriction on his liberty. Where there are no prison facilities, it is the duty of any person who in the judge's opinion is capable thereof to undertake the lodging and control of a prisoner who is not presumed dangerous to human life or health. If necessary the judge should take other suitable steps for the custody of the prisoner, such as keeping him in a specified and sufficiently secure cell if no prison is available, etc.

The judge may vary his decision concerning the control of the accused person under this article whenever he considers there is reason to do so.

SECTION X

GENERAL RULES FOR THE INVESTIGATION OF PUBLIC CASES BEFORE A COURT

. . .

Art. 76. The judge shall instruct a police officer or one of the subpoenaed witnesses to notify the accused person and others of the court's sittings, with suitable previous notice; it is sufficient for the next sitting of the court to be announced at a sitting to those present. If the accused person is under control he shall be given an opportunity to appear in court.

Art. 77. The judge shall acquaint himself so far as he is able with the investigation of the police before he starts to examine the accused person or others, and he shall not read to them the report of the police before he has questioned them about those details of the case which in his opinion call for inquiry at that stage of the investigation. If the account given to the police and the account given to the court differ, the judge shall draw the attention of the parties to the discrepancy when he considers it appropriate to do so.

Persons questioned in court during the investigation of a public case shall be entitled to be informed by the judge, when the case has become sufficiently clear for him to do so, whether they are being questioned because they are suspected of an offence or whether they are being called as witnesses. If the judge summons a person to be interrogated because he is suspected of a punishable act, that person shall not be bound to answer the judge's questions relating to that act; the judge should as soon as feasible inform the accused person of this provision, and also that his silence may be interpreted to his disadvantage.

If the accused person elects to answer the judge's questions, and the form of words used by the accused person is presumably important, the answers shall be carefully recorded verbatim or taken on a recording machine. The records shall be shown to the accused person, and any changes and comments which he wishes to make in the record of his answers shall then be listed, the records shall be read out to him, and finally it shall be mentioned whether or not he has acknowledged the record as correct.

Articles 38 and 40 shall also apply, *mutatis mutandis*, to investigation before a court. The judge may, however, let the accused person listen to the examination of a witness or expert and watch over his rights, provided that there is no reason to suppose that the accused person may influence the witness or expert not to tell the whole truth, or that his presence may hinder the investigation of the case by, for instance, giving him an opportunity to withhold incriminating evidence or otherwise to conceal the truth.

The judge shall examine accused persons together if he considers that there is no risk that the investigation may be rendered more difficult thereby, in order if possible to obtain agreement between or confirmation of their accounts. If the case is handled in accordance with article 130, joint examination may be postponed, unless there is a danger that incriminating evidence may otherwise be lost.

Art. 78. The judge shall inform the accused person of the nature of the documents relating to the evidence

in a public case as soon as he considers that this may be done without any danger that the accused person's knowledge thereof may be used to hinder or delay the investigation of the case, and in any case not later than the conclusion of the investigation.

SECTION XI

PROSECUTION AND DEFENDING COUNSEL

. . .

Art. 80. If a case is conducted in accordance with article 79, defending counsel shall always be appointed.

Defending counsel shall be appointed for an accused person at his request:

1. While he is under detention on remand;

2. If he is accused of an offence which by law could cause him to lose his social rights, status, right to vote or to be elected, employment rights, etc.;

3. If the offence is punishable by a fine of 10,000 kronur or two months' imprisonment, or entails the confiscation of property of substantial value in relation to the means and situation of the accused person.

The judge may, however, even if these conditions are not fulfilled, appoint defending counsel for the accused in special circumstances—for example, if there are doubtful points of law or fact (cf. sub-paragraph (2)).

The judge shall appoint a guardian *ad litem* for the accused without his request:

1. Where experts have to attest a deposition or expert opinion in the absence of the accused. Before the attestation proceeds the judge shall give the guardian *ad litem* an opportunity to acquaint himself with every fact that is to be attested and with any other matter necessary for its comprehension. The guardian *ad litem* should protect the interests of the accused at the attestation;

2. The judge may appoint a guardian *ad litem* for the accused during the investigation of the case if in the judge's opinion the accused is particularly dull-witted or of little understanding, or suffers from handicaps which hinder his comprehension, such as defective sight, dumbness or deafness, or is under eighteen years of age, or his state or behaviour before the court is otherwise such that the judge considers the appointment of a guardian *ad litem* to be advisable.

If the accused unreservedly confesses to the offence and there is no doubt regarding facts relevant to increase or reduction of the penalty, dispensation with penalty, remission of penalty, legal responsibility, etc., or regarding points of law, defending counsel shall not be appointed.

Art. 81. Whenever the law requires, or there seems to be occasion for, the appointment of defending counsel or of a guardian *ad litem* for the accused, the judge shall draw the attention of the accused to the matter and give him an opportunity to designate any person legally entitled to perform that function before a court, either generally or in the particular case. The judge shall then decide who shall be appointed.

If more than one person is accused, the same person shall be defending counsel for both or all the accused if their interests may be presumed not to conflict.

Defending counsel shall not be appointed for the accused against his wish unless the judge considers it necessary to do so. An accused person may conduct his own defence. He may also engage at his own expense any legally competent person approved by the judge to conduct his defence, whether defending counsel is bound to be appointed or not.

. . .

SECTION XII

TESTIMONY, APPRAISAL, INSPECTION AND DOCUMENTS

Art. 89. It is the duty of every person to appear and testify in court in a public case. The following persons may, however, claim exemption from this duty:

1. The spouse of the accused, so long as their marriage is not legally dissolved;

2. The betrothed of the accused, unless the evidence would concern events which occurred before they were betrothed;

3. Relatives of the accused in the direct ascending or descending line;

4. An adoptive parent or adopted child of the accused, subject to conditions corresponding to those in sub-paragraph 2;

5. The father-in-law, mother-in-law, son-in-law or daughter-in-law of the accused, his brothers and sisters, brothers-in-law and sisters-in-law.

Art. 90. The judge may excuse a foster-parent or foster-child of the accused from giving evidence if he considers the bond between them to be very close.

The same shall apply to evidence of a betrothed regarding events that have occurred before the betrothal.

Art. 91. A party shall not be obliged to answer a question involving the obligation to give evidence if the answer will presumably contain a confession or a statement that he or one of his relatives enumerated in article 89 has committed a punishable act, or be prejudicial to his reputation.

. . .

SECTION XIV

JUVENILE CASES, POLICE FINES, JUDICIAL SETTLEMENT, AND INDICTMENT

. . .

Art. 118. . . .

An accused person may never be sentenced for an act not specified in the indictment; nor may any other claim against him be adjudicated. The judge may, however, sentence the accused to a penalty even though the circumstances of the offence, such as its place or time, are not clear or correctly enumerated, if he considers that the defence is not thereby affected. He may, if to do so appears necessary, give the accused, the defending counsel and the prosecuting counsel an opportunity to make statements regarding the circumstances of the case in this respect. Subject to the same conditions, he may adjudicate according to other penal provisions than those mentioned in the charge, but he must then if necessary give the parties aforesaid an opportunity to present the case afresh in that respect

SECTION XVII

COMPENSATION TO THIRD PARTIES

. . .

Art. 149. If in the investigation of a public case a search has been made on the premises of a third party not responsible for the holding of the investigation or for the manner in which it was held, or his property has been seized, in an unnecessarily offensive and mortifying manner, he shall be entitled to compensation for humiliation and for monetary loss caused to him thereby. Instead of compensation, he may, if it is appropriate, be given a declaration under article 158.

SECTION XVIII

COMPENSATION TO ACCUSED PERSONS, ETC.

Art. 150. A claim for compensation under this section may, unless otherwise specially provided, be considered only if:

1. The accused person has not caused the procedure on which he bases his claim by deliberate or grossly negligent unlawful behaviour, such as flight, falsehood, other attempts to hinder the investigation, etc.; and

2. The investigation has been discontinued or prosecution has not been instituted because the behaviour with which he was charged has not been considered punishable, or proof of it has not been obtained, or he has been acquitted for the same reasons by a judgment against which no appeal has been or may be lodged; provided that his innocence is more probable than his guilt.

Compensation shall if necessary be given for loss of money and humiliation.

Art. 151. Compensation may be awarded for arrest, personal search, medical examination or other measures involving restriction of liberty other than remand in custody and imprisonment (cf. articles 152 and 153), and also for searching of premises and seizure of property:

1. If statutory authority for such measures has been lacking;

2. If in the circumstances there was not sufficient occasion for the measures, or they were carried out in an unnecessarily dangerous, mortifying or offensive manner.

Art. 152. Notwithstanding the provisions of article 150, sub-paragraphs 1 and 2, compensation shall ordinarily be awarded for remand in custody not authorized by article 69, sub-paragraphs 1–3. Compensation shall likewise be awarded to persons referred to in sub-paragraph 4 of that article if they were evidently in the condition therein specified or drew the attention of the persons concerned to their condition.

Compensation for remand in custody shall otherwise be governed by article 150.

Injury to the health of the accused proved or capable of being presumed to have resulted from restriction of his liberty shall be taken specially into account.

Art. 153. If it is evident that an innocent man has been sentenced to a penalty or has undergone punishment or confiscation of property, then, even if the conditions laid down in article 150, sub-paragraph 1, are not fulfilled, he should be awarded compensation for humiliation and monetary loss and for loss of position or employment. The compensation may, however, be reduced in proportion to his own responsibility for the wrongful passing of his sentence.

Art. 154. A claim for compensation may be raised as follows:

1. If the investigation of the case has not led to an indictment, the party may ask for a decision by the examining magistrate concerning his right to compensation by the Treasury. The magistrate shall then, after obtaining the opinion of the Minister of Justice, decide on the claim. The decision may be taken on appeal to a higher court;

2. If the case goes to court, a party may ask for a decision of the county court concerning a claim for compensation by the Treasury, in which event the plaintiff and the defendant should make statements concerning the claim during the hearing of the case in that court. Decisions of the court concerning the claim for compensation may be taken on appeal to a higher court together with the case or, if there is no appeal on the case, then separately;

3. If neither of the procedures referred to in sub-paragraphs 1 and 2 hereof is followed, the party may bring an action in the usual manner in the county in

which the measures the subject of the claim were taken; in such event summonses must be served on the Minister of Justice on behalf of the State to protect its rights, and also on the police officer and the county judge if the claim is made against them. The case shall then be heard according to the procedure for private cases, and the party shall be given free process before both courts. He may, however, if unsuccessful, be ordered to pay the costs of the case according to the usual rules.

Art. 155. The Treasury shall always be liable to pay compensation, but may claim to recover from a judge or other person who may be considered to have caused or carried out deliberately or by gross negligence the measures the subject of the claim.

If the investigation of an offence suspected to have been committed by a person who has received compensation under articles 150–152 is resumed, and it becomes evident that no ground for a claim for compensation has existed, he should then be ordered to repay the compensation.

Art. 156. The parties to a claim for compensation under this section shall be determined according to article 264, paragraph 3, of the Criminal Code.

Art. 157. A claim for compensation shall lapse six months from the date on which the party had notice of a decision to abandon the investigation or of a charge or acquittal, or was released from prison. If a criminal case has gone to the Supreme Court, time shall begin to run from the date of the judgment in that court.

Art. 158. An accused person who has been subjected to the measures referred to in articles 151–153 may request, instead of compensation, a declaration by the public officer who has concluded his case that it has become clear that the accused person has not deserved those measures. If the public officer considers the accused person entitled to such a declaration, he should give it to him.

INDIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. AMENDMENT OF THE CONSTITUTION

The Constitution (First Amendment) Act, 1951,[2] was the most important measure affecting human rights passed by the Parliament of India in 1951. This Act has amended certain provisions of the Constitution of India[3] relating to human rights.

Article 15 of the Constitution contains a general provision that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them, and clause (2) of article 29 prohibits, in particular, discrimination in the matter of admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. A new clause has been added to article 15 by the Constitution (First Amendment) Act, 1951, so as to enable the State to make any special provision for the advancement of any socially and educationally backward classes of citizens or for certain under-privileged classes. This amendment was considered necessary to protect the interests of such backward and under-privileged classes in view of certain observations made by the Supreme Court of India in the case of the State of Madras *v.* Champakam Dorairajan that the omission from article 29 of an express provision on the lines of clause (4) of article 16 of the Constitution which enables the State to provide for the reservation of appointments or posts in favour of any backward class of citizens leads to the conclusion that the intention of the framers of the Constitution was not to permit special provision being made for such backward or under-privileged classes of citizens in the case of admission into the State educational institutions.

Clause (2) of article 19 of the Constitution, dealing with the scope of the restrictions which might be imposed by law on the exercise of the right to freedom of speech and expression guaranteed by clause (1) of that article has also been revised by the Amending Act of 1951. It was held by some courts that the right to freedom of speech and expression guaranteed by the said article was so comprehensive that even if a person advocated or incited the commitment of murder and other crimes of violence he might not be liable to punishment. To prevent this abuse of freedom of speech and expression and also to safeguard peaceful relations with foreign States, three restrictions on the freedom of speech have been introduced by the Amending Act in clause (2) of that article—namely, restrictions on the grounds of (*a*) friendly relations with foreign States, (*b*) public order and (*c*) incitement to an offence. Another substantial change made by the Amending Act in the said clause (2) is the insertion of the word "reasonable" before the word "restrictions" so as to bring that clause into line with clauses (3) to (6) of article 19, which refer to the imposition of reasonable restrictions, thereby subjecting the restrictions to be imposed under clause (2) also to judicial review as in the case of restrictions under the other clauses of that article.

Clause (6) of article 19 of the Constitution, which permits the imposition by law of reasonable restrictions, in the interests of the general public, on the right to practise any profession or to carry on any occupation, trade or business has been also amended by way of clarification to include therein a specific provision as to the power of the State to undertake any scheme of nationalization.

Two new articles, 31A and 31B, have been inserted after article 31 of the Constitution and a new schedule has been added thereto by the Amending Act to secure fully the constitutional validity of certain laws relating to agrarian reforms and to validate specifically certain state laws on the subject which were the subject-matter of protracted litigation on the ground that they were inconsistent with the fundamental rights guaranteed under the Constitution.

Two amendments have been made in articles 341 and 342 of the Constitution to include therein the power to specify also in respect of the states mentioned in part C of the first schedule to the Constitution the under-privileged classes which shall for the purposes of the Constitution be deemed to be scheduled castes and scheduled tribes in relation to such states as this was not specifically provided for in those two articles.

The relevant provisions of the Constitution of India as amended by the Constitution (First Amendment) Act, 1951, are reproduced in this *Yearbook*.

II. OTHER LEGISLATIVE ENACTMENTS

Besides the Constitution (First Amendment) Act, 1951, another important measure in the sphere of human rights was passed by the Parliament of India—

[1] Note prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 203–206, of 18 June 1951.

[3] See *Yearbook on Human Rights for 1949*, p. 100.

namely, the Government of Part C States Act, 1951[1] (Act XLIX of 1951). Under the Constitution, a state specified in part C of the first schedule to the Constitution is administered by the President of India through a chief commissioner or a lieutenant-governor. No provision has been made in the Constitution itself for a council of ministers or a legislature in the case of these states, but by article 240 of the Constitution power has been conferred on Parliament to make provision in respect thereof so as to give such states greater autonomy with regard to their administration. This Act has accordingly been enacted under that article to provide for the setting up of councils of ministers and legislative assemblies in such states. Provision has been also made in this Act for the holding of elections to the legislative assemblies of such states on the basis of adult suffrage as in the case of elections to the Lower House of Parliament. Extracts from this Act are reproduced in this *Yearbook*.

The next important measure concerning human rights passed by the Parliament of India in 1951 was the Representation of the People Act, 1951[2] (Act XLIII of 1951). This Act followed another electoral Act entitled "The Representation of the People Act, 1950",[3] (Act XLIII of 1950) which had been passed by Parliament in 1950. The Constitution of India provided that the legislatures functioning on the date of the commencement of the Constitution at the centre and in the states would continue to function as legislatures under the Constitution until the new Houses of Parliament and of the state legislatures provided in the Constitution came into existence. These two Acts of 1950 and 1951 were accordingly enacted for securing the due constitution of the two Houses of Parliament and the house or houses of the legislature of each state. They make provisions for the election of members to the House of the People and to the legislative assemblies of states on the basis of adult suffrage as laid down in the Constitution by means of direct and secret ballot. They also contain various provisions for the purpose of ensuring that the elections held thereunder are fair and free. They confer specific powers on the Election Commission set up under article 324 of the Constitution to implement those provisions.

The Act of 1950 contains, *inter alia*, provisions relating to the qualifications of voters at elections to the House of the People (i.e., the Lower House of Parliament) and to the legislatures of states, the preparation of electoral rolls for the purpose and the manner of filling seats in the Council of States (i.e., the Upper House of Parliament). This Act was subsequently modified by the Representation of the People (Amendment) Act, 1950[4] (Act LXXIII of 1950), and the Representation of the People (Amendment) Act, 1951[5] (Act XXVII of 1951) and the Representation of the People (Second Amendment) Act, 1951[6] (Act LXVII of 1951) and also by the Government of Part C States Act, 1951, referred to above. The Act of 1951 contains general provisions relating to the conduct of elections to the Houses of Parliament and to the house or houses of the legislature of each state, including the qualifications and disqualifications for membership of these houses. Certain provisions of this Act were subsequently modified by the Government of Part C States Act, 1951, and the Representation of the People (Second Amendment) Act, 1951, referred to above.

Extracts from the Representation of the People Act, 1950, and the Representation of the People Act, 1951, as modified, are also reproduced in this *Yearbook*.

Certain other enactments relating to human rights are mentioned below indicating concisely the rights involved. These include a few Acts containing important provisions concerning human rights, passed by certain state legislatures in the year 1950 which have not been mentioned in the *Yearbook on Human Rights for 1950*.

The following Acts were passed by the Parliament of India:

A. Personal Freedom

The Preventive Detention (Amendment) Act, 1951 (Act IV of 1951)[7]

This Act extended the life of the Preventive Detention Act, 1950[8] (Act IV of 1950) for a period of one year and also made certain modifications in that Act. The Preventive Detention Act, 1950, contained provisions requiring references to be made to advisory boards only in a limited class of cases of preventive detention and for review by Government in consultation with a judicial officer in the other cases. The Amending Act of 1951 has modified these provisions so as to make the reference to an advisory board consisting of three persons compulsory in every case of preventive detention. Specific provisions have also been inserted by the Amending Act in the principal Act to make it clear that no person will be kept under detention unless upon such reference the Advisory Board reports within ten weeks of his detention that there is sufficient cause for detention. Another important amendment made by the Amending Act was the inclusion of express provision in the principal Act for

[1] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 303 to 321, of 6 September 1951.

[2] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 233 to 281, of 18 July 1951.

[3] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 131 to 142, of 13 May 1950.

[4] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 291 to 296, of 23 December 1950.

[5] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 113 to 115, of 7 May 1951.

[6] Published in the *Gazette of India Extraordinary*, part II, section 1, pp. 453 to 455, of 1 November 1951.

[7] This Act is published in the *Gazette of India Extraordinary*, part II, section 1, pp. 43 to 45, of 23 February 1951.

[8] See *Yearbook on Human Rights for 1950*, pp. 127–129.

enabling the Government to release detained persons on parole. The Preventive Detention Act, 1950, as modified by the Preventive Detention (Amendment) Act, 1951, is reproduced in this *Yearbook*.

B. Freedom of the Press

The Press (Objectionable Matter) Act, 1951 (Act LVI of 1951)[1]

The Press (Objectionable Matter) Act, 1951, has been enacted to secure greater freedom of the press by the repeal of all existing laws which are against the provisions of the fundamental rights guaranteed under the Constitution. The Public Safety Acts which were in force in the various states and contained provisions regarding the imposition of pre-censorship[2] have been also repealed by the Act of 1951. In view of the repeal of the Public Safety Acts, no pre-censorship can now be imposed on any newspaper. The Press (Emergency Powers) Act, 1931 (Act XXIII of 1931), which contained various stringent provisions for the control of the press, has also been repealed by the Act of 1951. Under the Press (Emergency Powers) Act, 1931, action could be taken in anticipation and security could be demanded when a newspaper was started, and the demand for such security and its forfeiture were matters to be decided by the Executive. Under the Act of 1951, security can be demanded only after proof of actual abuse of freedom of the press by the publication of any objectionable matter, and in every such case orders can be passed only by a judicial authority after a judicial inquiry at which the person complained against has the right to claim that the matter be decided with the aid of a special jury; and there has been provided also a right of appeal from the order of such judicial authority. The expression "objectionable matter" has been defined in the Act as follows:

"3. In this Act, the expression 'objectionable matter' means any words, signs or visible representations which are likely to:

"(i) Incite or encourage any person to resort to violence or sabotage for the purpose of overthrowing or undermining the Government established by law in India or in any state thereof or its authority in any area; or

"(ii) Incite or encourage any person to commit murder, sabotage or any offence involving violence; or

"(iii) Incite or encourage any person to interfere with the supply and distribution of food or other essential commodities or with essential services; or

"(iv) Seduce any member of any of the armed forces of the Union or of the police forces from his allegiance or his duty, or prejudice the recruiting of persons to serve in any such force or prejudice the discipline of any such force; or

"(v) Promote feelings of enmity or hatred between different sections of the people of India;

or which:

"(vi) Are grossly indecent, or are scurrilous or obscene or intended for blackmail.

"*Explanation I.* Comments expressing disapprobation or criticism of any law or of any policy or administrative action of the Government with a view to obtaining its alteration or redress by lawful means, and words pointing out, with a view to their removal, matters which are producing, or have a tendency to produce, feelings of enmity or hatred between different sections of the people of India, shall not be deemed to be objectionable matter within the meaning of this section.

"*Explanation II.* In judging whether any matter is objectionable matter under this Act, the effect of the words, signs or visible representations, and not the intention of the keeper of the press or the publisher of the newspaper or news-sheet, as the case may be, shall be taken into account.

"*Explanation III.* 'Sabotage' means the doing of damage to plant or stocks, or to bridges, roads and the like, with intent to destroy or injuriously to affect the utility of any plant or service or means of communication."

C. Social, Economic and Cultural Rights

(1) *The Employment of Children (Amendment) Act, 1951 (Act XLVIII of 1951)*[3]

The Employment of Children Act, 1938 (Act XXVI of 1938) regulates the employment of children in railways and ports. That Act has been amended by the Employment of Children (Amendment) Act, 1951, to prohibit the employment of children between fifteen and seventeen years of age in any occupation connected with the transport of passengers, goods or mails by railway or with a port authority within the limits of any port, for a period of at least twelve consecutive hours including an interval of at least seven consecutive hours between 10 p.m. and 7 a.m., so as to give effect to the provisions of the Convention adopted at the International Labour Conference at its 31st session, held in 1948, in so far as the Convention relates to employment in railways and ports. The Act of 1938 prohibited the employment of children who had not completed the fifteenth year in any occupation connected with the transport of passengers, goods or mails by railway or involving the handling of goods within the limits of certain ports. The Amending Act of 1951 prohibits completely the employment of children below fifteen years of age in any occupation in port areas.

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[1] This Act is published in the *Gazette of India Extraordinary*, part II, section 1, pp. 383–393, of 23 October 1951.

[2] See *Yearbook on Human Rights for 1948*, p. 97.

[3] This Act is published in the *Gazette of India Extraordinary*, part II, section 1, pp. 299–302, of 3 September 1951.

(2) *The Employees' State Insurance (Amendment) Act, 1951 (Act LIII of 1951)*[1]

The Employees' State Insurance Act, 1948 (Act XXXIV of 1948)[2] was enacted in 1948 to provide for certain benefits to industrial employees in case of sickness, maternity and employment injury. The Amending Act of 1951 provides mainly for the equitable distribution of the employers' contribution, even where the implementation of the scheme for securing such benefits is effected only in certain areas, among the employers in the whole country—employers in regions where the scheme is implemented paying slightly higher contributions—so as to spread the incidence of the cost of the scheme equitably.

(3) *The Plantations Labour Act, 1951 (Act LXIX of 1951)*[3]

This Act was passed to provide for the welfare of labour and to regulate the conditions of work in tea, coffee, rubber, cinchona and other plantations.

The following Acts were passed by state legislatures:

(4) *The Bengal (Rural) Primary Education (West Bengal Amendment) Act, 1950 (West Bengal Act LVII of 1950)*

This Act amended the Bengal (Rural) Primary Education Act, 1930 (Bengal Act VII of 1930), by inserting a new section 60A therein so as to provide that in any area in West Bengal in which primary education has not been declared compulsory under section 56 of the Act of 1930, a child once admitted to a primary school will be required to attend that school up to the end of the stage of primary education provided therein, except for certain special reasons, such as sickness, infirmity or other reasonable cause for non-attendance. Section 56 of the Act of 1930 confers power on the state government to declare that primary education shall be compulsory within certain areas if that government is satisfied that there is adequate provision for primary education in those areas. The object of the new section 60A is to ensure complete primary education for those who are admitted to primary schools in areas where compulsory primary education has not been enforced under section 56.

D. Equality and the Principle of Non-Discrimination

The Bihar Harijan (Removal of Civil Disabilities) (Amendment) Act, 1951 (Bihar Act XLIII of 1951)[4]

This Act amends the Bihar Harijan (Removal of Civil Disabilities) Act, 1949 (Bihar Act XIX of 1949) by the substitution of a new section for section 7 of that Act. The object of this amendment is to remove discrimination between Harijans—that is, certain under-privileged classes of citizens—and other classes of citizens, and to remove certain civil disabilities to which such under-privileged classes were previously subject.

E. Political Rights

(1) *The Orissa Municipal Act, 1950 (Orissa Act XXIII of 1950)*

Section 13 of this Act provides that election to a municipal council in the State of Orissa shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and a resident within the municipality and who is not less than twenty-one years of age on such date as may be fixed in that behalf by the state government, and is not otherwise disqualified on the ground of unsoundness of mind or physical disability shall be entitled to be registered as voter at such election.

(2) *The Bengal Municipal (West Bengal Amendment) Act, 1950 (West Bengal Act XXV of 1950)*

The Bengal Municipal Act, 1932 (Bengal Act XV of 1932) contained provisions for reservation of certain seats of commissioners of a municipality for a minority community. The Amending Act of 1950 has replaced those provisions by provisions for the reservation of such seats only for members of certain backward tribes.

(3) *The Bengal Village Self-government (West Bengal Amendment) Act, 1950 (West Bengal Act XXVI of 1950)*

This Act has amended section 7 of the Bengal Village Self-government Act, 1919 (Bengal Act V of 1919), to extend to women having necessary qualifications the right to vote and stand as candidates at the elections to union boards in the rural areas in the State of West Bengal.

(4) *The Bengal Local Self-government (West Bengal Amendment) Act, 1950 (West Bengal Act XXVII of 1950)*

This Act was enacted to amend the Bengal Local Self-government Act of 1885 (Bengal Act III of 1885) so as to extend to women having necessary qualifications, the right to vote and stand as candidates at the elections to local boards and district boards in the State of West Bengal. The Act of 1885 contained provisions for reservation of certain seats of members of a district board or a local board for a minority community. The Amending Act of 1950 has also replaced those provisions by provisions for the reservation of such seats only for members of certain backward tribes.

[1] This Act is published in the *Gazette of India Extraordinary*, part II, section 1, pp. 361–369, of 6 October 1951.

[2] See *Yearbook on Human Rights for 1948*, pp. 103–104.

[3] This Act is published in the *Gazette of India Extraordinary*, part II, section 1, pp. 408–417, of 8 November 1951.

[4] This Act is an example of the kind of legislation referred to in Sir Benegal Rau's statement on "Human Rights in India", in *Yearbook on Human Rights for 1947*, p. 153; see also *Yearbook on Human Rights for 1948*, p. 98, and *Yearbook on Human Rights for 1950*, pp. 146–147.

(5) *The Mysore Town Municipalities Act, 1951 (Mysore Act XXII of 1951) and the Mysore City Municipalities (Amendment) Act, 1951 (Mysore Act XXXVI of 1951)*

These two Acts have provided for adult franchise at elections to the various municipal councils in the State of Mysore. Every person of either sex who has attained the age of twenty-one years in the official year preceding that in which the electoral roll is published and who is not otherwise disqualified on the ground of non-residence shall be included in the electoral roll as qualified to vote at any such election. Provision has been also made for the reservation of seats in such councils for scheduled castes.

III. CASE LAW

There have been a number of decisions on questions involving human rights by the Supreme Court of India as well as by the different high courts in the states. The Supreme Court of India is the final court of appeal from all decisions of the high courts, especially in cases involving constitutional questions. Further, article 32 of the Constitution of India[1] guarantees the right to move the Supreme Court for the enforcement of the fundamental rights which mostly cover the same field as the Universal Declaration of Human Rights. Accordingly, certain decisions given by the Supreme Court of India in 1951 so far as they are important to the development of human rights, and also a decision given by the High Court of Madras in that year bearing on the subject are summarized in this *Yearbook*.[2]

[1] See *Yearbook on Human Rights for 1949*, pp. 103–104.

[2] See pp. 158–168.

CONSTITUTION

CONSTITUTION OF INDIA AS AMENDED BY THE CONSTITUTION (FIRST AMENDMENT) ACT, 1951[1]

PART III

FUNDAMENTAL RIGHTS

. . .

15. (1) The State shall not discriminate against any citizens on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to:

(*a*) Access to shops, public restaurants, hotels and places of public entertainment; or

(*b*) The use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) (*as added in 1951*) Nothing in this article or in clause (2) of article 29[2] shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and the scheduled tribes.

19. (1) All citizens shall have the right:

(*a*) To freedom of speech and expression;

(*b*) To assemble peaceably and without arms;

(*c*) To form associations or unions;

(*d*) To move freely throughout the territory of India;

(*e*) To reside and settle in any part of the territory of India;

(*f*) To acquire, hold and dispose of property; and

(*g*) To practise any profession, or to carry on any occupation, trade, or business.

(2) (*as amended in 1951*)[3] Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (*b*) of the said clause shall affect the operation of any existing law in so far as it

[1] Text received through the courtesy of Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi.

[2] The clause reads as follows: "No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them."

[3] The former text reads as follows: "Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to, libel, slander, defamation, contempt of court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State."

imposes, or prevent the State from making any law imposing, in the interests of public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (*c*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (*d*), (*e*) and (*f*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any scheduled tribe.

(6) (*as amended in 1951*) Nothing in sub-clause (*g*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law[1] in so far as it relates to, or prevent the State from making any law relating to

(i) The professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, *or*

(ii) (*as added in 1951*) The carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

31A (*as added in 1951*) *Saving of laws providing for acquisition of estates, etc.*

(1) Notwithstanding anything in the foregoing provisions of this part, no law providing for the acquisition by the State of any estate or of any rights therein or for the extinguishment or modification of any such rights shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this part:

Provided that where such law is a law made by the legislature of a state, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

(2) In this article,

(*a*) The expression "estate" shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area, and shall also include any *jagir*, *inam* or *muafi* or other similar grant;

(*b*) The expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder or other intermediary and any rights or privileges in respect of land revenue.

31B (*as added in 1951*) *Validation of certain Acts and regulations.* Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and regulations specified in the ninth schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this part, and notwithstanding any judgment, decree or order of any court or tribunal to the contrary, each of the said Acts and regulations shall, subject to the power of any competent legislature to repeal or amend it, continue in force.

PART XVI

SPECIAL PROVISIONS RELATING TO CERTAIN CLASSES

. . .

341. (1) The President *may with respect to any state, and where it is a state specified in part A or part B of the first schedule, after consultation with the governor or rajpramukh thereof,*[2] by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be scheduled castes in relation to that state.

(2) Parliament may by law include in or exclude from the list of scheduled castes specified in a notification issued under clause (1) any caste, race or tribe, or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

342. (1) The President *may with respect to any state, and where it is a state specified in part A or part B of the first schedule, after consultation with the governor or rajpramukh thereof,*[2] by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purposes of this Constitution be deemed to be scheduled tribes in relation to that state.

[1] The former text reads from these words on as follows: ". . . in so far as it prescribes or empowers any authority to prescribe, or prevent the State from making any law prescribing or empowering any authority to prescribe, the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business".

[2] Words in *italics* substituted for "may, after consultation with the governor or rajpramukh of a state".

(2) Parliament may by law include in or exclude from the list of scheduled tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

NINTH SCHEDULE[1]

(Article 31B)

1. The Bihar Land Reforms Act, 1950 (Bihar Act XXX of 1950).
2. The Bombay Tenancy and Agricultural Lands Act, 1948 (Bombay Act LXVII of 1948).
3. The Bombay Maleki Tenure Abolition Act, 1949 (Bombay Act LXI of 1949).
4. The Bombay Taluqdari Tenure Abolition Act, 1949 (Bombay Act LXII of 1949).
5. The Panch Mahals Mehwassi Tenure Abolition Act, 1949 (Bombay Act LXIII of 1949).
6. The Bombay Khoti Abolition Act, 1950 (Bombay Act VI of 1950).
7. The Bombay Paragana and Kulkarni Watan Abolition Act, 1950 (Bombay Act LX of 1950).
8. The Madhya Pradesh Abolition of Proprietary Rights (Estates, Mahals, Alienated Lands) Act, 1950 (Madhya Pradesh Act I of 1951).
9. The Madras Estates (Abolition and Conversion into Ryotwari) Act, 1948 (Madras Act XXVI of 1948).
10. The Madras Estates (Abolition and Conversion into Ryotwari) Amendment Act, 1950 (Madras Act I of 1950).
11. The Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950 (Uttar Pradesh Act I of 1951).
12. The Hyderabad (Abolition of Jagirs) Regulation, 1358F (No. LXIX of 1358, Fasli).
13. The Hyderabad Jagirs (Commutation) Regulation, 1359F (No. XXV of 1359, Fasli).

[1]Added by the Constitution (First Amendment) Act, 1951, s. 14.

LEGISLATION

PREVENTIVE DETENTION ACT, 1950, AS AMENDED BY THE PREVENTIVE DETENTION ACT, 1951[1]

(22 February 1951)

1. (1) This Act may be called the Preventive Detention Act, 1950.

(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to preventive detention for reasons connected with defence, foreign affairs or the security of India.

(3) It shall cease to have effect on the 1st day of April 1952, save as respects things done or omitted to be done before that date.

2. In this Act, unless the context otherwise requires,

(*a*) "State government" means, in relation to a part C state, the chief commissioner of the state;

(*b*) "Detention order" means an order made under section 3; and

(*c*) (*as added in 1951*) "Appropriate Government" means, as respects a detention order made by the Central Government or a person detained under such order, the Central Government, and as respects a detention order made by a state government or by an officer subordinate to a state government or as respects a person detained under such order, the state government.

3. (1) The Central Government or the state government may:

(*a*) If satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to:

(i) The defence of India, the relations of India with foreign powers, or the security of India, or

(ii) The security of the state or the maintenance of public order, or

[1]English text of the Preventive Detention Act 1950 (Act No. IV of 1950) as amended by the Preventive Detention Ordinance No. 19 of 1950 is reproduced in *Yearbook on Human Rights for 1950*, p. 127. The Preventive Detention Amendment Act (Act No. 4 of 1951) which received the assent of the President on 22 February 1951, contains amendments as well as additions to the Act of 1950. The text reproduced in this *Yearbook* is the complete text of the Act of 1950 as amended by the Act of 1951. About the validity of sections 9 and 11 of this Amendment Act, see the decision of the Supreme Court of India in the case of Krishnan and others *v.* the State of Madras and others, pp. 158–159 of this *Yearbook*.

(iii) The maintenance of supplies and services essential to the community, or

(*b*) If satisfied with respect to any person who is a foreigner within the meaning of the Foreigners Act, 1946 (XXXI of 1946), that with a view to regulating his continued presence in India or with a view to making arrangements for his expulsion from India,

it is necessary so to do, make an order directing that such person be detained.

(2) Any of the following officers—namely:

(*a*) District magistrates,

(*b*) Additional district magistrates specially empowered in this behalf by the state government,

(*c*) (*as added in 1951*) The Commissioner of Police for Bombay, Calcutta, Madras or Hyderabad;

(*d*) (*as added in 1951*) Collectors in the State of Hyderabad, if satisfied as provided in sub-clauses (ii) and (iii) of clause (*a*) of sub-section (1), exercise the power conferred by the said sub-section.

(3) When any order is made under this section by an officer mentioned in sub-section (2), he shall forthwith report the fact to the state government to which he is subordinate, together with the grounds on which the order has been made and such other particulars as in his opinion have a bearing on the necessity for the order.

3A (*as added in 1951*). A detention order may be executed at any place in India in the manner provided for the execution of warrants of arrest under the Code of Criminal Procedure, 1898 (Act V of 1898).

4 (*as amended in 1951*). Every person in respect of whom a detention order has been made shall be liable:

(*a*) To be detained in such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the appropriate government may, by general or special order, specify; and

(*b*) To be removed from one place of detention to another place of detention, whether within the same state or in another state, by order of the appropriate government:

Provided that no order shall be made by a state government under clause (*b*) for the removal of a person from one state to another state except with the consent of the government of that other state.

5 (*as amended in 1951*). No detention order shall be invalid or inoperative merely by reason:

(*a*) That the person to be detained thereunder is outside the limits of the territorial jurisdiction of the government or officer making the order, or

(*b*) That the place of detention of such person is outside the said limits.

6. If the Central Government or the state government or an officer specified in sub-section (2) of section 3, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, that government or officer may:

(*a*) Make a report in writing of the fact to a Presidency magistrate or a magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the magistrate;

(*b*) By order notified in the *Official Gazette* direct the said person to appear before such officer, at such place and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

7 (*as amended in 1951*). (1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, communicate to him the grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order, to the appropriate government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers it to be against the public interest to disclose.

8. (1) The Central Government and each state government shall, whenever necessary, constitute one or more advisory boards for the purposes of this Act.

(2) (*as amended in 1951*) Every such board shall consist of *three*[1] persons who are, or have been, or are qualified to be appointed as, judges of a high court, and such persons shall be appointed by the Central Government or the state government, as the case may be.

Provided that where, immediately before the commencement of the Preventive Detention (Amendment) Act, 1951, any reference under section 9 is pending before an advisory board, such board may, for the purpose of disposing of that reference only, consist of two persons.

9 (*as amended in 1951*). (1) In every case where a detention order has been made under this Act, the appropriate government shall, within six weeks from

[1] Former text: *two*.

the date specified in sub-section (2), place before an advisory board constituted by it under section 8 the grounds on which the order has been made and the representation, if any, made by the person affected by the order, and in case where the order has been made by an officer, also the report made by such officer under sub-section (3) of section 3.

(2) The date referred to in sub-section (1) shall be:

(*a*) In every case where at the commencement of the Preventive Detention (Amendment) Act, 1951, the person is under detention in pursuance of a detention order made under sub-clause (i) or sub-clause (ii) of clause (*a*) of sub-section (1) of section 3, the date of commencement of the said Act; and

(*b*) In every other case the date of detention under the order.

10. (1) (*as amended in 1951*) The advisory board shall, after considering the materials placed before it and after calling for such further information as it may deem necessary, from the appropriate government or from the person concerned, and, if in any particular case it considers it essential, after hearing him in person, submit its report to the appropriate government within ten weeks from the date specified in sub-section (2) of section 9;

(2) The report of the advisory board shall specify in a separate part thereof the opinion of the advisory board as to whether or not there is sufficient cause for the detention of the person concerned.

(2A) (*as added in 1951*) When there is a difference of opinion among the members forming the advisory board, the opinion of the majority of such members shall be deemed to be the opinion of the board.

(3) Nothing in this section shall entitle any person against whom a detention order has been made to attend in person or to appear by any legal representative in any matter connected with the reference to the advisory board, and the proceedings of the advisory board and its report, excepting that part of the report in which the opinion of the advisory board is specified, shall be confidential.

11 (*as amended in 1951*). (1) In any case where the advisory board has reported that there is in its opinion sufficient cause for the detention of a person, the appropriate government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the advisory board has reported that there is in its opinion no sufficient cause for the detention of the person concerned, the appropriate government shall revoke the detention order and cause the person to be released forthwith.

12 (*as amended in 1951*). For the avoidance of doubt it is hereby declared that:

(*a*) Every detention order in force at the commencement of the Preventive Detention (Amendment) Act, 1951, shall continue in force and shall have effect as if it had been made under this Act as amended by the Preventive Detention (Amendment) Act, 1951; and

(*b*) Nothing contained in sub-section (3) of section 1 or sub-section (1) of section 12 of this Act as originally enacted shall be deemed to affect the validity or duration of any such order.

13. (1) Without prejudice to the provisions of section 21 of the General Clauses Act, 1897 (X of 1897), a detention order may at any time be revoked or modified:

(*a*) Notwithstanding that the order has been made by an officer mentioned in sub-section (2) of section 3, by the state government to which that officer is subordinate or by the Central Government;

(*b*) Notwithstanding that the order has been made by a state government, by the Central Government.

(2) The revocation of a detention order shall not bar the making of a fresh detention order under section 3 against the same person.

14 (*as added in 1951*). (1) The appropriate government may at any time direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may at any time cancel his release.

(2) In directing the release of any person under sub-section (1), the appropriate government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with a fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of this Act.

THE GOVERNMENT OF PART C STATES ACT, 1951 [1]

Act XLIX of 1951

PART I

PRELIMINARY

. . .

2. *Interpretation.* (1) In this Act, unless the context otherwise requires,

(*a*) "Article" means an article of the Constitution;

(*b*) "Assembly constituency" means a constituency provided by order made under sub-section (2) of section 4 [2] for the purpose of elections to the legislative assembly of a state;

. . .

(*g*) "State" means any state specified in part C of the first schedule to the Constitution, other than Bilaspur.

PART II

LEGISLATIVE ASSEMBLIES

3. *Constitution of legislative asemblies and their composition.* (1) There shall be a legislative assembly for each state.

(2) The allocation of seats in the legislative assemblies of the States of Ajmer, Bhopal, Coorg, Delhi, Himachal Pradesh and Vindhya Pradesh shall be as shown in the third schedule.

(3) In the legislative assembly of each state specified in the first column of the third schedule there shall be the number of seats specified in the second column opposite to that state which shall be filled by direct election, and of those seats:

(*a*) The number specified in the third column shall be the number of seats reserved for the scheduled castes, and

(*b*) The number, if any, specified in the fourth column shall be the number of seats reserved for the scheduled tribes.

(4) The composition of the legislative assembly of any state which is not specified in the first column of the third schedule be such as the President may by order specify in relation to that state.

(5) As from the date on which the Legislative Assembly of Coorg, after having been duly constituted under the provisions of this part, is summoned to meet for its first session, the Coorg Legislative Council shall cease to function and shall be deemed to be dissolved.

5. *Duration of legislative assemblies.* The legislative assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of article 352 is in operation, be extended by the President by order for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

6. *Electoral rolls for assembly constituencies.* (1) For the purpose of elections to the legislative assembly of a state, there shall be an electoral roll for every assembly constituency.

(2) So much of the roll or rolls for any parliamentary constituency or constituencies for the time being in force under part III of the Representation of the People Act, 1950 (XLIII of 1950), as relate to the areas comprised within an assembly constituency shall be deemed to be the electoral roll for that assembly constituency.

7. *Qualification for membership of the legislative assembly.* A person shall not be qualified to be chosen to fill a seat in the legislative assembly of a state unless he:

(*a*) Is a citizen of India;

(*b*) Is not less than twenty-five years of age; and

(*c*) (i) In the case of a seat reserved for the scheduled castes or the scheduled tribes of that state, is a member of any of those castes or tribes, as the case may be, and is an elector for any assembly constituency in that state;

(ii) In the case of any other seat, is an elector for any assembly constituency in that state.

Explanation. In this section, the expression "elector", in relation to a constituency, means a person whose name is for the time being entered in the electoral roll of that constituency.

8. *Elections to the legislative assembly.* The provisions of part I and parts III to XI of the Representation of the People Act, 1951 (XLIII of 1951), and of any rules and orders made thereunder for the time being in force, shall apply in relation to an election to the legislative assembly of a state, as they apply in relation to an election to the legislative assembly of a part A state, subject to such modifications as the President may, after consultation with the Election Commission, by order direct.

. . .

[1] English text in *Gazette of India, Extraordinary*, part III, section I, of 6 September 1951. Text received through the courtesy of Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi. The part C states are listed in *Yearbook on Human Rights for 1949*, p. 111. See also the preceding Note on the Development of Human Rights, p. 144 of this *Yearbook*.

[2] This section provides for the delimitation of constituencies.

17. *Disqualifications for membership.* A person shall be disqualified for being chosen as, and for being, a member of the legislative assembly of a state, if he is for the time being disqualified for being chosen as, and for being, a member of either House of Parliament under any of the provisions of article 102.

18. *Penalty for sitting and voting before making oath or affirmation or when not qualified or when disqualified.* If a person sits or votes as a member of the legislative assembly of a state before he has complied with the requirements of section 14,[1] or when he knows that he is not qualified or that he is disqualified for membership thereof, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the state.

[1]This section provides for the making of oath or affirmation by members before taking their seats in the Assembly.

. . .

THE THIRD SCHEDULE

Table of Seats in the Legislative Assemblies

State	*Total number of seats*	*Seats reserved for scheduled castes*	*Seats reserved for scheduled tribes*
1	*2*	*3*	*4*
Ajmer	30	6	—
Bhopal	30	5	2
Coorg	24	3	3
Delhi	48	6	—
Himachal Pradesh ..	36	8	—
Vindhya Pradesh ...	60	6	6

THE REPRESENTATION OF THE PEOPLE ACT, 1950[1]

Act XLIII of 1950 as modified by Act No. LXXIII of 1950

PART I

PRELIMINARY

. . .

2. *Definitions.* In this Act, unless the context otherwise requires,

(*a*) "Article" means an article of the Constitution;

(*b*) "Assembly constituency" means a constituency provided by order made under section 9[2] for the purpose of elections to the legislative assembly of a state;

(*c*) "Council constituency" means a constituency provided by order made under section 11[3] for the purpose of elections to the legislative council of a state;

. . .

(*f*) "Parliamentary constituency" means a constituency provided by section 6[4] or by order made thereunder for the purpose of elections to the House of the People;

. . .

[1]English text in *Gazette of India Extraordinary*, part II, section 1, of 13 May 1950. Text received through the courtesy of Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi. See also the preceding Note on the Development of Human Rights, p. 144 of this *Yearbook*.

[2]This section provides for the delimitation of constituencies for the purpose of elections to the legislative assembly of a state.

[3]This section provides for the delimitation of constituencies for the purpose of elections to the legislative council of a state.

[4]This section provides for the delimitation of constituencies for the purpose of elections to the House of the People.

PART III

REGISTRATION OF PARLIAMENTARY ELECTORS

14. *Definition:* In this part, "constituency" means a parliamentary constituency.

15. *Electoral roll for every constituency.* For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.

16. *Disqualifications for registration in an electoral roll.* (1) A person shall be disqualified for registration in an electoral roll if he:

(*a*) Is not a citizen of India; or

(*b*) Is of unsound mind and stands so declared by a competent court; or

(*c*) Is for the time being disqualified from voting under the provisions of any law relating to corrupt and *illegal*[5] practices and other offences in connexion with elections.

(2) The name of any person who becomes so disqualified after registration shall forthwith be struck off the electrol roll in which it is included;

Provided that the name of any person struck off the electoral roll of a constituency by reason of a disqualification under clause (c) *of sub-section* (1) *shall forthwith be reinstated in that roll if such disqualification is, during the period such roll is in force, removed under any law authorizing such removal.*[5]

[5]Words in *italics* inserted by the Representation of the People (Amendment) Act, 1950 (Act LXXIII of 1950).

17. *No person to be registered in more than one constituency.* No person shall be entitled to be registered in the electoral roll for more than one constituency.

18. *No person to be registered more than once in any constituency.* No person shall be entitled to be registered in the electoral roll for any constituency more than once.

19. *Conditions of registration.* Subject to the foregoing provisions of this part, every person who:

(*a*) Has been ordinarily resident in a constituency for not less than 180 days during the qualifying period, and

(*b*) Was not less than twenty-one years of age on the qualifying date,

shall be entitled to be registered in the electoral roll for that constituency.

PART IV

REGISTRATION OF ELECTORS FOR STATE LEGISLATURES

26. *Preparation of electoral rolls for assembly constituencies.* The provisions of sections 15 to 25 . . . shall apply in relation to assembly constituencies as they apply in relation to parliamentary constituencies.

27. *Preparation of electoral rolls for council constituencies.*

. . .

(4) The provisions of sections 15, 16, 18 . . . shall apply in relation to council constituencies as they apply in relation to parliamentary constituencies.

THE REPRESENTATION OF THE PEOPLE ACT, 1951 [1]

Act XLIII of 1951 as modified by Act No. LXVII of 1951

PART I

PRELIMINARY

. . .

2. *Interpretation.* (1) In this Act, unless the context otherwise requires,

(*a*) Each of the expressions defined in sections 2 . . . of the Representation of the People Act, 1950 (XLIII of 1950) but not defined in this Act, shall have the same meaning as in that Act;

. . .

(*d*) "Election" means an election to fill a seat or seats in either House of Parliament or in the house or either house of the legislature of a state other than the State of Jammu and Kashmir . . .

(*e*) "Elector", in relation to a constituency, means a person whose name is for the time being entered in the electoral roll of that constituency;

. . .

PART II

QUALIFICATIONS AND DISQUALIFICATIONS FOR MEMBERSHIP

Chapter I

QUALIFICATIONS FOR MEMBERSHIP OF PARLIAMENT

3. *Qualifications for membership of the Council of States.* (1) A person shall not be qualified to be chosen as a representative of any part A or part B state (other than the State of Jammu and Kashmir) in the Council of States unless he is an elector for a parliamentary constituency in that state.

(2) A person shall not be qualified to be chosen as a representative of the States of Ajmer and Coorg or of the States of Manipur and Tripura in the Council of States unless he is an elector for any parliamentary constituency in the state in which the election of such representative is to be held.

(3) Save as otherwise provided in sub-section (2), a person shall not be qualified to be chosen as a representative of any part C state or group of such states in the Council of States unless he is an elector for a parliamentary constituency in that state or in any of the states in that group, as the case may be.

4. *Qualifications for membership of the House of the People.* A person shall not be qualified to be chosen to fill a seat in the House of the People, other than a seat allotted to the State of Jammu and Kashmir [2] (to the Andaman and Nicobar Islands or to the part B tribal areas), unless:

(*a*) In the case of a seat reserved for the scheduled castes in any state, he is a member of any of the scheduled castes, whether of that state or of any other state, and is an elector for any parliamentary constituency;

(*b*) In the case of a seat reserved for the scheduled tribes in any state (other than those in the autonomous districts of Assam), he is a member of any of the scheduled tribes, whether of that state or of any other state (excluding the tribal areas of Assam), and is an elector for any parliamentary constituency;

[1] English text in *Gazette of India Extraordinary*, part II, section 1, of 18 July 1951. Text received through the courtesy of Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi, India. See also preceding Note on the Development of Human Rights, p. 144 of this *Yearbook*.

[2] Substituted for the words "or to the Andaman and Nicobar Islands" by the Representation of the People (Second Amendment) Act, 1951 (Act LXVII of 1951), s. 8.

(*c*) In the case of a seat reserved for the scheduled tribes in the autonomous districts of Assam, he is a member of any of those scheduled tribes and is an elector for the parliamentary constituency in which such seat is reserved or for any other parliamentary constituency comprising any such autonomous district; and

(*d*) In the case of any other seat, he is an elector for any parliamentary constituency.

Chapter II

QUALIFICATIONS FOR MEMBERSHIP OF STATE LEGISLATURES

5. *Qualifications for membership of a legislative assembly.* A person shall not be qualified to be chosen to fill a seat in the legislative assembly of a state unless:

(*a*) In the case of a seat reserved for the scheduled castes or for the scheduled tribes of that state, he is a member of any of those castes or of those tribes, as the case may be, and is an elector for any assembly constituency in that state;

(*b*) In the case of a seat reserved for an autonomous district of Assam, other than a seat the constituency for which comprises the cantonment and municipality of Shillong, he is a member of a scheduled tribe of that district and is an elector for the assembly constituency in which such seat or any other seat is reserved for that district; and

(*c*) In the case of any other seat, he is an elector for any assembly constituency in that state.

6. *Qualifications for membership of a legislative council.* (1) A person shall not be qualified to be chosen to fill a seat in the legislative council of a state to be filled by election unless he is an elector for any assembly constituency in that state.

(2) A person shall not be qualified to be chosen to fill a seat in the legislative council of a state to be filled by nomination by the governor or the rajpramukh, as the case may be, unless he is ordinarily resident in the state.

Chapter III

DISQUALIFICATIONS

7. *Disqualifications for membership of Parliament or of a state legislature.* A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament or of the legislative assembly or legislative council of a state:

(*a*) If, whether before or after the commencement of the Constitution, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence or corrupt or illegal practice which has been declared by section 139 or section 140 to be an offence or practice entailing disqualification for membership of Parliament and of the legislature of every state, unless such period has elapsed as has been provided in that behalf in the said section 139 or section 140, as the case may be;

(*b*) If, whether before or after the commencement of the Constitution, he has been convicted by a court in India of any offence and sentenced to transportation or to imprisonment for not less than two years, unless a period of five years, or such less period as the Election Commission may allow in any particular case, has elapsed since his release;

(*c*) If, having been nominated as a candidate for Parliament or the legislature of any state or having acted as an election agent of any person so nominated, he has failed to lodge a return of election expenses within the time and in the manner required by or under this Act, unless five years have elapsed from the date by which the return ought to have been lodged or the Election Commission has removed the disqualification;

(*d*) If, whether by himself or by any person or body of persons in trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by, the appropriate government;

(*e*) If he is a director or managing agent of, or holds any office of profit under, any corporation in which the appropriate government has any share or financial interest;

(*f*) If, having held any office under the Government of India or the government of any state or under the Crown in India or under the government of an Indian state, he has, whether before or after the commencement of the Constitution, been dismissed for corruption or disloyalty to the State, unless a period of five years has elapsed since his dismissal.

8. *Savings.* (1) Notwithstanding anything in section 7:

(*a*) A disqualification under clause (*a*) or clause (*b*) of that section shall not, in the case of a person who becomes so disqualified by virtue of a conviction or a conviction and a sentence and is at the date of the disqualification a member of Parliament or of the legislature of a state, take effect until three months have elapsed from the date of such disqualification, or if within these three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of;

(*b*) A disqualification under clause (*c*) of that section shall not take effect until the expiration of two months from the date by which the return of election expenses ought to have been lodged or of such longer period as the Election Commission may in any particular case allow;

(*c*) A disqualification under clause (*d*) of that section shall not, where the share or interest in the contract

devolves on a person by inheritance or succession or as a legatee, executor or administrator, take effect until the expiration of six months after it has so devolved on him or of such longer period as the Election Commission may in any particular case allow;

(*d*) A person shall not be disqualified under clause (*d*) of that section by reason of his having a share or interest in a contract entered into between a public company of which he is a shareholder, but is neither a director holding an office of profit under the company nor a managing agent, and the appropriate government;

(*e*) A person shall not be disqualified under clause (*e*) of that section by reason of his being a director unless the office of such director is declared by Parliament by law so to disqualify its holder;

(*f*) A disqualification under clause (*e*) of that section shall not, in the case of a director, take effect where the law making any such declaration as is referred to in clause (*e*) of this section in respect of the office of such director has come into force after the director has been chosen a member of Parliament or of the legislature of a state, as the case may be, until the expiration of six months after the date on which such law comes into force or of such longer period as the Election Commission may in any particular case allow;

(*g*) A disqualification under clause (*f*) of that section may, in the case of any of the candidates for the first elections under this Act, be removed by the Election Commission for reasons to be recorded by it in writing.

(2) Nothing in clause (*d*) of section 7 shall extend to a contract entered into between a co-operative society and the appropriate government.

9. *Interpretation, etc.* (1) In this chapter:

(*a*) "Appropriate Government" means in relation to any disqualification for being chosen as or for being a member of either House of Parliament, the Central Government, and in relation to any disqualification for being chosen as or for being a member of the legislative assembly or legislative council of a state, the state government;

(*b*) "Public company" means a public company as defined in section 2 of the Indian Companies Act, 1913 (VII of 1913).

(2) For the avoidance of doubt it is hereby declared that where any such contract as is referred to in clause (*d*) of section 7 has been entered into by or on behalf of a Hindu undivided family and the appropriate government, every member of that family shall become subject to the disqualification mentioned in the said clause; but where the contract has been entered into by a member of a Hindu undivided family carrying on a separate business in course of such business, any other member of the said family having no share or interest in that business shall not become subject to such disqualification.

(3) If any question is raised as to whether a person who, having held any office referred to in clause (*f*) of section 7, has been dismissed is disqualified under that clause for being chosen as a member of either House of Parliament or of the legislative assembly or legislative council of a state, the production of a certificate issued in the prescribed manner by the Election Commission to the effect that such person has not been dismissed for corruption or disloyalty to the state shall be conclusive proof that he is not disqualified under that clause.

. . .

PART V

CONDUCT OF ELECTIONS

Chapter III

GENERAL PROCEDURE AT ELECTIONS

. . .

55. *Eligibility of members of scheduled castes or scheduled tribes to hold seats not reserved for those castes or tribes.* For the avoidance of doubt it is hereby declared that a member of the scheduled castes or of the scheduled tribes shall not be disqualified to hold a seat not reserved for members of those castes or tribes, if he is otherwise qualified to hold such seat under the Constitution and this Act.

Chapter IV

THE POLL

. . .

59. *Manner of voting at elections.* At every election where a poll is taken, votes shall be given by ballot in such manner as may be prescribed, and no votes shall be received by proxy.

61. *Special procedure for preventing personation of electors.* Provision may also be made by rules made under this Act for the marking with indelible ink of the thumb or any other finger of every elector who applies for a ballot paper or ballot papers for the purpose of voting at a polling station before delivery of such paper or papers to him and for prohibiting the delivery of any ballot paper to any person for voting at a polling station, if at the time such person applies for such paper he has already such a mark on his thumb or any other finger, so as to prevent personation of electors.

62. *Right to vote.* (1) No person who is not, and except as expressly provided by this Act, every person who is, for the time being entered in the electoral roll of any constituency shall be entitled to vote in that constituency.

(2) No person shall vote at an election in any constituency if he is subject to any of the disqualifications referred to in section 16 of the Representation of the People Act, 1950 (XLIII of 1950).

(3) No person shall vote at a general election in more than one constituency of the same class, and if a person votes in more than one such constituency, his votes in all such constituencies shall be void.

(4) No person shall at any election vote in the same constituency more than once, notwithstanding that his name may have been registered in the electoral roll for that constituency more than once, and if he does so vote, all his votes in that constituency shall be void.

(5) No person shall vote at any election if he is confined in a prison, whether under a sentence of imprisonment or transportation or otherwise, or is in the lawful custody of the police;

Provided that nothing in this sub-section shall apply to a person subjected to preventive detention under any law for the time being in force.

63. *Method of voting.* (1) In plural member constituencies other than council constituencies every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any one candidate.

(2) If an elector gives more than one vote to any one candidate in contravention of the provisions of sub-section (1), then at the time of counting of votes not more than one of the votes given by him to such candidate shall be taken into account, and all the other votes given by him to such candidate shall be rejected as void.

. . .

PART VI

DISPUTES REGARDING ELECTIONS

Chapter III

TRIAL OF ELECTION PETITIONS

. . .

94. *Secrecy of voting not to be infringed.* No witness or other person shall be required to state for whom he has voted at an election.

. . .

PART VII

CORRUPT AND ILLEGAL PRACTICES AND ELECTORAL OFFENCES

Chapter III

ELECTORAL OFFENCES

. . .

128. *Maintenance of secrecy of voting.* (1) Every officer, clerk, agent or other person who performs any duty in connexion with the recording or counting of votes at an election shall maintain, and aid in maintaining, the secrecy of the voting and shall not (except for some purpose authorized by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to three months, or with a fine, or with both.

129. *Officers, etc., at elections not to act for candidates or to influence voting.* (1) No person who is a returning officer, or an assistant returning officer, or a presiding or polling officer at an election, or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connexion with an election shall in the conduct or the management of the election do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force, shall endeavour:

(*a*) To persuade any person to give his vote at an election; or

(*b*) To dissuade any person from giving his vote at an election; or

(*c*) To influence the voting of any person at an election in any manner.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment which may extend to six months, or with a fine, or with both.

130. *Prohibition of canvassing in or near polling stations.* (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred yards of the polling station—namely:

(*a*) Canvassing for votes; or

(*b*) Soliciting the vote of any elector; or

(*c*) Persuading any elector not to vote for any particular candidate; or

(*d*) Persuading any elector not to vote at the election; or

(*e*) Exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with a fine, which may extend to two hundred and fifty rupees.

(3) An offence punishable under this section shall be cognizable.

. . .

JUDICIAL DECISIONS

RIGHT TO PERSONAL FREEDOM—VALIDITY OF PREVENTIVE DETENTION (AMENDMENT) ACT, 1951 (ACT No. IV OF 1951), SECTIONS 9 AND 11—CONSTITUTION OF INDIA, ARTICLE 22 (4)

S. KRISHNAN AND OTHERS *v.* THE STATE OF MADRAS AND OTHERS

Supreme Court of India[1]

7 May 1951

The facts. Sub-section (3) of section 1 of the Preventive Detention Act, 1950, provided that "It shall cease to have effect on the first day of April 1951, save as respects things done or omitted to be done before that date". The Preventive Detention (Amendment) Act, 1951, came into force on 22 February 1951, and by substituting the figures "1952" for "1951" in the above sub-section continued the operation of the Act of 1950 till 31 March 1952.

At the commencement of the amending Act of 1951, the petitioners were under detention in pursuance of orders made under section 3 (1) (*a*) (ii) of the Act of 1950. The question for consideration by the Supreme Court was whether certain provisions of the Preventive Detention (Amendment) Act, 1951, purporting to amend the Preventive Detention Act, 1950, so as to authorize detention of the petitioners to be continued beyond the expiry of one year were *ultra vires* and inoperative.

Held: That the petitions should be dismissed. The Preventive Detention (Amendment) Act, 1951, by extending the duration of the original Act till 1 April 1952, fixes an over-all time limit beyond which preventive detention under the Act cannot be continued. Therefore, sections 9 (2) and 12 (1) substituted by the Amendment Act substantially satisfy the requirement of sub-clause (*b*) of clause (4) of article 22 of the Constitution and cannot be declared unconstitutional and void. As the Act is to be in force only up to 1 April 1952, no detention under the Act can continue thereafter and therefore the discretionary power under section 11 (2) as substituted by the Amendment Act could be exercised only subject to that over-all time limit and cannot be said to authorize detention for an indefinite period contrary to article 22 (4) of the Constitution.

Sastri, J., in delivering his judgment, with which Kania, C. J., agreed, said: ". . . Article 22 (4) (*a*) provides:

" 'No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless:

" '(*a*) An advisory board consisting of persons who are, or have been, or are qualified to be appointed as, judges of a high court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

" 'Provided that nothing in this sub-clause shall authorize the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (*b*) of clause (7).'[2]

"It will be seen that two conditions have to be fulfilled in order that a person can be detained for a longer period than three months: (i) his case must be referred to an advisory board constituted in the manner specified and (ii) that board must make a report before the expiration of three months that there is sufficient cause for such detention. Section 12 of the old Act having provided that there was to be no review by an advisory board in cases falling within section 3 (1) (*a*) (ii), the petitioners' detention in pursuance of orders made under the latter section fell under article 22 (4) (*b*),[2] and there was no question, therefore, of such detention contravening article 22 (4) (*a*). The scheme of the new Act, however, was to extend the benefit of a review by an advisory board to all cases and to bind the detaining authorities to act conformably to the report of the board. The method adopted to give effect to this scheme was to delete some of the provisions of the old Act and to substitute in their place new provisions.

"The material provisions of the new Act are sections 9, 10, 11 and 12. Section 9 provides for a reference to an advisory board within six weeks from the date specified in sub-section (2), which says:

" 'The date referred to in sub-section (1) shall be (*a*) in every case where at the commencement of the Preventive Detention (Amendment) Act, 1951, the person is under detention in pursuance of a detention order made under sub-clause (i) or sub-clause (ii) of clause (*a*) of sub-section (1) of section 3, the date of commencement of the said Act; and (*b*) in every other case the date of detention under the order.'

[1] Text of the decision in [1951] *Supreme Court Journal*, Vol. 14, pp. 453–471. Summary prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi. For the text of Act No. 4 of 1951, see p. 149 of this *Yearbook*. See also the Supreme Court of India's decision in Gopalan *v.* the State of Madras in *Yearbook on Human Rights for 1950*, pp. 130–139.

[2] See the text of article 22 of the Constitution in *Yearbook on Human Rights for 1949*, p. 102.

"By section 10, the advisory board is required to submit its report within ten weeks from the date specified in sub-section (2) of section 9. Section 11 (1) authorizes the appropriate Government to continue the period of detention for such period as it thinks fit in case the advisory board reports that there are sufficient grounds for the detention, while sub-section (2) provides that the Government shall revoke the detention order and release the person concerned if the advisory board reports the other way. Sub-section (1) of section 12 declares for the 'avoidance of doubt' that every detention order in force at the commencement of the new Act 'shall continue on force and shall have effect as if it had been made under this Act as amended' by the new Act, and sub-section (2) provides that nothing contained in sub-section (3) of section 1 or in sub-section (1) of section 12 of the old Act shall affect the validity or duration of any such order.

"It will be seen that although the object of the new Act was to liberalize the provisions of the old Act in the manner indicated above, section 12 had the effect of enlarging the period of detention of the petitioners who were under detention at the commencement of the new Act by enacting the legal fiction that detention in such cases shall have effect as if it had been made under the new Act. On that basis, the new Act seeks to bring detention orders in force at its commencement and more than three months old into conformity with article 22 (4) (*a*) by prescribing a period of six weeks in section 9 for referring such cases to the advisory board and ten weeks in section 10 (1) for the submission by the board of its report, the period in each case being calculated from the commencement of the new Act . . .

". . .

"The combined effect of sections 9 (2) (*a*) and 12 (1) is to provide, in a certain class of cases—namely, where detention orders were in force at the commencement of the new Act—that the persons concerned could be detained for a period longer than three months if an advisory board reports that there are sufficient grounds for detention within ten weeks from the commencement of the new Act—that is to say, without obtaining the opinion of an advisory board before the expiration of the three months from the commencement of the detention as provided in sub-clause (*a*) of clause (4). And, although the new Act does not in express terms prescribe in a separate provision any maximum period as such for which any person may in any class or classes of cases be detained, it fixes, by extending the duration of the old Act till the 1st April 1952, an over-all time limit beyond which preventive detention under the Act cannot be continued. The general rule in regard to a temporary statute is that, in the absence of special provision to the contrary, proceedings which are being taken against a person under it will *ipso facto* terminate as soon as the statute expires (*Craies on Statutes*, 4th edition, page 347). Preventive detention which would but for the Act authorizing it be a continuing wrong cannot, therefore, be continued beyond the expiry of that Act itself. The new Act thus in substance prescribes a maximum period of detention under it by providing that it shall cease to have effect on a specified date. It seems to me, therefore, that sections 9 (2) (*a*) and 12 (1) of the new Act substantially satisfy the requirements of sub-clause (*b*) of clause (4) of article 22, and cannot be declared unconstitutional and void.

"The objection to the validity of section 11 (1) can be disposed of in a few words. The argument is that the discretionary power given to the appropriate Government under that sub-section to continue the detention 'for such period as it thinks fit' authorizes preventive detention for an indefinite period, which is contrary to the provisions of article 22 (4). But, if, as already observed, the new Act is to be in force only up to 1st April 1952, and no detention under the Act can continue thereafter, the discretionary power could be exercised only subject to that over-all limit. The objection therefore fails."

RIGHT TO PERSONAL FREEDOM—PREVENTIVE DETENTION (AMENDMENT) ACT, 1951, SECTIONS 3 (1), 9 AND 11—VALIDITY OF THE INITIAL ORDER OF DETENTION ITSELF FIXING PERIOD OF DETENTION

MAKHAN SINGH TARSIKKA *v.* THE STATE OF PUNJAB (I)

Supreme Court of India[1]

10 December 1951

The facts. The petitioner was arrested and detained under an order of 1 March 1950 made by the District Magistrate, Amritsar, under section 3 (1) of the Preventive Detention Act, 1950. The petitioner challenged the validity of the order on various grounds and, while the petition was pending before the Supreme Court, he was served with another detention order of 30 July 1951, under sections 3 (1) and 4 of the Act as amended by the Preventive Detention (Amendment) Act, 1951, directing the detention of the petitioner till 31 March 1952. He was also served with fresh grounds for his detention, as required by section 7 of the Act, on 16 August 1951.

The petitioner filed a supplementary petition challenging the validity of the detention order of 30 July 1951, on the ground, *inter alia*, that it directed the detention of the petitioner till the expiry of the Act itself on 31 March 1952, and that this was contrary to the provisions of the Act as amended. On behalf of the respondent, the Advocate-General of Punjab urged that the said order was not intended to be a fresh order of detention, but was passed only with a view to limiting the period of detention till 31 March 1952, as it had been held in several cases that an order of detention for an indefinite period was bad.

Held: That the petition should be allowed. The fixing of the period of detention in the initial order itself, without the previous consultation of the advisory board, is contrary to the scheme of the Act as amended and would render the order of detention unlawful.

The Court said:

". . .

"However that may be, we are clearly of opinion that the order dated 30th July 1951 must be regarded as a fresh order made for the petitioner's detention in supersession of the earlier order, and the question is whether it was illegal in that it straightaway directed that the petitioner be detained till 31st March 1952, which was the date of the expiry of the Act.

"Whatever might be the position under the Act before its amendment in February 1951, it is clear that the Act as amended requires that every case of detention should be placed before an advisory board constituted under the Act (section 9) and provides that if the board reports that there is sufficient cause for the detention 'the appropriate Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit' (section 11). It is therefore plain that it is only after the advisory board to which the case has been referred reports that the detention is justified, that the Government should determine what the period of detention should be, and not before. The fixing of the period of detention in the initial order itself in the present case was therefore contrary to the scheme of the Act and cannot be supported. The learned Advocate-General, however, urged that in view of the provision in section 11 (2) that if the advisory board reports that there is no sufficient cause for the detention the person concerned would be released forthwith, the direction in the order dated 30th July 1951 that the petitioner should be detained till 31st March 1952 could be ignored as mere surplusage. We cannot accept this view. It is obvious that such a direction would tend to prejudice a fair consideration of the petitioner's case when it is placed before the advisory board. It cannot be too often emphasized that before a person is deprived of his personal liberty the procedure established by law must be strictly followed and must not be departed from to the disadvantage of the person affected."

[1] Text of the decision in [1951] *Supreme Court Journal*, Vol. 14, pp. 835–837. Summary prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi. For the text of Act No. 4 of 1951, see pp. 149–151 of this *Yearbook*.

RIGHT TO EQUALITY OF OPPORTUNITY—DENIAL OF RIGHT ON GROUND OF CASTE—VALIDITY OF THE MADRAS COMMUNAL GOVERNMENT ORDERS—CONSTITUTION OF INDIA, ARTICLE 16

B. VENKATARAMANA *v.* THE STATE OF MADRAS AND ANOTHER

Supreme Court of India[1]

9 April 1951

The facts. The Madras Public Service Commission selected candidates for a definite number of posts of district munsiffs in the Madras Subordinate Civil Judicial Service. The candidates were selected from various castes, religions and communities in conformity with the communal rotation rules prescribed by what are popularly known as Communal Government Orders, in the following manner: Harijan 1, Muslims 7, Christians 4, Backward Hindus 13, Non-Brahmin Hindus 42 and Brahmins 4.

The petitioner filed a petition under article 32 of the Constitution for a writ of *certiorari* and prohibition on 21 October 1950, and praying for an order declaring that the rule of communal rotation, in pursuance of which the selection to the posts of district munsiffs was made, was void, for directing the Madras Public Service Commission to cancel the selections already made, prohibiting the State of Madras from filling up the posts out of the candidates selected, and for directing the disposal of the petitioner's application for the said post after taking it on the file on its merits and without applying the rule of communal rotation.

The petitioner had the requisite qualifications and it was admitted that the marks secured by him would entitle him to be selected if the provisions in the Communal Government Order were disregarded.

Held: That the petition should be allowed. Clause (4) of article 16 of the Constitution permits reservation of posts in government service in favour of any backward class of citizens, but the ineligibility of a citizen for any of the posts reserved for communities other than Harijans and Backward Hindus is an infringement of the fundamental rights guaranteed to an individual citizen under clauses (1) and (2) of article 16. The Communal Government Order is repugnant to the provisions of article 16 and is therefore void and illegal.

The Court said:

". . .

"The Constitution by article 16 specifically provides for equality of opportunity in matters of public employment. The relevant clauses are as follows:

" '(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

" '(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.

" '(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.'

"Clause (4) expressly permits the State to make provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services of the State. Reservation of posts in favour of any backward class of citizens cannot, therefore, be regarded as unconstitutional. The Communal Government Order itself makes an express reservation of seats for Harijans and Backward Hindus. The other categories—namely, Muslims, Christians, Non-Brahmin Hindus and Brahmins—must be taken to have been treated as other than Harijans and Backward Hindus... It is, in the circumstances, impossible to say that classes of people other than Harijans and Backward Hindus can be called Backward Classes. As regards the posts reserved for Harijans and Backward Hindus it may be said that the petitioner who does not belong to those two classes is regarded as ineligible for those reserved posts not on the ground of religion, race, caste, etc., but because of the necessity for making a provision for reservation of such posts in favour of a backward class of citizens, but the ineligibility of the petitioner for any of the posts reserved for communities other than Harijans and Backward Hindus cannot but be regarded as founded on the ground only of his being a Brahmin. For instance, the petitioner may be far better qualified than a Muslim or a Christian or a Non-Brahmin candidate and if all the posts reserved for those communities were open to him, he would be eligible for appointment, as is conceded by the learned Advocate-General of Madras, but, nevertheless, he cannot expect to get any of those posts reserved for those different categories only because he happens to be a Brahmin. His ineligibility for any of the posts reserved for the other communities, although he may

[1] Text of the decision in [1951] *Supreme Court Journal*, Vol. 14, pp. 318-320. Summary prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi.

have far better qualifications than those possessed by members falling within those categories, is brought about only because he is a Brahmin and does not belong to any of those categories. This ineligibility created by the Communal Government Order does not appear to us to be sanctioned by clause (4) of article 16 and it is an infringement of the fundamental right guaranteed to the petitioner as an individual citizen under article 16 (1) and (2). The Communal Government Order, in our opinion, is repugnant to the provisions of article 16 and is as such void and illegal. This, in our opinion, is sufficient to dispose of this application and we do not consider it necessary to consider the effect of articles 14 or 15 of the Constitution on the case of the respondents.

"We are informed that this petition was made after most of the selected candidates had taken charge of the posts to which they were appointed. As a result of this judgment we do not direct the Madras Public Services Commission to cancel the selections already made in so far as the candidates selected have already taken charge of their posts. We understand, however, that all the posts have not yet been filled up and there will be no difficulty in considering the petitioner's application on its merits without reference to the Communal Government Order which offends against the provisions of Part III of the Constitution. We therefore direct the respondents to consider and dispose of the petitioner's application for the post after taking it on file on its merits and without applying the rule of communal rotation. The petitioner will be entitled to his costs of this application."

CULTURAL AND EDUCATIONAL RIGHTS—DENIAL OF RIGHT ON GROUND OF CASTE—VALIDITY OF THE MADRAS COMMUNAL GOVERNMENT ORDERS REGULATING ADMISSIONS TO COLLEGES—CONSTITUTION OF INDIA, ARTICLE 29 (2)

THE STATE OF MADRAS *v.* CHAMPAKAM DORAIRAJAN AND THE STATE OF MADRAS *v.* C. R. SRINIVASAN

Supreme Court of India[1]

9 April 1951

The facts. The Madras Communal Government Order No. 2208 of 16 June 1950 laid down rules for the selection of candidates for admission into the medical and engineering colleges substantially reproducing the communal proportion fixed in the old Communal Government Order for Non-Brahmins (Hindus), Backward Hindus, Brahmins, Harijans, Anglo-Indians and Indian Christians and Muslims. Srimathi Champakam Dorairajan made an application to the High Court of Judicature at Madras under article 226 of the Constitution for protection of her fundamental rights under articles 15 (1) and 29 (2) of the Constitution and prayed for the issue of a writ of *mandamus* or other suitable prerogative writ restraining the State of Madras and all officers and subordinates thereof from enforcing the Communal Government Order in regulating admissions into the Madras medical colleges.

Similarly, Sri Srinivasan, who had applied for admission into the Government Engineering College at Guindy, filed a petition in the High Court of Judicature at Madras praying for similar relief as stated above.

The High Court by the same judgment allowed both the applications and the State of Madras filed appeals in both the cases before the Supreme Court. The learned counsel appearing for the State of Madras conceded that these two applicants would have been admitted to the educational institutions they intended to join and they would not have been denied admission if selections had been made on merits alone. The Supreme Court by one judgment disposed of both the appeals (cases Nos. 270 and 271 of 1951).

Held: That the appeals should be dismissed. The Communal Government Order being inconsistent with the provisions of article 29 (2) in part III of the Constitution is void under article 13.

The Court said:

"Article 29, which occurs in Part III of the Constitution under the head 'Cultural and Educational Rights', runs as follows:

" '(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

" '(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.'

[1] Text of the decision in [*1951*] *Supreme Court Journal*, Vol. 14, pp. 313–317. Summary prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi.

"It will be noticed that while clause (1) protects the language, script or culture of a section of the citizens, clause (2) guarantees the fundamental right of an individual citizen. The right to get admission into any educational institution of the kind mentioned in clause (2) is a right which an individual citizen has as a citizen and not as a member of any community or class of citizens. This right is not to be denied to the citizen on grounds only of religion, race, caste, language or any of them. If a citizen who seeks admission into any such educational institution has not the requisite academic qualifications and is denied admission on that ground, he certainly cannot be heard to complain of an infraction of his fundamental right under this article. But, on the other hand, if he has the academic qualifications but is refused admission only on grounds of religion, race, caste, language or any of them, then there is a clear breach of his fundamental right.

". . . The argument is that having regard to the provisions of article 46, the State is entitled to maintain the Communal Government Order, fixing proportionate seats for different communities and if because of that Order, which is thus contended to be valid in law and not in violation of the Constitution, the petitioners are unable to get admissions into the educational institutions, there is no infringement of their fundamental rights. . . .

". . . The Chapter of Fundamental Rights is sacrosanct and not liable to be abridged by any legislative or executive Act or order, except to the extent provided in the appropriate article in Part III. The directive principles of State policy have to conform to and run as subsidiary to the Chapter of Fundamental Rights. In our opinion, that is the correct way in which the provisions found in Parts III and IV have to be understood. However, so long as there is no infringement of any fundamental right, to the extent conferred by the provisions in Part III, there can be no objection to the State acting in accordance with the directive principles set out in Part IV, but subject again to the legislative and executive powers and limitations conferred on the State under different provisions of the Constitution.

"In the next place, it will be noticed that article 16, which guarantees the fundamental right of equality of opportunity in matters of public employment and provides that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State, also includes a specific clause in the following terms:

" '(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.'

"If the argument founded on article 46 were sound, then clause (4) of article 16 would have been wholly unnecessary and redundant. Seeing however, that clause (4) was inserted in article 16, the omission of such an express provision from article 29 cannot but be regarded as significant. It may well be that the intention of the Constitution was not to introduce at all communal considerations in matters of admission into any educational institution maintained by the State or receiving aid out of State funds. The protection of backward classes of citizens may require appointment of members of backward classes in State services and the reason why power has been given to the State to provide for reservation of such appointments for backward classes may under those circumstances be understood. That consideration, however, was not obviously considered necessary in the case of admission into an educational institution and that may well be the reason for the omission from article 29 of a clause similar to clause (4) of article 16.

"Take the case of the petitioner Srinivasan. It is not disputed that he secured a much larger number of marks than the marks secured by many of the non-Brahmin candidates and yet the non-Brahmin candidates who secured less number of marks will be admitted into six out of every 14 seats but the petitioner Srinivasan will not be admitted into any of them. What is the reason for this denial of admission except that he is a Brahmin and not a non-Brahmin. He may have secured higher marks than the Anglo-Indian and Indian Christians or Muslim candidates, but, nevertheless, he cannot get any of the seats reserved for the last mentioned communities for no fault of his except that he is a Brahmin and not a member of the aforesaid communities. Such denial of admission cannot but be regarded as made on ground only of his caste.

"It is argued that the petitioners are not denied admission only because they are Brahmins but for a variety of reasons—e.g., (*a*) they are Brahmins, (*b*) Brahmins have an allotment of only two seats out of 14 and (*c*) the two seats have already been filled up by more meritorious Brahmin candidates. This may be true so far as these two seats reserved for the Brahmins are concerned but this line of argument can have no force when we come to consider the seats reserved for candidates of other communities, for so far as those seats are concerned, the petitioners are denied admission into any of them not on any ground other than the sole ground of their being Brahmins and not being members of the community for whom those reservations have been made. The classification in the Communal Government Order proceeds on the basis of religion, race and caste. In our view, the classification made in the Communal Government Order is opposed to the Constitution and constitutes a clear violation of the fundamental rights guaranteed to the citizen under article 29 (2). In this view of the matter, we do not find it necessary to consider the effect of articles 14 or 15 on the specific articles discussed above."

RIGHT TO EQUALITY—RIGHT TO FREEDOM OF SPEECH AND EXPRESSION—RIGHT TO ACQUIRE, HOLD AND DISPOSE OF PROPERTY—VALIDITY OF BOMBAY PROHIBITION ACT, 1949 (BOMBAY, ACT No. 25 OF 1949)—CONSTITUTION OF INDIA, ARTICLES 14, 19 (1)(*a*) AND 19 (1)(*f*)

THE STATE OF BOMBAY AND ANOTHER *v.* F. N. BALSARA

Supreme Court of India[1]

25 May 1951

The facts. The petitioner filed an application in the High Court of Judicature at Bombay challenging the validity of certain specific provisions of the Bombay Prohibition Act (Bombay Act No. 25 of 1949), as well as of the whole Act itself. The petitioner prayed to the High Court, *inter alia*, for a writ of *mandamus* against the State of Bombay and the Prohibition Commissioner ordering them to forbear from enforcing against him the provisions of the Prohibition Act and to allow him to import, export, possess, conserve and use certain articles—namely, whiskey, brandy, wine, beer, medicated wine, eau-de-cologne, lavender water, medicinal preparations containing alcohol, etc. The High Court, agreeing with some of the petitioner's contentions and disagreeing with others, declared some of the provisions of the Act to be invalid and the rest of the Act to be valid. Both the State of Bombay and the petitioner, being dissatisfied with the judgment of the High Court, appealed to the Supreme Court after obtaining the requisite certificate of the High Court under article 132 (1) of the Constitution. The two appeals were heard by the Supreme Court as appeals No. 182 and 183.

Held: That appeal No. 182, preferred by the State of Bombay, should be substantially allowed while appeal No. 183, preferred by the petitioner, should be dismissed. The Bombay Prohibition Act is valid as the Provincial Legislature in enacting it did not encroach upon the legislative field assigned to the Federal Legislature. Even assuming that the prohibition of purchase, use, possession, transport and sale of liquor will affect its import, the encroachment, if any, is incidental and cannot affect the competence of the Provincial Legislature to enact the law in question. With regard to specific provisions of the Act, the definition of liquor in section 2(24), which includes all liquids containing alcohol, is not *ultra vires*; nor does section 39 violate the principle of equality before the law contained in article 14 of the Constitution by providing for concession to be shown to warships, troopships and military and naval messes and canteens. Rule 67 of the Bombay Foreign Liquor Rules framed under section 143 of the Act cannot be assailed on the ground that it discriminates between foreign visitors and Indian visitors who visit Bombay because though it provides for the case of a foreign visitor there is no prohibition against any other outsider being granted a permit. The provisions of sections 12 and 13 in so far as they restrict possession, buying, selling or consumption of medicinal and toilet preparations containing alcohol are unreasonable and conflict with article 19 (1) (*f*) of the Constitution. Similarly, sections 23 (*a*), 23 (*b*) and 24 (1) (*a*) in so far as they refer to "commending" the use of intoxicants or "incite or encourage" anyone to commit any act which frustrates the provisions of this Act, etc., are void as they conflict with the right to freedom of speech and expression guaranteed by article 19 (1) (*a*) of the Constitution. The Bombay Prohibition Act itself is valid as the provisions which have been declared to be invalid do not affect the validity of the Act.

The Court said:

". . .

"I now come to section 39 of the Act, which has been impugned on the ground that it offends against article 14 of the Constitution, which states that:

" 'The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.'

"The meaning and scope of this article has been fully discussed in the case of Chiranjit Lal Chowdhury *v.* The Union of India and Others,[2] . . .

". . .

"Similarly, Professor Willis, dealing with the Fourteenth Amendment of the Constitution of the United States, which guarantees equal protection of the laws, sums up the law as prevailing in that country in these words:

" 'The guaranty of the equal protection of the laws means the protection of equal laws. It forbids class legislation, but does not forbid classification which rests upon reasonable grounds of distinction. It does not prohibit legislation, which is limited either in the objects to which it is directed or by the territory within which it is to operate. It merely requires that all per-

[1] Text of the decision in [*1951*] *Supreme Court Journal*, Vol. 14, pp. 478–502. Summary prepared by Mr. S. N. Mukerjee, Secretary, Council of States, New Delhi.

[2] Text of the decision in [*1951*] *Supreme Court Journal*, p. 29.

sons subjected to such legislation shall be treated alike under like circumstances and conditions both in the privileges conferred and in the liabilities imposed. The inhibition of the amendment . . . was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation. It does not take from the States the power to classify either in the adoption of police laws or tax laws, or eminent domain laws, but permits to them the exercise of a wide scope of discretion, and nullifies what they do only when it is without any reasonable basis. Mathematical nicety and perfect equality are not required. Similarity, not identity of treatment, is enough. If any state of facts can reasonably be conceived to sustain a classification, the existence of that state of facts must be assumed. One who assails a classification must carry the burden of showing that it does not rest upon any reasonable basis.'

"With these principles in view, I have to decide whether article 14 of the Constitution has been violated by the provisions contained in section 39 of the Act before us. That section runs as follows:

" 'The Provincial Government may, on such conditions as may be specified in the notification published in the Official Gazette, permit the use or consumption of foreign liquor on cargo boats, warships and troopships and in military and naval messes and canteens.'

". . . I find therefore nothing wrong *prima facie* in the Legislature's according special treatment to persons who form a class by themselves in many respects and who have been treated as such in various enactments and statutory provisions. In my opinion, therefore, section 39, in so far as it affects the military and naval messes and canteens, warships and troopships, cannot be held to be invalid. So far as the cargo-boats are concerned, it was contended on behalf of the petitioner that no rational differentiation could be made between them and the passenger boats, and there was no conceivable ground for granting exemption or concession of any kind to the former. Here again, we cannot assume that the Legislature has proceeded arbitrarily. The cargo-boats being slower boats have to be on the sea for long periods, the number of persons affected by the exemption is comparatively small, and they are mostly sojourners who stay at the port for a short time and then go away. These considerations may well have induced the Legislature to show some concession to them, and we cannot say that these are irrelevant considerations. The provision relating to exemption of cargo-boats should therefore be held to be valid.

"I have already referred to section 46, which deals with visitors' permits. That section provides that the Provincial Government may authorize an officer to grant visitors' permits to consume, use and buy foreign liquor to persons who visit the Province for a period of not more than a week. The High Court held this provision to be valid, but it considered rule 67 of the Bombay Foreign Liquor Rules, framed under section 143 of the Act, to be invalid. That rule provides that any foreigner on a tour of India who enters the State of Bombay and desires to possess, use and consume foreign liquor shall apply to certain officers for obtaining a permit, which may be granted for a period not exceeding one month subject to subsequent renewal. The High Court declared this rule to be invalid on the ground that it discriminated between foreign visitors and Indian visitors who visit Bombay from neighbouring provinces. It seems to me that this is hardly a matter which should have been gone into on the petitioner's application, since he claims to be neither a foreigner nor an Indian visitor from another province. But, in any event, the rule cannot be assailed on the ground of discrimination, firstly because though it provides for the case of a foreign visitor there is no prohibition against any other outsider being granted a permit, and secondly, because the policy underlying the rule is quite consistent with the policy underlying section 40 of the Act, which enables permits to be granted to foreigners under certain conditions.

". . .

"I now proceed to deal with a group of sections in regard to which I find myself in agreement up to a point with the views expressed by the High Court. Section 12 of the Act provides *inter alia* that no person shall possess or sell or buy liquor and section 13 provides *inter alia* that no person shall consume or use liquor. Substituting for the word 'liquor' occurring in these two sections the definition of that word as given in clause (*a*) of section 2 (24) of the Act, the effect of these two sections is that no person shall possess, or sell or buy or consume or use 'spirits of wine, methylated spirit, wine, beer, toddy and all liquids consisting of or containing alcohol'. I have already held that under entry 31 of List II, the Bombay Legislature was quite competent to make a law with respect to 'liquor' even as broadly defined. It is, however, contended that the power of making laws has to be exercised subject to the other provisions of the Constitution and in particular to those relating to the fundamental rights guaranteed under Part III of the Constitution. The provisions to which I have referred have been assailed on the ground that they are in conflict with article 19 (1) (*f*) of the Constitution which guarantees that all the citizens shall have the right 'to acquire, hold and dispose of property'. This clause is wide enough to include movable as well as immovable property. The provisions in question undoubtedly prevent a citizen from possessing, selling, buying, consuming or using 'liquor' as defined, and therefore they *prima facie* infringe the fundamental right of the Indian citizens to acquire, hold and dispose of a kind of property, namely, 'liquor' as defined in section 2 (24) of the Act, and as such would be void under article 13. The question to be considered is whether they can be saved by clause (5) of article 19, which runs as follows:

" 'Nothing in sub-clauses (*d*), (*e*) and (*f*) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law, imposing reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any scheduled tribe.'

"The question boils down to ascertaining whether the restrictions imposed by the provisions to which reference has been made are reasonable. In judging the reasonableness of the restrictions imposed by the Act, one has to bear in mind the directive principles of State policy set forth in article 47 of the Constitution:

" 'The State is charged with the duty of bringing about prohibition of the consumption except for medical purposes of intoxicating drinks and of drugs which are injurious to health.'

"That the restrictions imposed by the sections on the right of a citizen to possess or sell or buy or consume or use spirits of wine, methylated spirits, wine, beer, toddy are in view of the aforesaid directive principles of State policy quite reasonable, has not been disputed before us. The controversy has centred round the words 'and all liquids consisting of or containing alcohol'. It is said that those words include all liquid, toilet or medicinal preparations containing alcohol, and the restrictions imposed upon the ordinary use of such toilet or medicinal preparations are unreasonable and therefore void. So far as these preparations are concerned, the High Court has dealt with the matter as follows:

" 'To put it in a simple form, the question to which we have to address ourselves is whether the Legislature can prohibit the legitimate use of an article which ordinarily is not drunk, merely because its use may be perverted for the possible purpose of defeating or frustrating the objects and purposes of the Prohibition Act. Let us take the concrete case of eau-de-cologne or lavender water. Their legitimate use is only for the purpose of toilet. They contain spirit and it may be that an addict deprived of his drink may drink it in order to satisfy his thirst. Is it permissible to the Legislature under such circumstances to deprive the general public of the legitimate use of eau-de-cologne or lavender water as articles of toilet? The Legislature may prevent the abuse of these articles, but can it prevent their legitimate use? It is difficult to understand how any restriction on the legitimate use of these articles can be in the interests of the general public so as to make these restrictions reasonable within the meaning of article 19 (5). If a citizen uses eau-de-cologne or lavender water for the purpose of toilet, he is not doing anything against public interest. It is only when he is perverting their use that it may be said that he is acting against public interest. Therefore, in our opinion, while it was open to the Legislature to provide against the abuse of these articles, it was not open to it to prevent its legitimate use. But the Legislature has totally prohibited the use and possession of all liquids containing alcohol except under permits to be granted by Government. It is contended by the Advocate-General that a citizen may possess eau-de-cologne or lavender water under a permit. But that is a restriction upon the right of the citizen to acquire, hold and dispose of property, and, in our opinion, that restriction is not reasonable. The same argument applies to medicinal and toilet preparations containing alcohol. Therefore we hold that to the extent to which the Prohibition Act prevents the possession, use and consumption of non-beverages and medicinal and toilet preparations containing alcohol for legitimate purposes the provisions are void as offending against article 19 (1) (*f*) of the Constitution even if they may be within the legislative competence of the Provincial Legislature.'

" . . .

". . . I am substantially in agreement with the line of reasoning adopted by the High Court and I consider that the Act is not a law imposing reasonable restrictions so far as medicinal and toilet preparations containing alcohol are concerned. The National Prohibition Act or the Volstead Act of America, to which I have referred, was also an Act relating to prohibition, but toilet and medicinal preparations containing alcohol were expressly excluded from the scope of that Act. I refer to that Act simply to show that a complete scheme of prohibition can be worked without including such articles among those prohibited. Again, article 47 of the Constitution also takes note of the fact that medicinal preparations should be excluded in the enforcement of prohibition. I do not consider that it is reasonable that the possession, sale, purchase, consumption or use of medicinal and toilet preparations should be prohibited merely because there is a mere possibility of their being misused by some perverted addicts.

" . . .

"The next group of sections which the High Court has held to be invalid, are sections 23 (*a*) and 24 (1) (*a*) in so far as they refer to 'commending' any intoxicant, section 23 (*b*) in its entirety, and section 24 (1) (*b*) in so far as it refers to 'inciting or encouraging' any individual or class of individuals or the public generally 'to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, etc.' These provisions run as follows:

" '23. No person shall:

" '(*a*) Commend, solicit the use of, offer any intoxicant or hemp, or

" '(*b*) Incite or encourage any member of the public or any class of individuals or the public generally to commit any act which frustrates or defeats the provisions of this Act, or any rule, regulation or order made thereunder, or . . .

" '24. (1) No person shall print or publish in any newspaper, newssheet, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter:

" '(*a*) Which commends, solicits the use of or offers any intoxicant or hemp, or

" '(*b*) Which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.'

"Sections 23 (*a*) and 24 (1) (*a*), in so far as they refer to 'commending' any intoxicant, are said to conflict with the fundamental right guaranteed by Article 19 (1) (*a*), namely, the right to freedom of speech and expression, and there can be no doubt that the prohibition against 'commending' any intoxicant is a curtailment of the right guaranteed, and it can be supported only if it is saved by clause (2) of Article 19 (2) which, as it stands at present, provides that:

" 'Nothing in sub-clause (*a*) of clause (1) shall affect the operation of any existing law in so far as it relates to, or prevents the State from making any law relating to, libel, slander, defamation, contempt of Court or any matter which offends against decency or morality or which undermines the security of, or tends to overthrow, the State.'

"It seems to me that none of the conditions mentioned in clause (2) applies to the present case, and therefore the provisions in question must be held to be void. Section 23 (*b*) must also be held to be void, because the words 'incite' and 'encourage' are wide enough to include incitement or encouragement by words and speeches and also by acts. The words 'which frustates or defeats the provisions of the Act or any rule, regulation or order made thereunder' are so wide and vague that it is difficult to define or limit their scope. I am therefore in agreement with the view of the High Court that this provision is invalid in its entirety."

States

STATE OF MADRAS

EQUALITY OF WOMEN WITH MEN—PREVENTION OF DISCRIMINATION ON GROUNDS OF SEX—APPLICATION BY GIRL STUDENT FOR ADMISSION TO UNIVERSITY COLLEGE—REJECTION OF APPLICATION—VIOLATION OF CONSTITUTIONAL RIGHTS—CONSTITUTION OF INDIA, ARTICLES 15 AND 29

SANTHA BAI *v.* PRINCIPAL, MAHATMA GANDHI MEMORIAL COLLEGE, UDIPI, AND UNIVERSITY OF MADRAS

High Court of Madras[1]

14 December 1951

The facts. A girl student, Miss S. Santha Bai by name, who had passed her school-leaving examination, applied to the Principal of the Mahatma Gandhi Memorial College, Udipi, for admission to the intermediate class of the college. The Principal refused admission on the ground that the authorities of the Madras University, on the recommendation of an inspection commission, had issued a rule not to admit women students for the intermediate course in the college. Miss Santha Bai filed a petition before the Madras High Court for the issue of a writ of mandamus to direct that she be given admission.

Held: That the writ should issue and that the petitioner's application for admission should be considered without any discrimination on the ground of sex.

The Court said: "If article 15 (1) of the Constitution[2] (prohibiting discrimination on grounds of sex, etc.) stood alone, every college would become a co-educational institution; for if a woman cannot be discriminated against on the ground of sex, a man also cannot be discriminated against on the ground of sex. The result would be that not only a woman would be

[1] Writ Petition No. 341 of 1951.

[2] See the text on p. 147 of this *Yearbook*.

entitled to apply for a seat in a college reserved for men, but a man would also be entitled to apply for a seat in a college reserved for women. To meet this situation and to protect the interests of women, article 15 (3) of the Constitution was enacted. Under article 15 (3) the State can make special provision for women and children. It can provide a separate college for women. It can direct that a minimum number of seats in a college should be allotted to women. It can make other similar provisions to safeguard the interests of women. Article 29 of the Constitution is not in conflict with article 15, for it says that no citizen shall be denied admission in any educational institution on grounds only of religion, race, caste, language or any of them; it does not say that the State can make discrimination on the ground of sex. If permission to make discrimination on the ground of sex is necessarily implied from this clause, it will certainly be in conflict with article 15 (1); for under article 15 (1), no discrimination shall be made against any citizen on the ground of sex. If a provision is made in article 15 (3) safeguarding women's rights by reservation of seats or separate colleges for women, article 29 (2) would be in conflict with that provision, if the word 'sex' is also found in article 29 (2). To avoid that conflict and to safeguard the interests of women the word 'sex' is omitted in article 29 (2). I would, therefore, hold that article 29 (2) will not limit the scope of article 15. To illustrate the combined scope of the two articles, if a boy or a girl applies for admission to a college, he or she cannot be refused admission on the ground of sex only. But the State can make a provision for a separate college for women or allot separate seats for them in a college by reason of article 15 (3). If a boy applies for admission to a women's college, his application can be rejected, as article 29 does not prohibit discrimination on grounds of sex. So construed, the provision of both the articles can be reconciled and full effect can be given to the intention of the framers of the Constitution. I therefore hold that the university, by directing the principal not to admit girls in to the college has violated the fundamental right of the petitioner and she is entitled to relief under article 226 of the Constitution."

INDONESIA

ACT No. 1, OF 6 JANUARY 1951,[1] BRINGING INTO FORCE LABOUR ACT No. 12 OF 1948

SECTION II

WORK BY CHILDREN AND MINORS

Art. 2. Children shall not be employed on work.

Art. 3. If a child of six years or older is found in an enclosed place where work is being carried on, the child shall be deemed to be unlawfully employed on work unless the contrary is evident.

Art. 4. (1) Young persons shall not be employed on work at night.

(2) Exceptions to the prohibition of night work in paragraph (1) may be permitted where the employment of young persons on such work is unavoidable for reasons of public interest or convenience.

(3) The exceptions under paragraph (2) shall be specified by government order, together with such conditions as will safeguard the health of the young persons.

Art. 5. (1) Young persons shall not be employed on work in mines, pits or places where minerals and other materials are extracted from the earth.

(2) The prohibition in paragraph (1) does not apply to cases where young workers must visit underground sections of the mines from time to time in connexion with their duties without being employed there on manual work.

Art. 6. (1) Young persons shall not be employed on work which is dangerous or injurious to their health.

(2) The types of work covered by paragraph (1) shall be specified by government order.

SECTION III

WORK BY WOMEN

Art. 7. (1) Women shall not be employed on work at night except in the case of work which must be performed by women by reason of its nature, location and circumstances.

(2) Exceptions to the prohibition in paragraph (1) may be permitted where the employment of women at night is unavoidable for reasons of public interest or convenience.

(3) The exceptions under paragraph (2) shall be specified by government order, together with such conditions as will safeguard the health and moral welfare of women workers.

SECTION IV

WORKING HOURS AND REST PERIODS

Art. 10. (1) A worker shall not be employed for more than seven hours in the day and forty hours in the week.[2] Where the work is performed at night or is dangerous or injurious to the health of the worker, the hours shall not exceed six in the day and thirty-five in the week.

(2) A worker shall be allowed a break of at least half an hour after every four hours of continuous work; the said break shall not be included in the total of working hours under paragraph (1).[2]

(3) At least one day of rest shall be granted each week.[2]

(4) The types of work which are deemed to be dangerous or injurious to the health of workers, mentioned in paragraph (1), shall be specified by government order.

(5) Further provisions regarding hours of work and rest in certain types of employment may be made by government order where they are considered necessary for the health and safety of the workers.

Art. 11. A worker shall not be employed on the public holidays prescribed by government order unless the nature of the work precludes any interruption on the said holidays.

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[1] Indonesian text in *Statute Book* No. 2 of 1951. Text received through the courtesy of Mrs. Artati Marzuki, First Secretary of Embassy, Member of the Indonesian Mission to the United Nations. English translation of the complete text in: International Labour Office, *Legislative Series 1951*, Indo. 2. The Act was promulgated on 8 January 1951. On the date of the promulgation of this Act regulation No. 4 of 1951 (Statute Book No. 7 of 1951) brought into force regulation No. 7 of 1947, as amended by regulations No. 12 and 13 of 1950. Footnotes to articles of Act No. 1 of 1951 refer to articles of this regulation.

[2] According to regulation No. 4 of 1951, subject to the authorization of the head of the supervisory labour services, an employer may establish a schedule of working hours deviating from these provisions in a plant which is essential for the reconstruction of the State. The Minister of Labour shall establish regulations for the implementation of this and other related provisions.

Art. 12. (1) In cases where there is an accumulation of work which must be finished rapidly (whether this is occasional or recurs at regular periods or seasons) exceptions may be made to the provisions of articles 10 and 11, so however that the working hours shall in no case exceed fifty-four in the week. This provision shall not apply to work which is dangerous or injurious to the health of the workers.

(2) The cases covered by paragraph (1) shall be specified by government order, together with such conditions as will ensure the health and safety of the workers.

Art. 13. (1) A female worker shall not be required to work on the first and second day of the menstruation period.[1]

(2) A female worker shall be allowed leave for one and a half months before the estimated date of confinement and for one and a half months after delivery or miscarriage.

(3) The period of leave preceding confinement may be extended up to not more than three months on production of a medical certificate to the effect that such extension is necessary for safeguarding the health of the woman worker.

(4) Without prejudice to paragraphs (1) and (2) of article 10, a woman worker shall be given adequate time off to nurse her child whenever this must be done during working hours.

Art. 14. (1) In addition to the breaks and leave referred to in articles 10 and 13, a worker who has been continuously employed by the same employer or by two or more employers belonging to the same organization shall be allowed each year a vacation of at least two weeks.

(2) A worker who has been employed for six consecutive years by the same employer or by two or more employers belonging to the same organization shall be entitled to three months' leave.

Art. 15. (1) Without prejudice to paragraphs (1) and (2) of article 10, a worker shall be given adequate time off to perform his religious duties.

(2) A worker shall be released from duty on the first day of May in each year.[2]

[1] Implemented by regulation No. 4 of 1951, article 1.

[2] According to regulation No. 4 of 1951 a worker shall be paid full wages for 1 May. If he cannot be released from the obligation to work because of the nature of his work, he shall be paid overtime wages.

SECTION V

PLACE OF WORK AND HOUSING OF THE WORKER

Art. 16. (1) The workplace and the living accommodation provided for the workers by the employer must fulfil the requirements of hygiene and sanitation.

(2) Detailed provisions as to the hygiene and sanitation requirements mentioned in paragraph (1) shall be made by government order.

(3) The labour inspectors to be appointed by the Minister responsible for labour matters shall have power to issue instructions regarding hygiene and sanitation in workplaces and in the living accommodation provided for the workers by employers.

SECTION VI

RESPONSIBILITY

Art. 17. (1) The responsibility for carrying out the provisions of this law, of the government orders made thereunder and of the instructions issued by the labour inspectors under article 16 (3) shall lie with the employer.

(2) Responsibility under paragraph (1) shall also extend to supervisory employees who have been explicitly instructed by the employer to ensure that the provisions and instructions mentioned in paragraph (1) are observed.

[Section VII contains penal provisions.]

SECTION VIII

INVESTIGATION OF VIOLATIONS

Art. 20. Besides officials who are obliged to investigate violations in general, the supervisory labour officials and persons designated and authorized for that purpose according to this Act are also obliged to investigate violations. They must also safeguard and promote the implementation of the provisions of this Act and of the government regulations issued in connexion with it and the directives referred to in article 16, paragraph (3).

[Section IX contains additional provisions.]

ACT No. 2, OF 6 JANUARY 1951,[1] BRINGING INTO FORCE ACCIDENTS ACT No. 33 OF 1947

SECTION I

GENERAL PROVISIONS

Art. 1. (1) In a benefit-liable undertaking the employer shall be bound to pay compensation in accordance with the provisions of this law to any employee who meets with an accident in connexion with his employment in the undertaking.

(2) Every disease contracted by an employee in connexion with his employment shall be treated as an accident.

(3) Where the employee dies as a consequence of such accident, the above obligation shall apply as regards the employee's surviving relatives.

(4) Where a benefit-liable undertaking is transferred to another employer, the employee and his surviving relatives shall have a claim in virtue of the provisions of this law against the new employer.

Art. 2. (1) The following undertakings shall be benefit-liable undertakings:

(i) Undertakings in which one or more prime movers are in use;

(ii) Undertakings employing liquefied or compressed gases or gases dissolved under pressure;

(iii) Undertakings employing solids, liquids or gases which are at high temperatures or are inflammable, and materials which are corrosive, explosive, poisonous, infected or in any other way dangerous or injurious to health;

(iv) Undertakings for the generation, transformation, distribution or storage of electricity;

(v) Undertakings for the prospecting and getting of minerals;

(vi) Undertakings for the transportation of persons or goods;

(vii) Undertakings involving loading and unloading operations;

(viii) Undertakings involving operations of building and construction, the repair or demolition of works of engineering construction and buildings, underground conduits and roads;

(ix) Forestry undertakings;

(x) Undertakings for radio-transmission;

(xi) Farm undertakings;

(xii) Undertakings for the management of estates;

(xiii) Fishing undertakings.

[Articles 3–9 contain definitions and list the enterprises which shall be obliged to pay compensation. Civil servants, employees in public services, workers protected by accident regulations outside the territory of the Republic of Indonesia and workers employed in their homes, except those working with dangerous materials, are not covered by this Act.]

SECTION II

TYPE AND AMOUNT OF COMPENSATION FOR DAMAGES

Art. 10. The compensation referred to in article 1 shall consist of the following:

(*a*) Free transport for the injured employee to his home or to a hospital;

(*b*) Free medical treatment and hospital care (including the provision of medicines and dressings) from the date of the accident until the end of temporary disability;

(*c*) A sum of 120 rupiahs for the funeral expenses of an employee who dies as a result of an accident;

(*d*) Cash benefit in accordance with the following articles of this chapter.

Art. 11. (1) The employer shall pay cash benefit to any employee who as a result of an accident:

(*a*) Is temporarily disabled (in this case benefit equal to the daily remuneration shall be paid for each day from the date on which the whole or part of the employee's remuneration ceases, for a maximum of 120 days; if the employee is still disabled at the end of 120 days, the daily rate of benefit shall be reduced to 50 per cent of the daily remuneration);

(*b*) Is permanently and partially disabled (in this case benefit amounting to such percentage of the daily remuneration as is shown in the schedule to this Act[2] shall be paid for each day from the date on which benefit under (*a*) ceases and for such time as the employee is partially disabled;

(*c*) Receives permanent injuries not mentioned in the schedule to this Act (in such cases the percentage of the daily remuneration shall be fixed by the supervising officer in agreement with the advisory medical officer in whose area the accident occurred; if there is a difference of opinion, the case shall be decided by the Minister of Labour after consulting the Minister of Health);

[1] Indonesian text in *Statute Book* No. 3 of 1951. Text received through the courtesy of Mrs. Artati Marzuki, First Secretary of Embassy, Member of the Indonesian Mission to the United Nations. English translation of the complete text in: International Labour Office, *Legislative Series 1951*, Indo. 1. The Act was promulgated on 8 January 1951. On the same date the Accidents Regulation of 1947 as amended by regulation No. 18 of 1948 was brought into force by regulation No. 3 of 1951 (*Statute Book* No. 6 of 1951). The Accidents Regulation defines the powers of the Minister for Labour Affairs and supervisors with regard to this Act, determines the formalities to be observed by the management in filing forms with the supervisory officials including the conduct of investigations and some details on responsibility for punishable acts under this regulation.

[2] Not published in this *Yearbook*.

(*d*) Is permanently and totally disabled so that it is impossible for him to do any paid work which he was able to do before the accident (in this case the benefit for each day shall be equal to 50 per cent of the daily remuneration or, if the employee has become dependent on the constant help of another person, to 70 per cent of the daily remuneration; benefit shall be payable from the date on which benefit under (*a*) ceases and for such time as the employee is permanently disabled.

(2) Until such time as the advisory medical officer considers that the partial or total character of the disability under paragraph (1) (*b*), (*c*) and (*d*) has been established, the provisions of paragraph (1) (*a*) shall apply.

(3) Benefit under paragraph (1) (*a*), (*b*), (*c*) and (*d*) shall, unless otherwise agreed by the parties, be paid on the same dates as those on which remuneration was habitually paid.

Art. 12. (1) If an employee dies as a result of an accident his surviving relatives shall receive cash benefit for each day as follows:

(*a*) Thirty per cent of the daily remuneration in the case of a widow or widows entirely or mainly supported by the employee or of a disabled widower entirely or mainly supported by a female employee; if there is more than one widow the benefit shall be divided equally between them;

(*b*) Fifteen per cent of the daily remuneration in the case of each legitimate or legitimated unmarried child under sixteen years; if the child becomes an orphan as a result of the employee's death, benefit shall be equal to 20 per cent of the daily remuneration;

(*c*) An amount not exceeding 30 per cent of the daily remuneration in the case of a parent (or, if the employee has no parent living, a grandparent) entirely or mainly supported by the employee;

(*d*) An amount not exceeding 20 per cent of the daily remuneration in the case of an orphan grandchild entirely or mainly supported by the employee;

(*e*) An amount not exceeding 30 per cent of the daily remuneration in the case of a father-in-law or mother-in-law entirely or mainly supported by the employee.

(2) The total of the benefits for each day under paragraph (1) (*a*), (*b*), (*c*), (*d*), and (*e*), shall not exceed 60 per cent of the daily remuneration and the said benefits shall be subject to the following conditions:

Benefit shall be paid to the relatives mentioned in paragraph (1) (*e*) only if the relatives mentioned in paragraph (1) (*a*), (*b*), (*c*) and (*d*) have received full compensation;

Benefit shall be paid to the relatives mentioned in paragraph (1) (*d*) only if the relatives mentioned in paragraph (1) (*a*), (*b*) and (*c*) have received the full compensation;

Benefit shall only be paid to the relatives mentioned in paragraph (1) (*c*), if the relatives mentioned in paragraph (1) (*a*) and (*b*) have received full compensation.

(3) If the total of the benefits for the relatives mentioned in paragraph (1) (*a*) and (*b*) exceeds 60 per cent of the daily remuneration, the benefits shall be reduced proportionately to the amounts prescribed in the said paragraph for each group of relatives.

(4) Benefit under paragraph (1) (*a*), (*b*), (*c*) and (*d*) shall be payable monthly.

Art. 13. (1) With the permission of the supervisory officer, the periodical benefits under paragraph (1) (*b*), (*c*) and (*d*) of article 11 and paragraph (1) (*a*), (*b*), (*c*), (*d*) and (*e*) of article 12 may be converted into a lump sum if:

(*a*) It can be shown that the employee or the surviving relatives will not be left in need after payment of the lump sum;

(*b*) The employee or the surviving relatives are leaving the territory of the Republic of Indonesia.

(2) The periodical benefits mentioned in paragraph (1) of this article shall be converted into a lump sum if:

(*a*) The employer has died and his heirs have taken possession of the estate under benefit of inventory;

(*b*) The employer, being a legal person, undergoes liquidation.

(3) The lump sum under paragraphs (1) and (2) shall amount to:

(*a*) Forty-eight times the monthly benefit, where periodical benefit has been paid for less than one year;

(*b*) Forty times the monthly benefit, where periodical benefit has been paid for more than one year but less than two years;

(*c*) Thirty-two times the monthly benefit, where periodical benefit has been paid for over two years but less than three years;

(*d*) Twenty-four times the monthly benefit, where periodical benefit has been paid for three years or more.

Art. 14. On the re-marriage of the widow or widower of an employee who has died as a result of an accident, the employer may with the permission of the supervising officer pay a lump sum equal to twenty-four times the monthly benefit instead of continuing the allowance under article 12 (1) (*a*).

SECTION III

EXEMPTION OF THE OBLIGATION TO PAY COMPENSATION, DEFERMENT OF PAYMENT AND MODIFICATION OF COMPENSATION

Art. 15. (1) The employer shall have no liability to pay cash benefit to the employee or the surviving relatives in the following cases:

(*a*) Where the accident was deliberately brought about by the employee;

(*b*) Where the injured employee refuses without good reason to be examined or treated by a competent physician designated by the employer;

(*c*) Where the employee without good reason withdraws prematurely from the treatment mentioned under (*b*);

(*d*) Where by moving to another place, the injured employee makes it impossible for a form of medical treatment required for the recovery of his health to be given by a competent physician designated by the employer.

(2) Reluctance to undergo an operation which in the opinion of the advisory medical officer is a serious operation shall be regarded as a good reason for the purposes of paragraph (1) (*b*) and (*c*).

(3) The periodical benefit payable to an employee who has met with an accident or to his surviving relatives shall be forfeited for any period when the person concerned is serving a sentence of three months' imprisonment or longer, and also for any period when he is an inmate of a government reformatory.

Art. 16. The employer shall have the right to withhold benefit under article 11 (1) (*a*) for a maximum of five days from the date of the accident, if the employee is not receiving care through the undertaking or if no certificate was submitted from a competent physician to the effect that the injured worker was in no condition to work after the accident.

Art. 17. (1) If at the time of the accident the employee was under the influence of alcoholic liquor or drugs, the employer may with the permission of the supervising officer reduce the cash benefit by an amount not exceeding 50 per cent. An appeal may be made within one week to the Minister of Labour against the decision of the supervising officer.

(2) An employer who retains an injured employee in his service with remuneration shall have the right to reduce the benefit under article 11 (1) (*a*), (*b*) and (*c*) by such amount that the new rate of remuneration together with the benefit is equal to the remuneration received by the employee at the time of the accident.

(3) Where, in virtue of the contract of service or an insurance policy taken out by the employer or a scheme in which participation is dependent on or the result of the employment, the employee or the surviving relatives is or are entitled to cash compensation or benefit in respect of an accident met with by the employee in connexion with his employment or to a widow's or orphan's pension the employer shall have the right to deduct such compensation, benefit or pension from the benefit payable under the provisions of the preceding chapter. Such deduction may only be made by the employer with the agreement of the supervising officer; if such agreement cannot be obtained, the Minister shall determine the matter.

Art. 18. (1) Where in a case of permanent disability a substantial change takes place in the degree of disability of the injured employee, the latter or the employer may, before the end of three years from the date of the accident, apply to the supervising officer for a reassessment of the amount of cash benefit fixed under the provisions of chapter II. The supervising officer shall give his decision in agreement with the advisory medical officer; if there is a difference of opinion the Minister of Labour shall decide.

(2) Where a lump sum has been paid, the compensation shall only be liable to review under paragraph (1) if the degree of disability has increased.

(3) No increase of disability which is due to the employee's own fault or to a new accident shall give rise to a review under this article.

SECTION IV

ADMINISTRATION, SUPERVISION AND LEGAL ACTION IN CASE OF DISPUTE

Art. 19. (1) The employer or (where a manager is appointed) the manager shall as soon as practicable (and in every case within forty-eight hours) give notice to the supervising officer or other authority designated by the Minister of Labour of every accident to an employee in his undertaking.

(2) In addition to his obligation under the preceding paragraph, the employer or manager shall be required to notify the inspector by registered letter within forty-eight hours.

(3) Notice of the accident may also be given to the supervising officer by the injured employee, his relatives, his fellow workers or his labour union.

[Articles 20–22 deal with the obligations of the employer or manager in case of accident, the investigations to be conducted by supervisory officials regarding the support, and the powers of these officials in conducting these investigations. Articles 23–26 deal with disputes in the implementation of the provisions of this Act, which shall be resolved by the supervisory officials in a conciliatory manner, and with the powers of the officials to oblige the employers in emergency situations to furnish a certain assistance while awaiting a judicial decision. Sections V and VI contain penal provisions, provisions on civil responsibility and final provisions.]

ACT No. 3, OF 6 JANUARY 1951,[1] BRINGING INTO FORCE LABOUR SUPERVISION ACT No. 23 OF 1948

SUMMARY

Supervision of labour shall be instituted to oversee the operation of Acts and regulations governing labour, collect information on labour relations, and execute other tasks provided by new acts and regulations. The Minister of Labour shall submit annual reports on the results of labour supervision. Officials shall be designated for supervision of labour. They are empowered to enter all places of work and buildings rented or utilized by an employer or his representative for housing and related purposes. Upon request of an official in charge of labour supervision, employers are obliged to supply either orally or in writing whatever information is deemed necessary to formulate opinions regarding labour relations and working conditions in the past and present. Workers may be questioned by the officials without the presence of third parties. Officials shall also establish contact with labour organizations. Officials and their assistants shall keep secret all information concerning an enterprise if this information was obtained in the performance of their supervisory activities.

Penalties are provided for the disclosure of secrets entrusted to officials and for obstructing any action undertaken by officials in the fulfilment of their responsibilities.

[1] Indonesian text in *Statute Book* No. 4 of 1951. English translation of the Act received through the courtesy of Mrs. Artati Marzuki, First Secretary of Embassy, Member of the Indonesian Mission to the United Nations. Summary prepared by the United Nations Secretariat. The Act was promulgated on 8 January 1951.

EMERGENCY ACT No. 16, OF 10 SEPTEMBER 1951, CONCERNING THE SETTLEMENT OF LABOUR DISPUTES[1]

SECTION II

REGIONAL SETTLEMENT

Art. 2. (1) When the parties to a labour dispute have not been able to reach an agreement, an official[2] shall be so notified in writing by one or both of the parties concerned.

(2) This notification shall contain or constitute a request to the official to mediate in the dispute with a view to a settlement.

(3) As soon as the notification referred to in paragraph (1) has been received, the official shall conduct an investigation concerning the dispute and its causes and render mediation in conformity with procedures and precedents set by the regional committee referred to in article 5, paragraph (2).

(4) If the official is of the opinion that a dispute cannot be settled by mediation, he shall refer the case to the regional committee.

Art. 3. (1) Regional committees for the settlement of labour disputes shall be established in towns in specified regions to be determined by the Minister for Labour Affairs.

(2) Members of the regional committee shall be appointed by the Minister for Labour Affairs. A regional committee shall consist of a chairman and representatives from the Ministries of Home Affairs, Economic Affairs, Agriculture, Finance, Communications and Public Works and Power on the recommendation of the respective Minister.

(3) The rules of procedure of the regional committees shall be established by the Minister for Labour Affairs.

Art. 4. (1) If, in a labour dispute, one party contemplates bringing action against another party, the other party and the regional committee shall be notified in writing of the purpose of the contemplated action. Action cannot be instituted less than three weeks after the aforementioned notice has been received by the regional committee.

(2) The receipt of the notice and the date of receipt shall be registered by the chairman of the regional committee and the parties to the dispute shall be notified in writing.

(3) Notification of the contemplated action and the date of receipt of the notification shall be communicated forthwith by the chairman of the regional committee to the Minister for Labour Affairs with a report concerning the regulation referred to in article 5.

[1] Indonesian text in *Statute Book* No. 88 of 1951. English translation received through the courtesy of Mrs. Artati Marzuki, Secretary of Embassy, Member of the Indonesian Mission to the United Nations. Elucidation of the Act in *Appendix to the Statute Book* No. 153 of 1951. This Act was promulgated on 17 September 1951. On the basis of article 16, para. (2) of the Act, regulation No. 63 of 1951 containing rules of procedure of the Central Committee for the settlement of disputes has been issued. (*Statute Book* No. 106 of 1951; elucidation of the regulation in *Appendix to the Statute Book* No. 165 of 1951.)

[2] According to article 1, an "official" refers to officials of the Ministry of Labour Affairs designated by the Minister of Labour Affairs to mediate in labour disputes.

(4) The period of three weeks referred to in paragraph (1) can be lengthened by the Central Committee, if it appears necessary because of the distance or of difficulties of communications to conduct an inquiry according to the provisions of article 10.

Art. 5. (1) The regional committee shall issue a regulation for settlement of the dispute as soon as it has been referred to it, and in the event of a contemplated action by either party, within forty-eight hours after receipt of the notification.

(2) The regional committee shall forthwith conduct inquiries with the parties involved and shall effectuate and guide negotiations between the parties towards the peaceful settlement of the dispute; for this purpose the regional committee may make recommendations, bearing in mind the laws, existing agreements, customs and equity.

(3) Agreements reached as a result of negotiations shall have the legal effect of labour contracts.

Art. 6. If the negotiations do not result in an agreement within one week, the matter shall then be reported to the Minister for Labour Affairs by the chairman of the regional committee with opinions and proposals of the committee together with the reasons preventing the settlement of the dispute.

SECTION III

VOLUNTARY ARBITRATION

Art. 7. (1) The employer and the workers involved in a labour dispute, may, by their own free will or on the recommendations of an official or the regional committee which has rendered mediation services, submit their case for settlement to an arbitrator or an arbitration council.

(2) Submission to the arbitrator or the arbitration council shall be signified by a written agreement between both parties in the presence of the official of the regional committee.

(3) The designation of the arbitrator, or the composition of the arbitration council, and the rules of procedure for arbitration shall be a matter of agreement between both parties. The official who has acted as mediator may also be selected as an arbitrator or, upon request, assist both parties in the selection of an arbitrator, or in the composition of an arbitration council, and in the drafting of the rules of procedure for arbitration.

(4) The decision of the arbitrator or the arbitration council has, after confirmation by the Central Committee, the effect of a legal decision of the Central Committee.

(5) The Central Committee can withhold confirmation only if it is evident that the decision exceeds the jurisdiction of the arbitrator or the arbitration council, or if it embodies elements demonstrative of an evil purpose or which are at variance with Acts concerning public order and good morals.

(6) If confirmation is withheld in accordance with paragraph (5), the consequences of such a measure shall be dealt with by the Central Committee.

Art. 8. No reconsideration of the decision of the arbitrator or the arbitration council is admissible.

Art. 9. The Minister for Labour Affairs shall establish rules of procedure for arbitration if the parties concerned could not reach agreement with regard to these rules.

SECTION IV

INQUIRIES

Art. 10. (1) If a labour dispute endangers the interest of the State or the public interest, settlement by mediation has failed and neither party wishes to submit the dispute to an arbitrator or an arbitration council, the Minister for Labour Affairs may issue a directive to hold an inquiry.

(2) The Minister for Labour Affairs shall determine the composition and terms of reference of the inquiry committee and the time limit within which the inquiry shall be completed.

Art. 11. (1) The inquiry committee shall submit to the Minister for Labour Affairs a report concerning its findings accompanied by its opinion with regard to an eventual solution of the dispute. The Minister for Labour Affairs shall transmit this report to the Central Committee.

(2) The report and opinion of the inquiry committee may be published by the Minister for Labour Affairs.

SECTION V

CENTRAL SETTLEMENT

Art. 12. (1) Labour disputes which cannot be settled regionally, shall be submitted forthwith to the Central Committee by the Minister for Labour Affairs after receipt of the report.

(2) If, on the basis of the reports received by the Minister for Labour Affairs, the Central Committee is of the opinion that the labour dispute involves a very important industry and endangers the interest of the State or the public interest, the Central Committee shall then decide to handle the dispute itself, and shall so notify the regional committee and the parties concerned.

Art. 13. (1) In its efforts to settle a labour dispute the Central Committee is empowered to use all ways and means to evaluate all factors, taking into consideration the laws, existing agreements, customs, equity and the interest of the State.

(2) The Central Committee is empowered to make a decision in the form of a recommendation to the parties to the dispute with a view to their acceptance of a specific settlement or mode of settlement.

(3) The Central Committee is empowered to render a binding decision, when necessary, to terminate a dispute in a very important enterprise, which risks endangering the interest of the State or the public interest, or if the dispute defies settlement, to take a decision in the form of a recommendation.

Art. 14. (1) If necessary for the implementation of a binding decision by the Central Committee or a decision by an arbitrator or an arbitration council, the Djakarta Court of Justice shall declare such a decision as executory if the Central Committee or the interested party so requests.

(2) Thereafter the decision may be executed according to ordinary procedure for the execution of civil judicial awards.

Art. 15. (1) The Central Committee is empowered to submit a dispute to the Minister for Labour Affairs for settlement by:

(*a*) Mediation;

(*b*) A decision in the form of a recommendation to the parties to the dispute.

(2) If the efforts of the Minister for Labour Affairs are not successful, the dispute shall be resubmitted to the Central Committee.

Art. 16. (1) The Central Committee for the Settlement of Labour Disputes consists of the Minister for Labour Affairs as Chairman and the Minister for Economic Affairs, the Minister for Agriculture, the Minister of Finance, the Minister of Communications, the Minister of Justice and the Minister of Public Works and Power as members.

(2) The Central Committee shall be assisted by a secretary and officials to be designated by the Minister for Labour Affairs.

Art. 17. (1) Whosoever is requested to render assistance during investigations for the settlement of disputes by virtue of this Act, is obliged to comply with requests for the examination of books and the exhibiting of necessary letters.

(2) Whosoever is called upon as a witness or an expert is obliged to respond and give information or service, if necessary under oath.

(3) Witnesses and experts called to testify may receive compensation and transportation expenses, according to rules to be determined by the Minister for Labour Affairs.

(4) Whoever in the discharge of his obligation by virtue of this Act has knowledge of confidential information is obliged to keep it a secret unless disclosure is essential to the discharge of his obligations.

[Sections VI and VII contain penal and final provisions.]

IRAN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

No new developments in the field of human rights are to be recorded for the year 1951.

[1]Information received through the courtesy of Dr. A. Matine-Daftary, Senator, Professor in the Faculty of Law of the University of Teheran, President of the Iranian Association of the United Nations.

IRAQ

LAWS OF 1950 AND 1951 CONCERNING THE VOLUNTARY RELINQUISHMENT OF IRAQI NATIONALITY BY IRAQI JEWS

NOTE

1. Act No. 1 of 1950, concerning the voluntary relinquishment of Iraqi nationality,[1] was followed by Acts No. 5 and No. 12 of 1951, and by a number of regulations, announcements and instructions related to the same subject.

2. Act No. 1 of 1950[2] provides that the Council of Ministers may deprive of his Iraqi nationality any Iraqi Jew who, after signing a special form in the presence of the appropriate officer appointed for this purpose by the Minister of the Interior, chooses of his own volition to leave Iraq permanently. An Iraqi Jew who leaves, or attempts to leave, Iraq illegally shall be deprived of his Iraqi nationality by decision of the Council of Ministers. An Iraqi Jew who has left Iraq illegally and who fails to return to Iraq within two months from the date of the coming into effect of this Act shall be considered to have left Iraq permanently and shall be deprived of his Iraqi nationality at the end of this two-month period. The Minister of the Interior shall order the deportation of anyone deprived of his Iraqi nationality in accordance with the provisions of this Act unless the Minister is satisfied that the temporary presence of such person in Iraq is required for judicial or legal reasons or for the protection of the rights of others.

3. On 10 March 1951, Act No. 5 of 1951,[3] for the control and management of properties of Iraqi Jews who have forfeited their nationality, was proclaimed. Under this Act, the properties of persons who have forfeited their nationality shall be frozen, and it shall not be permissible to dispose of such properties in any manner after the coming into effect of this Act, except in accordance with the provisions of this Act and of such regulations as may be issued under it. A Secretariat-General for the control and management of such properties shall be established. The functions and powers of the Secretary-General and the methods of management, preservation, disposal, freezing or clearance of such properties shall be determined by subsequent legislation. Whoever contravenes the provisions of this Act, or of any of the regulations or instructions that may be issued thereunder, shall be liable to imprisonment for not more than two years and/or a fine of not more than 4,000 dinars. After the coming into effect of this Act, any measures of disposal, taken by anyone other than the Secretary-General, of properties belonging to persons who have forfeited their nationality shall be invalid. The decisions of the Secretary-General may be appealed within one month to the Minister of the Interior, whose decision shall be final.

4. Regulation No. 3 of 1951[4] implements article 3 of Act No. 5 of 1951.

5. Act No. 12 of 1951[5] supplements Act No. 5 of 1951; it came into force on the day of its publication in the *Official Journal*. Under its terms, properties of Iraqi Jews who have left Iraq with regular passports since the first day of 1948 shall be frozen and shall be subject to the provisions of Act No. 5 of 1951 and of the regulations issued thereunder. Every Iraqi Jew to whom this Act applies shall return to Iraq within two months from the date of the notice requiring such persons to return to Iraq, which shall be issued by Iraqi diplomatic and consular missions in foreign States in one of the newspapers of the capital of the respective State. Those who fail to return shall be considered to have left Iraq permanently, and shall be divested of Iraqi nationality and subject to the provisions of Act No. 5 of 1951. The properties of those who return before the expiration of the two-month period shall be restored after deduction of administrative expenses which have been incurred.

Under certain conditions, students and sick persons are exempted from this provision. The application of Act No. 5 of 1951 and of this Act is also extended to specified categories of Iraqi Jews who have left Iraq with a regular passport prior to the first day of 1948.

An Iraqi Jew who left Iraq after the expiration of Act No. 1 of 1950, or who leaves or attempts to leave Iraq illegally after the coming into effect of this Act, shall be deprived of his Iraqi nationality on the recommendation of the Minister of the Interior and by a decision of the Council of Ministers. An Iraqi Jew who

[1] See *Yearbook on Human Rights for 1950*, p. 157.

[2] Arabic text of the Act in *Official Journal of the Kingdom of Iraq*, of 9 March 1950. Summary by the United Nations Secretariat. Act No. 1 of 1950 was to remain in operation for one year ending on 8 March 1951.

[3] Arabic text of the Act in *Official Journal of the Kingdom of Iraq*, of 10 March 1951. Summary by the United Nations Secretariat.

[4] Arabic text of the regulation, *ibid.*

[5] Arabic text of the Act in *Official Journal of the Kingdom of Iraq*, of 22 March 1951. Summary by the United Nations Secretariat.

leaves Iraq with a regular passport after the coming into effect of this Act shall be required to return to Iraq within the period indicated in his passport; if he fails to return on the date of expiration, the Council of Ministers may, on the recommendation of the Minister of the Interior, deprive him of his Iraqi nationality, and his property shall then be disposed of in accordance with the provisions of Act No. 5 of 1951. The Minister of the Interior shall order the deportation of every person deprived of his Iraqi nationality in accordance with this Act, unless the Minister is satisfied that that person's temporary presence in Iraq is required for judicial or legal reasons or for the protection of the rights of others.

REGULATION No. 65 ON SCHOLARSHIPS [1]

promulgated on 18 December 1951

SUMMARY

This regulation establishes a special committee for examining applications for scholarships and recommending qualified applicants to the Council of Education which makes the final decision.

Article 2 provides that, in selecting candidates as future teachers, scientists or scholars, the committee shall take the following into consideration: academic standing, professional record, need of the institutes of higher education and of the secondary schools of Iraq for specialists in the respective fields of study, and acceptance by an accredited university or institute of higher education.

Applicants for scholarships for study outside of Iraq must possess a certificate of higher learning; applicants for scholarships for study in Iraq must be qualified for admission to the Teachers Training College or the School of Arts and Sciences.

Article 3 requires that an accepted candidate shall enter into a contractual agreement with the Government and shall secure a warranty in accordance with the standing practices.

[1] Arabic text in *Official Journal of the Kingdom of Iraq*, of 31 December 1951. Summary prepared by the United Nations Secretariat.

IRELAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. LEGISLATION

The following texts promulgated during the year 1951 are related to human rights:

The Tortfeasors Act, 1951. A summary of this Act is published in the present *Yearbook.*

The Criminal Justice Act, 1951. A summary of this Act is published in the present *Yearbook.*

The Arts Act, 1951. A summary of this Act is published in the present *Yearbook.*

The Agricultural Workers (Weekly Half-Holidays) Act, 1951. By this Act (Act No. 13 of 1951), an agricultural employer is directed, under penalty of a fine, to allow to an agricultural worker one half-day with pay in respect of each week worked. The Agricultural Workers (Holidays) Act, 1950, published in the *Yearbook on Human Rights for 1950*, page 158, entitled a worker to annual holidays. The text of Act No. 13 of 1951 is published in: International Labour Office, *Legislative Series 1951*,—Ire. 1.

The Social Welfare Act, 1951. Under the provisions of this Act (Act No. 16 of 1951), the rates of old-age pensions were increased.

[1]This note is based on texts and information received through the courtesy of the Embassy of Ireland, Washington.

II. JUDICIAL DECISIONS

No decisions constituting important developments in the field of human rights are to be reported.

THE TORTFEASORS ACT, 1951[1]

SUMMARY

This Act achieved certain reforms in the common law relating to proceedings against and contributions between tortfeasors, i.e., persons who commit a wrongful act. It is provided:

(1) A plaintiff who has already sued one joint tortfeasor to judgment is not prevented (as was the position in common law) from proceeding against another joint tortfeasor by reason of his previous action; (section 2)

(2) Arising out of (1), a plaintiff who takes separate actions against a number of tortfeasors (whether joint or not) will not be entitled to costs in any action other than the first unless the court is of opinion that there was good reason for bringing separate actions; (section 3)

(3) The jury, or the judge if the action is tried without a jury, may apportion (contrary to common law practice) damages and costs among some or all tortfeasors having regard in particular to the extent to which they were respectively responsible for the injury; (section 4)

(4) Where separate actions are taken against tortfeasors, any tortfeasor who has paid a sum on foot of a judgment against him is entitled to recover from the other tortfeasors a contribution in respect of the sum; (section 5)

(5) The common law rule that an innocent tortfeasor who could not be presumed to have known that he was doing an unlawful act is entitled to seek contribution or indemnity from another tortfeasor upon whose request, inducement or representation he has acted is confirmed with particular reference to (3) and (4) above; (sections 4 (1) and 5 (1) (iv))

(6) The common law rule that contracts of indemnity between tortfeasors are unenforceable unless the party seeking to enforce the contract did not know or is presumed from the surrounding circumstances not to have known that he was doing an unlawful act and was induced to join in doing it by the other party to the contract, is confirmed, notwithstanding the provisions of (3) and (4) above; (section 6 (*c*))

[1]Irish and English texts of Act No. 1 of 1951 and English summary received through the courtesy of the Embassy of Ireland, Washington. The Act came into operation on 1 April 1951.

THE CRIMINAL JUSTICE ACT, 1951 [1]

SUMMARY

The principal provisions of the Act are as follows:

1. The criminal jurisdiction of the district court is substantially increased by empowering it to deal summarily with a wide range of offences. The absolute right of a person accused of any of these offences to a trial by jury is preserved, however. Also a summary trial cannot take place unless the court is satisfied that the offence is in fact a minor one. (Section 2.)

2. If the accused pleads guilty, the district court is empowered to deal summarily with any offence, with the exception only of the offences of treason, murder, attempted murder, conspiracy to murder, and piracy, including an offence by an accessory before or after the fact, provided the Attorney-General does not object. (Section 3.)

3. All courts may, on the accused's request, on his being convicted of an offence, take into consideration any other offence or offences of which he admits his guilt, in determining punishment. The accused may not be subsequently prosecuted for such offences unless the conviction is reversed on appeal. (Section 8.)

4. It is a misdemeanour to obtain by false pretences with intent to defraud anything capable of being stolen. (Section 10.)

5. The Garda Siochana [2] are entitled to:

(*a*) Arrest without warrant on reasonable suspicion of unlawful possession; and

(*b*) Release on bail a person brought into custody and, for that purpose, take recognizance with or without sureties. (Sections 13 (1) and 14.)

6. A person charged before the district court of unlawful possession, must satisfy the court how he came into possession of the property. (Section 13 (2).)

7. The court may, for the purpose of ensuring that the accused will not be prejudiced in his trial, subject to certain conditions, exclude any person or persons with the exception of bona fide representatives of the press from the court, and prohibit or limit the publication of information in regard to the proceedings. (Section 20.)

8. Except in capital cases, the Government may commute or remit in whole or in part, any punishment and vary any forfeiture or disqualification imposed by a court exercising criminal jurisdiction subject to such conditions as may be thought proper. (Section 23.)

[1] Irish and English text of Act No. 2 of 1951 and English summary received through the courtesy of the Embassy of Ireland, Washington.

[2] "Civic guard" (the Irish police force).

THE ARTS ACT, 1951 [1]

SUMMARY

The provisions of the Act establish a body, to be called *An Comhairle Ealaion*, or the Arts Council, with the objects of:

(*a*) Stimulate public interest in the arts;

(*b*) Promote the knowledge, appreciation and practice of the arts;

(*c*) Assist in improving the standards of the arts; and

(*d*) Organize or assist in the organizing of exhibitions (within or without the State) of works of art and artistic craftsmanship.

These objects will be achieved by such means and in such manner as the Council thinks fit. A grant from the *Oireachtas* [2] will be made available each year of an amount to be determined by the *Taoiseach*.[3] The Council shall advise the Government on matters on which their advice is requested and may co-operate with persons concerned with matters relating to the arts, including the acceptance of gifts of money, land and other property, for purposes connected with their functions.

[1] Irish and English texts of Act No. 9 of 1951 and English summary received through the courtesy of the Embassy of Ireland, Washington.

[2] National Parliament.

[3] Prime Minister.

ISRAEL

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

In matters touching upon the sphere of human rights, the year 1951 witnessed the continuation of the process of adaptation which characterized the year 1950. In this process, however, the legislature is no longer the sole factor, and for the first time we have had some important pronouncements on the part of the Supreme Court. At the same time the sociological difficulties involved in implementing some of this legislation, especially when it relates to questions of personal status, in a heterogeneous population have become manifest. This heterogeneity consists not only in differences of religion between Jews and Arabs (themselves Muslims or members of one or other of the Christian communities) but also now in considerable variations in the cultural and social traditions and habits of the Jewish community as a consequence of the policy of the "Ingathering of the Exiles" and the mass immigration from the four corners of the earth, which this policy has engendered. Israel's experience in these matters is confirming the inadequacy of law alone as a vehicle of expression for the national ideal in the matter of human rights, and is emphasizing the corresponding importance of education to the privileges and duties of modern citizenship.

The legislative process itself is the product of complicated initiatives. Some legislation represents the translation into domestic law of standards internationally defined in international treaties to which Israel has become party during the year. In this category comes the legislation designed to give effect to the International Labour Conventions. In themselves, these pieces of domestic legislation do not constitute any particular contribution to the general theory of human rights and little point is seen in repeating their texts here. This is not to minimize in any way the importance of this legislation, which tends to give a suitable basis for many kinds of human rights. Included in this category may be mentioned the Night Baking Prohibition Law, 5711–1951[2] designed to implement the Convention concerning night work in bakeries, adopted by the International Labour Conference in 1925, the Hours of Work and Rest Law, 5711–1951[3] designed to implement the Convention of 1919 limiting the hours of work in industrial undertakings to eight in the day and forty-eight in the week, and the Annual Leave Law, 5711–1951.[4] Other legislation—and this possesses a more intrinsic interest—is the fruit of deliberate policy. The most important of the laws entering this category passed in the year under review, is the Women's Equal Rights Law, 5711–1951,[5] which is designed to secure to the woman equality before the law with the man. In so far as this law relates to ordinary civil rights and duties, it is straightforward. But in so far as it refers to matters of personal status, which, as has been mentioned in our previous surveys,[6] is regulated by the religious courts of the various recognized religious communities, the secular legislator did not feel justified in interfering with the substantive provisions relating to marriage and divorce contained in the religious law. Here, as before, he enlisted the criminal law in order to deter the exercise of rights granted by ancient religious law, when the exercise of those rights is no longer considered compatible with the requirements of modern society. On the other hand as to other matters of personal status, the law gives an option to the parties who are of full age (eighteen years or over) to have their case tried by the religious law in lieu of this law. The Women's Equal Rights Law should be read in conjunction with the Age of Marriage Law, 5710–1950.[7] Both these laws represent the translation into the legal sphere of the sociological situation actually existing in the country.

In the sphere of political rights and duties, it is important to mention three laws, two of which are permanent and one of ephemeral interest. The State President (Tenure of Office) Law, 5712–1951[8] deals

[1] Note prepared by Mr. Shabtai Rosenne, Legal Adviser, Ministry for Foreign Affairs. For previous surveys see *Yearbook on Human Rights for 1948*, p. 117; *for 1949*, p. 122; and *for 1950*, p. 161.

[2] *Reshumot*, *Sefer haHukkim* No. 69, of 30 Adar Alef 5711 (27 February 1951), p. 61. In due course an authorized translation into English of the annual volumes of laws will be published by the Ministry of Justice in Jerusalem. Some of the more important laws are included in the *Government Annual*, which appears in September of each year in Hebrew and in English. See the complete text of the law in: International Labour Office, *Legislative Series 1951*—Isr. 1.

[3] *Reshumot*, *Sefer haHukkim* No. 76, of 16 Iyar 5711 (22 May 1952), p. 204. English translation in *Government Yearbook* 5711 (1951–52), p. 219.

[4] *Reshumot*, *Sefer haHukkim* No. 81, of 7 Tammuz 5711 (11 July 1951), p. 234. English translation in *Government Yearbook* 5711 (1951–52), p. 225 and in: International Labour Office, *Legislative Series 1951*—Isr. 2.

[5] See below, p. 185.

[6] See *Yearbook on Human Rights for 1949*, p. 126; *idem*, *for 1950*, p. 161.

[7] See *Yearbook on Human Rights for 1950*, p. 166.

[8] *Reshumot*, *Sefer haHukkim* No. 86, of 6 Kislev 5712 (5 December 1951), p. 6. English translation in *Government Yearbook* 5713 (1952–53), p. 212.

with the modalities of the election of the President, and with his rights, duties and exemptions. It is noteworthy that no restrictions as to age, sex, nationality, race or religion are imposed. The President is elected by the Knesseth voting in secret ballot and holds office for five years from the day he assumes his functions. He shall hold no other office save with the sanction of the competent Knesseth committee. The Knesseth (Immunity, Rights and Duties) Law, 5711–1951[1] grants Knesseth members immunity from civil or criminal process in respect to acts done in the performance of their duties, immunity from search, arrest, persecution, regular compulsory military service (but not from reserve service) and various rights and privileges. Among the prohibitions contained in the law is that relating to the holding of offices in commercial concerns which have obtained concessions from the State by ex-Ministers within three years from the expiration of their term of office. The Second Knesseth Election Law, 5711–1951[2] gave the right to vote to all persons lawfully in the country and registered as residents of the age of nineteen years or over, and the right to be elected to persons of similar qualification, of the age of twenty-two years or over, except for State judges, who were disqualified as candidates. The elections themselves were universal, direct, equal, secret and proportional, and were held in the whole of Israel, which was treated as a single area for the purpose of the results of the elections, on the same date. Generally speaking, the law followed the precedent of the earlier ordinance, with, however, some significant changes. Among these may be mentioned the special provisions for the holding of elections, and the conducting of election meetings, in the immigrant camps.

In the Knesseth itself several important developments having a bearing upon the subject we are discussing took place. Three in particular deserve mention. In the first place, the device of proposing motions for the agenda has been formally regulated. It permits brief debate upon any subject to which the responsible Minister replies, and if the Knesseth decides to take the matter on its agenda, the normal parliamentary procedure is then pursued. This permits the airing of grievances, and also occasions a ministerial statement. Secondly, the device of question-time has now been regularized. Ministers must answer questions orally, and the questioner is permitted to put a short supplementary question arising out of the reply. Thirdly, the Knesseth has also determined the procedure for parliamentary commissions of inquiry. The Knesseth meetings are open to the public; accounts of the proceedings are given in the press and on the radio, and a verbatim report is also published.

The contribution of the Supreme Court to the legal formulation of the basic conceptions of human rights continues to be significant, and it follows the path noted in previous years. The Supreme Court continues to be an effective guardian o fthe individual who feels that his legal rights have been infringed by the Government. It is furthermore performing an important service in re-adapting—within the limits of judicial power—the mandatory precedents to the requirements of an independent State. Particularly valuable to the general public are its restatements of legal principles and doctrines, which hitherto existed mainly in English, in the Hebrew language.

[1] *Reshumot, Sefer haHukkim* No. 80, of 29 Sivan 5711 (3 July 1951), p. 228; English translation in *Government Yearbook* 5713 (1952–53), p. 221.

[2] *Reshumot, Sefer haHukkim* No. 74, of 13 Nisan 5711 (19 April 1951), p. 110; English translation in *Government Yearbook* 5712 (1951–52), p. 241. The Constituent Assembly Elections Ordinance, 5709–1948 (see *Yearbook on Human Rights for 1948*, p. 117, *idem, for 1949*, p. 125) only regulated the elections to the First Knesseth. The present law, despite its name, will also regulate elections to the Third Knesseth and any subsequent Knesseth if no other law is enacted in the meantime.

LEGISLATION

SECOND KNESSETH ELECTIONS ACT, 1951[1]

PART I

FUNDAMENTAL PROVISIONS

1. Every person born in or before the year 1932 and, on 23 Adar Alef 5711 (1 March 1951), registered as a resident under the Registration of Inhabitants Ordinance, 5709–1949, not being a person who entered Israel illegally, is entitled to vote for the Second Knesseth.

2. Every person born in or before the year 1929 and, on the date of submission of a candidates' list including his name, registered as a resident under the Registration of Inhabitants Ordinance, 5709–1949, not being a person who entered Israel illegally, is entitled to be elected to the Second Knesseth.

6. (*a*) The elections to the Second Knesseth shall be universal, direct, equal, secret and proportional, and shall be held in the whole territory of Israel on the same date.

[1] Hebrew text in *Sefer haHukkim* No. 74, of 13 Nisan 5711 (19 April 1951). The Act was passed by the Knesseth on 6 Nisan 5711 (12 April 1951). English translation in *Government Yearbook* of the State of Israel 5712 (1951–52), pp. 241–254. Extracts from the Constituent Assembly Elections Ordinance of 18 November 1948 are published in *Yearbook on Human Rights for 1948*, pp. 117–118.

(*b*) The voting shall be for candidates' lists published in accordance with the provisions of section 28.[1]

(*c*) A voter may vote only in the polling station whose voters' list includes his name, and only upon his identifying himself in accordance with the provisions of section 33.

7. Elections' day shall be a public holiday, but transport and other public services shall operate as usual; on that day and from 7 o'clock in the evening of the previous day, no election propaganda shall be conducted by means of meetings, processions, loud-speakers or wireless broadcasts.

. . .

[Part II deals with elections boards, part III with voters' lists and part IV with candidates' lists.]

PART V

VOTING AND COUNTING OF VOTES

. . .

33. (*a*) A person desiring to vote shall identify himself to the polling board.

(*b*) Only an identity book issued in accordance with the provisions of the Emergency (Registration of Inhabitants) Regulations, 5708–1948, or an identity certificate issued in accordance with the Registration of the Population Ordinance, 5709–1949, shall serve as means of identification.

(*c*) When a person has voted, the polling board shall impress on his identity book or identity certificate a stamp testifying that he has voted for the Second Knesseth, shall punch a hole in the identity book or identity card, and shall delete the voter's name from the voters' list.

34. (*a*) A person shall vote in the following manner: in a booth which shall conceal the voter from the sight of any other person, the voter shall place a voting-slip in a non-transparent envelope given him by the polling board. The voter shall put the envelope inside the polling box in full view of the polling board.

(*b*) A person who, by reason of illness or physical defect is unable to vote by himself, may bring another person with him for the purpose of helping him to vote.

35. (*a*) Voting-slips shall be printed according to a specimen approved by the Central Elections Board and shall bear the letter, or the letter and the title, of the respective lists, and nothing else.

(*b*) A candidates' list may add to the Hebrew letter and title[2] of the list the Arabic letter and title approved by the Central Elections Board as corresponding to the Hebrew letter and title, and the voter may use a voting-slip in Hebrew only or in Hebrew with the Arabic translation.

. . .

[Part VI deals with elections' results.]

PART VII

ELECTION PROPAGANDA

. . .

52. (*a*) The Central Elections Board shall recommend to the commissioners in charge of areas in which freedom of movement is restricted under the Defence (Emergency) Regulations, 1945, or the Emergency (Security Zones) Regulations, 5709–1949, which canvassers of the groups represented in the First Knesseth and of the candidates' lists ought to be given permits for free movement in such areas; such recommendations shall be made in accordance with the proposals of the representatives of the said groups and lists; the commissioners shall grant such permits, which shall be valid from the 52nd day before, until the day following, elections' day.

(*b*) The freedom of members of polling boards and of observers under section 15 (*d*) within the area of their duties on elections' day, the freedom of written and oral propaganda, and all other election arrangements, in the area mentioned in sub-section (*a*) shall be the same as in all other areas of the territory of Israel.

(*c*) Restrictions on freedom of movement in the areas mentioned in sub-section (*a*) shall not apply to members of the Central Elections Board or to members of the regional elections boards within the area of their duties, from the date of the commencement of this law until the day following elections' day.

PART VIII

. . .

55. (*a*) Election propaganda in writing shall be permitted amongst soldiers as amongst civilians, provided that:

1. No such propaganda shall be addressed exclusively to soldiers;

2. No propaganda material shall be affixed or hung in any army camp otherwise than as provided in sub-section (*b*).

(*b*) One board shall be erected in the centre of each army camp, and any person who has submitted a candidates' list in accordance with the provisions of this

[1] Section 28 reads as follows: "The Central Elections Board shall, not less than 14 days before elections' day, publish in State Records the candidates' lists as confirmed by the Board or by the Supreme Court under section 27; the publication shall indicate the title and letter of each list."

[2] According to section 24 every candidates' list shall bear a title and a letter, or two letters, of the Hebrew alphabet so as to distinguish it from other candidates' list.

law may affix thereon his election programme, a copy or extract of such candidates' list and announcements of election meetings convened by him; such boards shall be supplied to the army authorities by the Central Elections Board with the election programme of the lists and copies or extracts of the candidates' lists already affixed thereto.

(*c*) Oral election propaganda in public, in whatever form, shall be prohibited in army camps.

(*d*) During the two months immediately preceding elections' day, no instructional activities shall take place in any army camp other than on military, technical or scientific topics or other than Hebrew language courses.

(*e*) In this part, "army camp" includes any camp or post and any other area or place used solely by the Defence Army of Israel.

56. The General Staff shall issue instructions that, so far as military exigencies permit, soldiers shall be granted leave enabling them to participate in election meetings.

57. The Chairman of the Central Elections Board, or a member thereof authorized by the Board, may, on the conditions prescribed by the Board, visit any army camp for the purpose of ascertaining whether the provisions of this law have been complied with in such camp.

[Part IX deals with offences and part X contains miscellaneous provisions.]

WOMEN'S EQUAL RIGHTS ACT, 1951[1]

1. A man and a woman shall have equal status with regard to any legal proceeding; any provision of law which discriminates, with regard to any legal proceeding, against women as women, shall be of no effect.

2. A married women shall be fully competent to own and deal with property as if she were unmarried; her rights in property acquired before her marriage shall not be affected by her marriage.

3. (*a*) Both parents are the natural guardians of their children; where one parent dies, the survivor shall be the natural guardian.

(*b*) The provisions of sub-section (*a*) shall not derogate from the power of a competent court or tribunal to deal with matters concerning the guardianship over the persons or property of children, having regard only to the interests of the children.

4. (*a*) Notwithstanding anything contained in any other law, rights in an estate, being *mulk* land or movable property, shall be determined in accordance with the provisions of the Second Schedule to the Succession Ordinance.[2]

(*b*) The provisions of sub-section (*a*) shall apply to any estate the order for the distribution of which is made after the coming into force of this law, even if the deceased died before such coming into force.

(*c*) The provisions of sub-section (*a*) do not apply to such items of an estate as are disposed of by will.

5. This law shall not affect any legal prohibition or permission relating to marriage or divorce.

6. This law shall not derogate from any provision of law protecting women as women.

7. All courts shall act in accordance with this law; a tribunal competent to deal with matters of personal status shall likewise act in accordance therewith, unless all the parties are eighteen years of age or over and have consented before the tribunal, of their own free will, to have their case tried according to the laws of their community.

8. The Criminal Code Ordinance, 1936,[3] shall be amended as follows:

(*a*) Paragraph (*c*) of the proviso to section 181 is repealed;

(*b*) The following section shall be inserted after section 181:

"181A. Where the husband dissolves the marriage against the will of the wife without a judgment of a competent court or tribunal ordering the wife to dissolve the marriage, the husband is guilty of a felony and shall be liable to imprisonment for a term not exceeding five years."

9. The Minister of Justice is charged with the implementation of this law.

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[1] Hebrew text in *Sefer haHukkim* No. 82, of 22 Tamuz 5711 (26 July 1951), p. 248; English translation received through the courtesy of Mr. Shabtai Rosenne, Legal Adviser, Ministry for Foreign Affairs. The law was passed by the Knesseth on 13 Tamus 5711 (17 July 1951). The bill and an explanatory note were published in *Hatza 'ot Chok* No. 75, of 3 Iyar 5711 (9 May 1951), p. 190.

[2] *Laws of Palestine*, Vol. II, cap. 135, p. 1378 (English edition).

[3] *Palestine Gazette* No. 652, of 14 December 1936, suppl. I, p. 285 (English edition).

JUDICIAL DECISIONS

MANDATE FOR PALESTINE BEING INTERPRETED BY COURT OF STATE OF ISRAEL—PROVISION FORBIDDING DISCRIMINATION ON GROUNDS OF RACE, RELIGION OR LANGUAGE—PROVISIONS FORBIDDING RESTRICTIONS ON FREEDOM OF CONSCIENCE—MEANING OF DISCRIMINATION—MEANING OF FREEDOM OF CONSCIENCE—POLYGAMOUS MARRIAGES PERMITTED IN CERTAIN CIRCUMSTANCES BY RELIGIOUS LAW—PROSECUTION FOR BIGAMY —LAW OF ISRAEL

YOSIPOF *v.* ATTORNEY-GENERAL

Supreme Court[1]

29 March 1951

The facts. Appellant had been convicted of bigamy, an offence contrary to section 181 of the Criminal Code Ordinance, 1936, as amended. Appellant was a Jew, a member of the Caucasian Jewish community, and in 1938 he married X. This marriage is still subsisting. In 1940, with the consent of the rabbinic authorities in Jerusalem, he married Y. The consent of the rabbinic authorities was obtained on the basis of false evidence. He was subsequently convicted of bigamy in the district court. Section 181 of the Criminal Code Ordinance, 1936, provided: "Any person who, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, is guilty of a felony . . . termed bigamy". It then goes on to describe three defences. The words "in any case . . . or wife" were introduced by the legislator in order to accommodate the law to the provisions of the Islamic religious law which permits polygamy. However, Jewish religious law also, in certain circumstances, permits polygamy, a fact which had been overlooked by the draughtsman, and it was later judicially established that section 181 does not preclude this. Consequently, in 1947, section 181 was amended to read: "Any person who, having a husband or wife living, marries any other person during the life of such husband or wife (whether or not the subsequent marriage is void or voidable) is guilty of the felony of bigamy . . . Provided that it is a good defence . . . to prove . . . (*d*) that the law as to marriage applicable to the husband at the date of the subsequent marriage was Jewish law and that a final decree of a rabbinical court . . . ratified by the two Chief Rabbis for Palestine and giving permission for the subsequent marriage, had been obtained prior to the subsequent marriage." Article 17 (1) (A) of the Palestine Order in Council 1922–39 provided that the High Commission should have full power and authority . . . to promulgate such ordinances as may be necessary for the peace, order and good government of Palestine, "provided that no Ordinance shall be promulgated which shall restrict complete freedom of conscience and the free exercise of all forms of worship, save in so far as is required for the maintenance of public order and morals; or which shall tend to discriminate in any way between the inhabitants of Palestine on the ground of race, religion or language". This provision has its origin in article 15 of the mandate, of which it is an almost literal copy. On behalf of the appellant it was argued that section 181 of the ordinance, in its amended form, interfered with freedom of conscience and was discriminatory against Jews, and therefore void.

Held: The appeal must be dismissed and the conviction sustained.

Per Landau, J. "First it must be pointed out that article 17 (1) (A) does not state, in general terms, that all discrimination is forbidden, but it delimits discrimination under three heads: race, religion or language. Does section 181 recognize religion as a distinctive element? The matter gives rise to some doubt. The mandatory courts recognized Jewish law as the 'national law' of Palestinian Jews. We do not think that by referring to Jewish law in the amended section 181 the mandatory legislator was intending to limit this phrase only to Jews who were officially members of the Jewish Community. He intentionally created a special category of persons, distinguished by their personal law. True, in so far as concerns article 17 (1) (A) of the Order in Council, this does not change the situation much, for if the distinguishing feature of section 181 is not religion, we are forced to the conclusion that it is race, or a mixture of race and religion . . .

[1] Report: *Piskei Din* (Official Law Reports), Vol. 5 (1951), p. 481. Summary prepared by Mr. Shabtai Rosenne, Legal Adviser, Ministry for Foreign Affairs. This summary will also appear in the *Annual Digest and Reports of Public International Law Cases* and is published in this *Yearbook* with the permission of Professor H. Lauterpacht, editor of the *Annual Digest* and Messrs. Butterworth and Co. (Publishers), Ltd., London, whose courtesy is gratefully acknowledged.

"What is the true meaning of 'discrimination' as it appears in article 17 (1) (A)? Etymologically speaking, the English meaning is 'setting apart', and the discrimination may be favourable or unfavourable. But sociologically speaking the word has a somewhat narrower meaning." The judge here quoted from page 131 of volume 14 of the *Encyclopaedia of Social Sciences* (New York, 1948) and went on:

"These ideas are not purely legal ones. They are common to all peoples having a democratic tradition, and therefore we do not hesitate to quote from an American non-legal source. Here we see that the distinguishing feature of discrimination is unequal and unfair treatment of certain classes of persons. This was the attitude adopted also by the mandatory judges, see Attorney-General *v.* Altshuler (A.D., 1927–28, Case No. 33). Cf. also Exodus 8:18 and 11:7 for this meaning of 'setting apart' . . .

"We have said that discrimination means setting apart, favourably or unfavourably. Article 17 (1) (A) does not prevent a different legislative solution for different classes of persons, on condition that such solution contains no element of 'discrimination'. Other legislation, for example, takes account of differences of language. Would it occur to us to say that there is here discrimination simply because, objectively speaking, there is no uniformity? To the contrary: this is rather a practical way of securing equality of status for each of the three official languages. Similarly in regard to marriage. The mandatory legislator decided that the time had come to make bigamy a criminal offence. He had two ways of doing this: either by issuing a general prohibition applicable to all the religious communities, or by effecting a compromise between his basic premise as to the undesirability of bigamy and the sociological realities of the country. Counsel for the appellant did not deny that legally the first method was possible, but he argued that the method of establishing different rules of law for different communities was improper. We cannot agree to this. A legislator does not work in a vacuum, but in an existing social milieu for which he has to create legal forms and even to mould future legal developments. As for marriage, the legislator had, as his 'raw material' a multifarious pattern of fundamental ideas deriving from the heterogeneity of the population, each part of which had its own laws and customs. How can it be said that the mandatory legislator infringed the non-discrimination rule simply because, instead of riding rough-shod over the realities, he attempted to accommodate himself to them? More than this. Here we are not dealing with a difference of realities alone, but with a difference which had been clothed in legal form even before the mandatory legislator commenced his work." Here the judge traced the system through to that in force in the days of the Ottoman Empire, and concluded: "The Mandatory legislator was fully consistent, and when he drafted section 181, not on the basis of uniformity but on that of heterogeneity, he was working on lines laid down long before.

"Counsel for the appellant was, however, right in saying that ultimately the test must remain an objective one. The legislator's aims may be unobjectionable, yet he may fail, because his solution may operate unfairly on certain classes, and thus discriminate against them. For this reason we are obliged to examine the details of his enactment, and if it established that, reduced to fundamentals, the legislator did not enact a discriminatory law, we will uphold his enactment . . ."

After establishing, subjectively and objectively, that the law was not discriminatory, the judge went on to consider the argument that it nevertheless conflicted with the provisions relating to freedom of worship—which was found not to arise—and freedom of conscience.

"This is a concept of ethics, which is concerned with good and evil. A man can derive his conception of good and evil from sources which are not religious. However, for a religious man, his conscience is guided by the injunctions of his religion. Consequently we accept the assumption that the concept of freedom of conscience requires, to be complete, also freedom of religion.

"In this context it was argued for the appellant that the mandatory legislator trespassed into the sphere of religion, for according to the Order in Council marriage is a religious institute. Freedom of conscience means freedom to live according to the injunctions of religion. Jewish religious law permits polygamy at least in certain communities which did not receive a certain tenth century rabbinic enactment forbidding polygamy known as the Herem di Rabbi Gershom. These were the oriental Jewish communities, of one of which the appellant was a member . . . It is immaterial whether the appellant belongs to one of these communities because the test must be an objective one. And if section 181 infringes the religious customs of any single community, it is void . . .

"We do not think that the concept of freedom of conscience is restricted to freedom of thought. A man who enjoys freedom of conscience cannot be denied the right to practice the dictates of his conscience. The proviso to article 17 (1) (A) relating to public order is sufficient to prevent detrimental activities which it might be sought to justify on the plea of freedom of conscience. Even Shanti *v.* Attorney-General (A.D., 1936–7, case No. 31) does not go so far as to restrict freedom of conscience to metaphysical ideas alone."

After rejecting, on various grounds, the arguments put forward on behalf of the appellant, the judge concluded:

"Infringement of freedom of religion can only exist where a religion demands or forbids a certain thing, and the secular legislator compels an infringement of the religious injunction. One cannot talk of infringement of freedom of religion when one is speaking of

acts which the religion merely permits, without there being any question of such acts being in the nature of a positive (or negative) injunction of that religion . . ."

Per Silberg, J. "I cannot accept the argument (of the Attorney-General) that the protection of freedom of conscience is restricted to freedom of thought. Metaphysical ideas cannot be punished, nor subjected to any other sanction, and therefore do not need protection. From this it follows that the freedom of conscience protected by the legislator must include acts and deeds, the product of the conscience, provided only that they do not exceed the proper limits of individual behaviour on the part of those that perform them. If, however, they do exceed these limits, then the law can take cognizance of them, as of any other act. The question here is whether section 181 infringes the freedom of conscience of the individual. I can restrict this question further: does the section infringe the individual freedom of conscience of the appellant, in the circumstances with which we are seized . . .?

"How, then, is the freedom of conscience likely to be infringed?

"There is no doubt but that freedom of conscience includes freedom of religion. But before any prohibition of the law can be regarded as infringing freedom of religion, it is not sufficient to prove that the religion does not forbid a certain act. It is necessary to go further and prove that the act considered a crime is a positive injunction in the eyes of the religion, which demands its adherents to perform it. Not everything permitted by religion has to be permitted by the law, for the two concepts are not co-terminous. Religion is concerned with man's attitude to God and man's attitude to his fellows: whereas the law concerns a man's relations with the State.

"Looked at in this light, we do not need to see to what extent polygamy is permitted for certain Jews by Jewish law. The constitutional validity of section 181 will not be diminished one jot if we are to assume . . . that the Herem di Rabbi Gershom (*supra*) does not apply to Jews coming from Caucasia. There is no need for us to probe into this very interesting question of Rabbinic law . . . The correct way of putting the question therefore is: does Jewish religious law compel polygamy, or not?" The judge here dealt with the appellant's contention that rabbinic law as applied to and by Caucasian Jews does compel polygamy, a contention which he rejected. "Without going into the question of the proper interpretation of article 17 of the Order in Council, that is to say, whether it prohibits the enactment of legislation *a priori* designed to infringe religious injunctions, or whether it also voids any law likely, in certain circumstances, to prevent the performance of some religious duty—without going into this question, the language of section 181 gives a clear and simple answer to the appellant's arguments, for it contains within itself provisions intended to prevent all conflict between the law and religion, by providing, in sub-section (*d*) a special method of resolving such conflicts . . ."

The judge then went on to deal with the appellant's argument that with reference to the proviso regarding public order and morals, in article 17 of the Order in Council, the word "public" means "all the public" and not any part of it. "I do not know on what this theory is based, and particularly whether it has or had any place in the conditions existing under the mandate. To me it seems that when you have a heterogeneous, culturally mixed population such as that of mandated Palestine, it is quite easy to imagine that a particular law is necessary for the preservation of order in one only of the several sectors of population found in the country. It is hard to conceive that this is not so. The word 'order' does not merely mean an absence of disturbances. It also includes preservation of patterns of living and certain cultural values in which that particular sector of the population is interested. That being so, the amendment to section 181, which was enacted in response to the pressure of Jewish public opinion, is valid and unobjectionable, on any interpretation of article 17 . . ."

From here the judge passed to the plea of discrimination, and he pointed out that article 17 forbids all discrimination, whether or not it is necessary for the preservation of public order. He summarized the appellant's argument as being that according to section 181, bigamy is lawful for Muslims and forbidden to Jews and Christians, from which it follows that the law discriminates on religious grounds between one person and another. "There is no complaint that as bigamy is lawful for Muslims, therefore the law discriminates in their favour, because it was not made lawful for Muslims by this legislative act, but was always lawful even before the enactment of the law. The real complaint is that section 181 prohibits bigamy for Jews even more than it does for the adherents of other faiths, for it is prohibited even where the religious law permits it. In that sense section 181 is discriminating against Jews. Even so it is not clear whether the complaint is of racial or religious discrimination." The judge analysed section 181 and found:

"Section 181 postulates the conviction and punishment not on the racial association of the accused, nor on his religious tenets, but on a third test, different from these, namely: the legal system by which his marriage was governed. The difference in the legal treatment laid down for all others is that for a man not governed by Jewish law it is sufficient to prove, even at the trial itself, that his personal law permitted him more than one wife, whereas a man who is governed by Jewish law must prove that before he contracted his second marriage he obtained a certain certificate which established that he, individually, is permitted to take a second wife . . . This is where the plea of discrimination falls away completely. This can be

better explained when we consider the special place assumed by the concept of personal status in the general civil law of the country.

"The legislator, as is well known, discarded his authority to determine new rules of law in matters of personal status and, in general, conferred this authority, whether in matters of procedure or in matters of substance, on the religious laws of the various religious communities . . . The question arises as to the effect of this. Did the legislator leave here, from a legislative point of view, a vacuum to be filled by foreign legal norms having no part in his legal system? Or is it more correct to say that the legislator accepted into his own legal system those legal norms, which thereby became an integral part of his—civil—legal system? As we shall see, this is not a theoretic and academic question.

"Whatever the position before 1945, the Interpretation Ordinance of that year sets the matter at rest by providing, in section 2, that 'law' includes 'religious law (whether written or unwritten) . . . which is . . . now, or thereafter may be, in force in Palestine'. Here the legislator unambiguously indicated his opinion that religious law is an integral part of the law of the land . . . How does this influence the matter before us? The answer is quite clear. The fundamental object of section 181—read in its entirety—is to avoid an inherent and illogical conflict between the different parts of the law of the land. There is no uniform system of marriage and divorce for all the inhabitants of the country. Consequently it would not be possible to provide uniformity in the criminal law. The disuniformity between the civil permission to take more than one wife and the criminal prohibition of bigamy has to be overcome. Jewish law recognizes the validity of a second marriage while the first is still subsisting, though it does not permit polygamy in general. On the contrary, its attitude towards polygamy is a negative one, and it is only permitted by way of exception. Here the legislator found himself in difficulty, from a legal point of view, which he could not solve unaided. For this reason he created the special machinery of the rabbinical court with the ratification of the two Chief Rabbis, to which alone was given authority to decide—and hence to exempt from punishment—whether the husband could or could not take a second wife.

"In short: the legislator did not act arbitrarily, nor did he impose any discrimination on grounds of religion and race. Even as regards Jews the legislator did not retreat from his fundamental idea that the civil and the criminal conceptions of polygamy must be kept in step. However he held back from taking part himself in the civil aspect—remembering his earlier failure—and he remitted the decision to more qualified hands, the Rabbinate, which would decide on the matter *before* the performance of the act. Consequently there is here no racial or religious discrimination, or indeed any discrimination without any qualification, but a necessary consequence of the divergence between the different parts of the law by which the personal status of the citizen is regulated. For if within the sphere of civil law of personal status the legislator was compelled to enforce, through the systems of religious law, divergent legal norms for each separate community without anyone complaining of this, what he has done in the sphere of criminal law is only the logical and practical consequence of these divergences.

"Finally . . . Not all setting apart is discrimination, and at times it is no more than distinction. That is to say, when there exists a real difference between the objects of the discrimination, from whatever aspect, and the setting apart is not arbitrary. What underlies the prohibition on discrimination is: not to *restrict* a man *only* because of his racial or religious association. There is no discrimination if the elements emphasized do not exist. The 'discrimination' of section 181 is no more than a distinction. The polygamist is not punished *because* he is a Jew, but he is prevented, by specific provision of the law and by punishment, from performing an act for the reason that the body with which he is associate—the Jewish community—has found that polygamy is not compatible with its conceptions of social discipline and culture, and cannot therefore allow the sanction formerly given to polygamy to continue to exist. For this reason that body asked the legislator—and he responded—to prohibit polygamy, for its own good. Consequently, there is no forbidden discrimination here, but rather a permitted distinction which is not contrary to Article 17 (1) (A) . . ."

FREEDOM FROM ARBITRARY ARREST—RIGHT TO OPPOSE ILLEGAL ARREST—LAW OF ISRAEL

FRANKEL *v.* ATTORNEY-GENERAL

Supreme Court, sitting as the Court of Criminal Appeals[1]

19 December 1951

The facts of this case are unimportant. These facts, however, gave rise to a discussion of the question of the right of the citizen to oppose illegal arrest attempted upon him by another person. The opinion of the Supreme Court was expressed by Judge Agranat who said: "We start from the proposition that every person is free in his movements within the territory of the State. Consequently, the authorities are forbidden, without an order from a judge (or other competent authority) to arrest any person except where the legislator has specifically authorised this. If this is the position in so far as concerns the authorities, how much the more is it so as regards a private person who intends arresting another individual. Moreover, this fundamental right to freedom from arrest contains within itself another right, without which it would be devoid of all substance. This second right consists in the right of any person to oppose any attempt at illegally arresting him. In other words, the right of a person to oppose arrest attempted against him by another person depends upon whether that second person had the legal right to arrest him."

[1] Report: *Piskei Din* (Official Law Reports), Vol. 5 (1951), p. 1602. Summary prepared by Mr. Shabtai Rosenne, Legal Adviser, Ministry for Foreign Affairs.

ITALY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

A. LEGISLATIVE PROVISIONS CONCERNING HUMAN RIGHTS

I

Universal Declaration, art. 22. ". . . entitled to realization, through national effort . . . , of the economic . . . rights . . ." art. 23. " . . . right to work . . ."

LAND REFORM

Pursuant to article 44 of the Constitution,[2] the Italian State has initiated a land reform which aims at a more equal distribution of landed property by means of a series of legislative provisions relating to various zones of the national territory. The object is both to improve the conditions of life of the rural population and to expand agricultural production for which purpose in some cases uncultivated land is to be reclaimed and in others the utilization of land already under cultivation is to be rationalized and intensified. The fundamental legislation on which the reform is based is mentioned below.

Act No. 144 of 22 March 1950 (*Gazzetta Ufficiale* No. 91, of 19 April 1950) confirmed, with a few modifications, legislative decree No. 114 of 24 February 1948 (*G.U.* No. 61, of 12 March 1948) concerning provisions in favour of small rural holdings.

Article 1 of that decree (as modified by the subsequent Act) provides substantial tax reliefs for contracts of purchase and sale, and long-term leases of agricultural land effected within four years of the entry into force of the decree, subject to fulfilment of the following conditions:

(*a*) The purchaser or long-term lessee must be a person who habitually works the land by his own efforts;

(*b*) He must not be the owner of other agricultural land, an exception to this condition being made in cases where the object of the acquisition is to complete a piece of property too small to utilize the labour of the purchaser's or lessee's family;

(*c*) The land sold or let on long lease must be suitable for the establishment of small rural holdings;

(*d*) The purchaser or long-term lessee must not have sold other agricultural land within the two years preceding the date of the contract.

Article 2 (as modified by the Act) provides for the grant of loans to purchasers acquiring landed properties within the meaning of article 1. On such loans the assistance of the State in the payment of the interest (not exceeding 4½ per cent) is given for thirty years, regardless of the agreed term of the loan. The above provisions also apply where the purchaser is a co-operative society intending either to farm the land collectively or to partition it among the members; and they also apply in cases where the loan is shared as a result of the partition of the land among the members of the co-operative.

Article 4 authorizes the colonizing associations and the large-scale land reclamation syndicates to arrange for the acquisition of lands and their partition among and sale to actual cultivators or their co-operatives, and also for the carrying out of such works as may be necessary for the partitioning and possible conversion of the land to be distributed. Such associations and syndicates may be allowed to issue State-guaranteed bonds.

Article 5 authorizes the State, the provinces and the communes to sell by private auction, to the persons indicated in article 1 (*a*), to agricultural co-operatives, to colonizing associations and to land reclamation syndicates, agricultural land of a patrimonial nature for the establishment of small rural holdings. The provinces and communes may be compelled by the State to sell such part of their properties as is not, or is not adequately, cultivated. The participation of the State in the cost of land improvement work, contemplated by the legislation in force, may be raised to a maximum of 45 per cent of the expenditure in the case of very costly projects.

Article 9 stipulates that the benefits accruing under the decree shall lapse in respect of any beneficiary who, before the expiration of ten years from the date of acquisition of the land, ceases to cultivate it directly.

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[1] Note prepared by Dr. Maria R. Vismara, chief editor of *La Communità Internazionale*, a publication of the Italian Association for the United Nations. English translation from the Italian text by the United Nations Secretariat. The selection of the legislative texts for mention in this *Yearbook* follows, in conformity with resolution 303 H (XI) of 9 August 1950 of the Economic and Social Council, the lines of the Universal Declaration of Human Rights. The specific articles of the Declaration with the implementation of which the legislative provisions cited may be regarded as connected are quoted at the head of each chapter. In order to make certain provisions of law enacted in 1951 understandable, it had been necessary to refer to earlier legislation.

[2] See *Yearbook on Human Rights for 1947*, p. 167.

A second Act, of considerably wider scope, introduced radical reforms in Calabria, an economically backward area of southern Italy, where the existence of large landed estates (*latifondo*) has hitherto been the major obstacle to the development of agricultural production, and therefore to the well-being of the rural population. The Act in question, No. 230 of 12 May 1950[1] (*G.U.* No. 115, of 20 May 1950), contemplates a land reform affecting an area of about half a million hectares of land occupied by a population that is 70 per cent agricultural. The object of the Act is to settle the largest possible number of the region's peasant families. As a first step towards this goal, temporary management centres will be organized whose task will be to facilitate the working of the land in small plots, through the mechanization of the principal work, and to provide technical guidance and grant credits, thereby enabling the peasants to whom plots of land are assigned to derive the maximum economic advantage from them. In the second phase the aim will be, first, to establish organic farming units and individual small farms, and, secondly, to set up management centres which, conducted by the authority entrusted with the implementation of the reform, will assist in the management of the parcels allotted to the peasants in such a way as to achieve the indispensable co-ordination with existing rural agricultural holdings which are not, however, self-sufficient.

A few months later, Act No. 841 of 21 October 1950 (*G.U.* No. 249, of 28 October 1950) extended, with a few modifications, the provisions of the Sila Act (Legge sulla Sila)[2] to other regions of southern Italy in which there prevails the dual phenomenon of the excessive concentration of land ownership and of unemployment among certain categories of land-workers not firmly attached to the land (labourers). The amendments applicable to these regions are mainly due to the different conditions obtaining in the agricultural estates, where there are wide areas that are already extensively utilized and in which the natural conditions for the conversion of the land are promising.[3]

Decree No. 67 of the President of the Republic, dated 7 February 1951 (*G.U.* No. 48, of 27 February 1951, supplement), lays down the rules for the application of the above-mentioned Act, defines the territories (Apulia, Lucania and Molise) to which it relates and institutes a special Land Reform Section attached to the Association for the Development of Irrigation and for Land Conversion in Apulia and Lucania (Ente per lo sviluppo della irrigazione e la transformazione fondaria in Puglia e Lucania), set up by Decree No. 281 of 18 March 1947.

A similar decree, No. 68 of 7 February 1951 (*G.U.* No. 48, of 27 February 1951, supplement), extends the benefits of the aforesaid Act to other territories of Calabria.

Lastly, by Act No. 333 of 18 May 1951 (*G.U.* No. 117, of 25 May 1951), rules for the interpretation and co-ordination of the Act of 21 October 1950 were issued which, *inter alia*, fix a final date (31 December 1951) for the submission of expropriation plans and embody measures designed to prevent the estates from being neglected or damaged by the carelessness or ill-will of the owners in the interval between the delimitation of the areas covered by the Act of 21 October 1950 and the putting into effect of the expropriation plans.

All the legislative provisions mentioned here, together with other, minor provisions omitted for the sake of conciseness, constitute merely an initial phase of useful experiment pending the promulgation of the general Land Reform Act at present being considered by the competent authorities, which will make an even more substantial contribution to the work of progressively elevating the status of the working classes.

II

Universal Declaration, art. 23 (1). ". . . right to work . . . and to protection against unemployment". Art. 25. ". . . right to a standard of living adequate for the health and well-being of himself and of his family, including . . . housing . . ."

Measures concerning the Housing Shortage and Unemployment

A series of legislative provisions has been enacted by the Italian Government with the threefold aim of translating into fact, through increased employment, the principles laid down in article 4 of the Constitution[4] (promoting conditions that render effective the right to work), of relieving the serious housing shortage as far as possible and of rationalizing assistance to the unemployed.

For these purposes, the principal enactment is Act No. 43 of 28 February 1949 (*G.U.* No. 54, of 7 March 1949) which makes provision for increasing the employment of manual workers by facilitating the building of houses for workers.[5] This Act was supplemented by Decree No. 340 of 22 June 1949 (*G.U.* No. 150, of 4 July 1949, supplement) and by the regulations issued by Decree No. 436 of 4 July 1949 (*G.U.* No. 169, of 26 July 1949, supplement).

A subsequent decree, No. 1089 of 16 September 1951 (*G.U.* No. 247, of 26 October 1951), amended the said regulations by provisions which extended the cate-

[1] Reproduced on p. 200 of this *Yearbook*.

[2] *La Sila:* mountainous area of Calabria. [Translator's note.]

[3] The passages of the Act in question which most radically amend the provisions of the Sila Act are reproduced on p. 204 of this *Yearbook*.

[4] See the text in *Yearbook on Human Rights for 1947*, p. 163.

[5] See p. 196 of the present *Yearbook*.

gories of workers eligible for the benefit of the Act of 1949.

With the aim of promoting, in addition, building activity through private initiative, Act No. 715 of 10 August 1950 (*G.U.* No. 211, of 14 September 1950) was passed; it provides for the establishment of a Housing Development Fund (Fondo per l'incremento edilizio) which grants loans for the construction of dwelling houses, other than luxury dwellings, in localities where the need for the improvement of housing exists or where there is a housing shortage. Such loans may be granted to any persons who intend, without utilizing any assistance chargeable to the State, either individually or associated with others in co-operatives or syndicates, to build dwellings complying with certain requirements (not less than two nor more than five habitable rooms in addition to the usual offices). The loan may amount to as much as 75 per cent of the cost of the site and the building, and is repayable within a term not exceeding thirty-five years, with the option of earlier redemption. The allottees or owners of the dwellings are under an obligation either to reside in them personally or to use them for the residence of relatives up to the second degree of kinship, for not less than five years.

A housing measure which is particularly significant because it is designed to remove the unjust discriminations of the late fascist regime is Act No. 112 of 4 January 1951 (*G.U.* No. 58, of 10 March 1951), which supplements the Legislative Decrees of the Lieutenant of the Realm Nos. 425, of 16 November 1944, and 413, of 25 May 1945. Its objects are twofold:

(*a*) To exclude from the benefits of the allocation of "people's houses" (*case popolari*): (1) persons who have enjoyed such benefit unlawfully in that they did not belong to any of the categories enumerated in Sole Enactment No. 1165 of 28 April 1938 concerning low-cost housing; (2) persons who, by virtue of their political positions, had been allotted either more than one dwelling, or a dwelling not complying with the specifications laid down by the legislation concerning low-cost and "people's" houses.

(*b*) To restore the right to housing, even though built with State assistance, to persons who had lost it by virtue of the Fascist Acts Nos. 1765 and 855, of 29 July 1927 and 26 April 1928, respectively, under which the right was forfeited by: (1) persons who had placed themselves in a position incompatible with the general political directives of the Government, and (2) public servants dismissed with loss of pension rights (for political reasons).

The Italian State has also concerned itself with the fate of those who, through the application of the aforesaid decree of 16 November 1944 (that is to say, owing to the restitution of dwellings to the victims of fascism), were themselves rendered homeless, and hence has provided, in their case too, for the possible allocation of dwellings; of the numerous measures recently adopted by the State for the purpose of creating more housing, a few are mentioned below which relate to specific categories of distressed persons: Act No. 409 of 25 June 1949 (*G.U.* No. 163, of 19 July 1949) for promoting the rebuilding of dwellings destroyed by war operations, and implementing reconstruction plans; Act No. 206 of 5 April 1950 (*G.U.* No. 109, of 12 May 1950) confirming, with amendments, Decree No. 611 of 17 April 1948 concerning the financing of structural work in hostels and assistance homes for war invalids; Act No. 94 of 22 February 1951 (*G.U.* No. 55, of 7 March 1951) containing provisions enacted for the benefit of the Housing Association for War Cripples and Invalids (Ente edilizio per i mutilati e invalidi di guerra), relating to the building of people's houses by co-operative societies whose members are war cripples and war invalids; Act No. 1402 of 27 October 1951 (*G.U.* No. 299, of 31 December 1951) which amends Legislative Decree No. 154 of 1 March 1945 concerning plans for the rebuilding of war-damaged dwellings.

Among the legislation relating to public works other than housing, two most important Acts should be mentioned, viz.:

Act No. 646 of 10 August 1950 (*G.U.* No. 200, of 1 September 1950), which established the Fund for Large-scale Public Works in Southern Italy (Cassa del Mezzogiorno) and aims principally at improving the economic and social conditions of southern Italy. The work planned under the Act includes the regulation of catchment areas and watercourses, land reclamation, irrigation, agrarian conversion, road building, the provision of water mains and drains, the erection of plants for processing agricultural produce, and projects likely to attract tourist trade.

Act No. 647 of 10 August 1950 (*G.U.* No. 200, of 1 September 1950) under which it is proposed to carry out, in central and northern Italy, large-scale public works similar to those planned under the corresponding Act relating to southern Italy.

Lastly, another fundamental enactment, not concerned with public works, should be mentioned, namely, Act No. 264 of 29 April 1949 (*G.U.* No. 125, of 1 June 1949, supplement) as modified by Acts Nos. 586 of 21 August 1949 and 456 of 4 May 1951. This Act, designed to put into practical effect articles 4, 38 and 35, paragraph 2, of the Constitution[1] makes provision for the placement of, and for assistance to, involuntarily unemployed workers; its objects are:

(*a*) The placement of citizens seeking employment;

(*b*) The provision of economic assistance to the unemployed;

(*c*) The re-training of unemployed persons with a view to early re-settlement.

Taken as a whole, this Act is regarded as a first step towards the desired reform of the social security system.

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[1] *Yearbook on Human Rights for 1947*, pp. 163 and 166.

III

Universal Declaration, art. 25. ". . . right . . . to security in the event of . . . sickness, disability . . . etc."

SOCIAL SECURITY

Compulsory insurance against sickness, disability and old age has, like medical assistance, long been the subject of extensive legislation in Italy. In this context only a few of the legislative provisions enacted in this field in 1951 will be mentioned.

Decree No. 224 of 25 January 1951 (*G.U.* No. 86, of 14 April 1951), approving the new regulations governing the administration and application of the Welfare Fund for Customs Personnel.

Act No. 74 of 19 February 1951 (*G.U.* No. 49, of 28 February 1951) embodying provisions concerning compulsory sickness insurance. This Act raises the contributions payable for the sickness insurance of wage-earning workers from 5 per cent to 6 per cent, and those for the insurance of salaried employees from 3 per cent to 4 per cent, the purpose of this increase being to enable the National Health Insurance Institute to acquire sufficient funds to meet its present operating commitments. The Italian Government, however, considers it a matter of urgent necessity to enact suitable legislation to reorganize the entire edifice of rules and regulations governing the more important features of the sickness insurance of workers.

Act No. 756 of 16 June 1951 (*G.U.* No. 207, of 10 September 1951), concerning industrial accident insurance and the social security of workers employed in the Sicilian sulphur mines.

Act No. 606 of 30 June 1951 (*G.U.* No. 180, of 8 August 1951) amending the existing regulations concerning assistance to persons suffering from tuberculosis and liberalizing the provisions relating to the conservation of the right to tuberculosis benefits, both financial and medical.

Act No. 1287 of 4 November 1951 (*G.U.* No. 278, of 3 December 1951), establishing an annual contribution towards medical, prosthetic and hospital assistance to persons crippled and disabled through military or civilian service.

As regards relief in cases of public disaster, reference is made to Act No. 1184 of 20 November 1951 (*G.U.* No. 268, of 21 November 1951), which extends to refugees from the flooded areas the benefits accorded to war refugees.

Another specially important enactment is Act No. 698 of 21 August 1950 (*G.U.* No. 207, of 8 September 1950), which sets up the National Association for the Protection and Assistance of Deaf-Mutes. A summary of the Act appeared in the *Yearbook on Human Rights for 1950*.[1]

[1] See the Note on the development of human rights in Italy, p. 167 of that *Yearbook*.

IV

Universal Declaration, art. 25 (2). "Motherhood and childhood are entitled to special care . . ."

PROTECTION OF MOTHERS AND CHILDREN

Act No. 860 of 26 August 1950 (*G.U.* No. 253, of 3 November 1950), amended by Act No. 394 of 23 May 1951 (*G.U.* No. 134, of 15 June 1951), respecting the physical and economic protection of working mothers,[2] although not offering a complete solution to the complex problem, does at least mark a decided advance in the matter of the protection of working mothers. It is meant to form a single body of rules concerning a subject previously regulated by legislation reflecting the drive and diversity of the problem—diversity of categories of working women, and diversity of economic, legal, hygienic and medical protection. The Act falls into three sections, of which the first sets forth the rules established for the protection of mothers, the second the rules relating to economic position, and the third a number of general provisions. Measures of medical assistance are not contemplated in the Act, since most of the female workers to whom it applies are in any case covered by sickness insurance, which while providing medical assistance to women in the event of childbirth, also extends the assistance to the wives of workers.

This subject, too, will be included in the reform, now proceeding, of social security system.

As regards the protection of child health, attention is drawn to Act No. 327 of 29 March 1951 (*G.U.* No. 115, of 22 May 1951), which places the manufacture and sale of infant foods under the supervision of the High Commissariat for Hygiene and Public Health.

V

Universal Declaration, art. 7. " . . . entitled to . . . protection against any discrimination . . ."

PROVISIONS REMEDYING PAST DISCRIMINATIONS

One of the first concerns of the new Italian democratic regime has been to remedy the political and racial discriminations practised by fascism.

Act No. 23 of 5 January 1950 (*G.U.* No. 41, of 18 February 1950), which confirms the amendments, and decree No. 1033 of 7 May 1948 concerning supplementary provisions to the regulations on the reinstatement of university teachers formerly dismissed for political or racial reasons,[3] supplements a series of legislative provisions enacted for the aforesaid purposes, the first having been legislative decree No. 9 of 6 January 1944. This first decree, which aimed at remedying the injustices committed against civil servants who had

[2] *Ibid.*; see also p. 201 of the present *Yearbook*.

[3] See *Yearbook on Human Rights for 1950*, p. 167.

been found "guilty" of professing democratic ideas, was immediately followed by a similar decree (No. 25 of 20 January 1944) which repealed all anti-Semitic regulations. A few months later there followed specific measures reinstating in their posts university teachers who had been dismissed for refusing to take the fascist oath (legislative decree No. 255 of 7 September 1944); eliminating any ministerial interference detrimental to the self-government of universities, and abolishing the requirement of "good political conduct" (decrees Nos. 264 of 5 October 1944 and 238 of 5 April 1945).[1]

The above-mentioned decree of 7 May 1948 extended the benefit of reinstatement in university teaching posts to all persons who had meanwhile lost their Italian citizenship (provided that in the foreign State whose citizenship they had acquired Italian citizens were admitted to teaching posts in universities) and extended the specified time limit within which the persons concerned could resume service in Italy.

Act No. 806 of 10 August 1950 (*G.U.* No. 225, of 30 September 1950) makes provision for the definitive inclusion in the public teaching profession of teachers formerly persecuted on political or racial grounds.

Of the two Acts Nos. 174 of 5 April 1950 and 367 of 11 May 1951 (*G.U.* Nos. 98 of 28 April 1950, and 127 of 7 June 1951), the first relates to the allocation of pharmacies, and of shops for the sale of monopoly goods, to citizens who had been deprived of them for political reasons, and also contains other provisions in favour of pharmacists formerly subject to political persecution; and the second to the institution of a special competitive examination restricted to pharmacists formerly persecuted under the fascist regime for political reasons.

VI

Minorities

Although not expressly referred to in the Universal Declaration of Human Rights, the rights of minorities certainly pertain to the spirit of that Declaration. In Italy the French-language and German-language minorities of the Val d'Aosta and the Trentino-Alto Adige respectively have been the subject of special enactments, mentioned in an earlier *Yearbook*.[2]

During 1951, certain provisions were enacted pursuant to the special statute for the Trentino-Alto Adige.

Decree No. 574 of 30 June 1951 (*G.U.* No. 170, of 27 July 1951) contains the rules for the application of the Trentino-Alto Adige statute. In particular, attention is drawn to title XIV of that decree, which regulates the use of the languages of the three linguistic groups recognized by the statute: Italian, German, and Ladin.

Decree No. 1396 of 21 November 1951 (*G.U.* No. 298, of 21 December 1951) provides, pursuant to article 85, paragraphs 1 and 3, of the special statute for the Trentino-Alto Adige, that German is to be one of the subjects in the competitive qualifying examination for the initial grades of the civil service.

Act No. 1515 of 18 December 1951 (*G.U.* No. 4, of 5 January 1952) sets forth the rules governing the recognition of degrees and certificates of study obtained in Austria or Germany by South Tyrolese who recover Italian nationality by virtue of decree No. 23 of 2 February 1948, and the legal capacity of such persons to exercise their professions.

In the same connexion, attention is drawn to the "Agreement between the Italian Government and the Austrian Federal Government concerning the removal of property by South Tyrolese residents opting for re-transfer".[3] (Cf. Treaties and Conventions relating to human rights made operative in Italy in 1951.) This Agreement permits the transfer from Austria to Italy of the assets of persons who have acquired Italian citizenship by virtue of decree No. 23 of 2 February 1948 (revision of options of South Tyrolese residents).

B. TREATIES AND CONVENTIONS RELATING TO HUMAN RIGHTS MADE OPERATIVE IN ITALY IN 1951

Protocol of Paris of 19 November 1948 bringing under international control drugs outside the scope of the Convention of 13 July 1931 for limiting the manufacture and regulating the distribution of narcotic drugs as amended by the Protocol signed at Lake Success on 11 December 1946. Made effective in Italy by Act No. 1078 of 27 October 1950 published in *G.U.* No. 10, of 13 January 1951.

Agreement between the Italian Government and the Austrian Federal Government concerning the removal of property by South Tyrolese residents opting for re-transfer, concluded at Rome on 4 October 1950.[4] Made effective in Italy by Decree No. 569 of 14 April 1951 published in *G.U.* No. 176, of 3 August 1951.

Administrative agreement relating to the mode of giving effect to the Convention on social insurance concluded between Italy and Belgium on 30 April 1948. *G.U.* No. 43, of 21 February 1951.

Convention relative to the treatment of prisoners of war, signed at Geneva on 12 August 1949.[5] Ratified and made effective in Italy by Act No. 1739 of 27 October 1951, published in *G.U.* No. 53, of 1 March 1952, supplement.

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[1] See also *Yearbook on Human Rights for 1946*, p. 170.

[2] See *Yearbook on Human Rights for 1948*, pp. 122–123.

[3] See also Austria, Note on the development of human rights, in *Yearbook on Human Rights for 1950*, p. 23.

[4] See also the last paragraph of the preceding note.

[5] For this and the two following conventions, see *Yearbook on Human Rights for 1949*, pp. 299–309. See also the complete text in: *United Nations Treaty Series*, Vol. 75 (1950).

Convention for the amelioration of the condition of the wounded and sick in armed forces in the field, signed at Geneva on 12 August 1949. Ratified and made effective in Italy by Act No. 1739 of 27 October 1951, published in *G.U.* No. 53, of 1 March 1952, supplement.

Convention for the amelioration of the condition of the wounded, sick and shipwrecked members of armed forces at sea, signed at Geneva on 12 August 1949. Ratified and made effective in Italy by Act No. 1739 of 27 October 1951, published in *G.U.* No. 53 of 1 March 1952, supplement.

International convention for the safety of life at sea, signed at London on 10 June 1948. Made effective in Italy by Act No. 1370 of 27 October 1951, published in *G.U.* No. 295 of 31 December 1951, supplement.

Italo-Australian Agreement on assisted passage migration of 29 March 1951. Made effective in Italy by Act No. 576 of 10 June 1951, published in *G.U.* No. 172, of 30 July 1951.

Administrative agreement relating to the mode of applying to mineworkers and assimilated persons the Convention on social insurance concluded between Italy and Belgium on 30 April 1948. Published in *G.U.* No. 43, of 21 February 1952.

Technical agreement concerning the services to be taken into consideration for the purpose of applying to mineworkers and assimilated persons the Convention between Italy and Belgium on social insurance of 30 April 1948. Published in *G.U.* No. 45, of 23 February 1952.

Italy is one of the signatories of the Convention for the protection of human rights and fundamental freedoms signed in Rome on 4 November 1950.[1]

[1] See *Yearbook on Human Rights for 1950*, pp. 418–426; also p. 491 of this *Yearbook*.

ACT No. 43, PROVIDING MEASURES TO INCREASE THE EMPLOYMENT OF MANUAL WORKERS THROUGH FURNISHING FACILITIES FOR THE CONSTRUCTION OF HOUSES FOR WORKERS[1]

dated 28 February 1949

Art. 1. There is hereby instituted a Committee to implement a plan for increasing the employment of manual workers by means of the construction of houses for workers.

The Committee shall determine how the funds collected are to be employed, prepare the plan for the construction of the dwellings and for the amortization thereof, and supervise the implementation of the said plan.

The Committee shall consist of the following members:

(1) A chairman appointed by decree of the President of the Council of Ministers on the recommendation of the Minister of Labour and Social Security in consultation with the Minister of Public Works; if the chairman should be temporarily unable to act, the representative of the Ministry of Labour and Social Security shall act in his place;

(2) One representative of each of the Ministries: Finance, the Treasury, Public Works, Industry and Trade, and Labour and Social Security:

(3) Five representative of the workers, to wit: one for the category of managers; two for the category of salaried employees and two for the wage-earning workers; and three representatives of the employers of the categories concerned pursuant to article 5 hereof, designated by the appropriate trade associations at the invitation of the Minister of Labour and Social Security, who shall take into account the relative size of the membership of the associations; two representatives of the co-operative societies; and one engineer designated by the national association of the category.

(4) The general manager of the National Insurance Institution (Istituto nazionale delle assicurazioni). One deputy shall be appointed for each member of the Committee. The members of the Committee . . . shall remain in office for seven years; they may be replaced by substitutes.

Art. 2. For the performance of the operations contemplated by this Act there is hereby set up within the National Insurance Institute a self-governing body having juridical personality to be known as "N.I.I. Housing Board" (Gestione I.N.A.-Casa).

It shall be the duty of the N.I.I. Housing Board to put into effect the decisions adopted by the Committee and for this purpose it shall be empowered to enter into and sign any contracts and documents whatsoever and to grant general or special powers of attorney . . .

The N.I.I. Housing Board is hereby placed under the supervision of the Ministry of Labour and Social Security . . .

[1] Italian text in *Gazzetta Ufficiale* No. 54, of 7 March 1949. English translation from the Italian text by the United Nations Secretariat.

Art. 3. The N.I.I. Housing Board shall be administered by a governing council consisting of:

(1) The director-general of the National Insurance Institution;

(2) Three representatives of the workers and one representative of the employers, designated by the trade associations of the categories concerned at the invitation of the Minister of Labour and Social Security, who shall take into account the relative size of the membership of the associations;

(3) One representative of each of the following Ministries: the Treasury, Public Works, and Labour and Social Security;

(4) One representative of the Medical Association, appointed by the High Commissioner for Hygiene and Public Health on the recommendation of the said Association;

(5) One engineer appointed by the national association of the category. The members of the Governing Council . . . shall remain in office for seven years; they may be replaced by substitutes.

The governing council shall elect from among its members a chairman who shall be competent to represent the N.I.I. Housing Board in all transactions and legal proceedings.

Art. 4. There is hereby set up for the N.I.I. Housing Board a board of auditors appointed by decree of the Minister of the Treasury and consisting of:

(1) One judicial officer of the Court of Accounts . . . who shall act as chairman;

(2) One representative of the General State Accounts Division . . .;

(3) Four representatives appointed by the Ministries of the Treasury, Public Works, Industry and Trade, and Labour and Social Security respectively. Two deputy auditors shall be appointed to represent the Court of Accounts and the General State Accounts Division respectively . . .

Art. 5. For the purpose of accumulating the funds necessary for the implementation of the plan referred to in article 1 hereof, in respect of each year of the seven-year period beginning on the first day of the month following the entry into force of this Act:

(*a*) The State shall pay a contribution equal to 4.3 per cent of the total of the contributions referred to in paragraphs (*b*) and (*c*) below, in addition to the contribution referred to in article 22 hereof for the period subsequent to the date of allotment of the dwellings;

(*b*) Persons employed in whatever capacity, in industry, commerce, banking and insurance, transport undertakings, journalistic and publishing businesses, national, provincial and communal administrations, public assistance and charitable institutions, and any other public body, shall pay a contribution equal to 0.6 per cent of their monthly earnings;

(*c*) Private and public employers, other than national, provincial and communal administrations and public assistance and charitable institutions, of the persons referred to in the foregoing paragraph (*b*) shall pay a contribution equal to 1.2 per cent of the monthly remunerations paid to their employees . . .

Art. 6. The communes are hereby authorized to impose a tax on persons who occupy, under whatever title, dwellings comprising a number of habitable rooms, excluding the necessary offices, in excess of the number needed by their respective households.

Such tax shall be leviable until 31 December 1955, and the proceeds thereof shall be applied to increasing the fund for the implementation of the plan in the commune levying the tax . . .

Art. 9. Workers shall be exempt from the liabiliy to pay the contributions referred to in article 5, unless they explicitly waive exemption, if they come within the following categories, that is to say if they:

(1) Have reached the age of sixty years;

(2) Have been tuberculosis patients and have been discharged from sanatoria not more than three years previously;

(3) Are casually employed longshoremen.

The said contributions shall also not be payable by workers who only occasionally work for employers, and seasonal workers, this term to be construed to mean workers who are not eligible for unemployment insurance . . .

The contribution referred to in article 5, paragraph (*b*), shall be reduced to 0.4 per cent of the earnings in the case of any worker who, as the head of a family, is financially responsible for the support of more than three persons in respect of whom he draws a family allowance or who are all recognized as unfit for work owing to circumstances beyond their control.

Art. 10. The Committee referred to in article 1 hereof shall prepare a technical and financial plan covering a period of seven years and to be followed in all the operations envisaged for the building and allocation of workers' dwellings, for which purpose it shall take into account the amount of the contributions paid or payable pursuant to the provisions of article 5, by the category of employees of public administrations and by the category of persons in private employment.

For each category, the dwellings shall be divided into five different types having from one to five rooms in addition to the necessary offices.

For each year the Committee shall prepare a plan to determine how the buildings to be erected with the aid of the moneys collected shall be distributed over the individual territory.

This plan shall take into account the index of density of population of each commune and the incidence of war damage.

In any event, the amount spent on buildings erected in southern Italy, Sicily and Sardinia shall not be less than one-third of the total sums to be invested.

Art. 11. The Committee may commission the National Insurance Institution itself, the National Institute of Social Security, the State administrations in respect of their own employees, the National Institute of Housing for State Employees, people's housing institutions or other public or public-law institutions, and producers' and workers' associations and co-operatives, to be responsible for the construction of workers' houses.

Lawfully constituted business undertakings and co-operative societies composed of employees of one or more business undertakings or of public administrations and not in receipt of any other contribution or assistance chargeable to the State for housebuilding purposes, may themselves build houses with a number of rooms proportional to the number of their respective employees or registered members. Such dwellings shall be completed within the first three years of the application of the plan, shall require the prior authorization of the Committee and shall conform to building plans and methods approved by the governing council referred to in article 3 hereof.

The houses built by co-operative societies shall be allocated to the members of said societies on the conditions and within the terms stipulated in article 14 hereof. The houses built by business undertakings shall be allocated as to one-half to the undertaking's own employees on the terms established by article 14 hereof and as to one-half, likewise to the undertaking's own employees, for lease in accordance with the terms of article 19 hereof . . .

The houses built by business undertakings and not allocated pursuant to article 14 hereof shall be administered by a joint committee consisting of representatives of the business undertaking and of the workers. If the undertaking in question should cease to carry on business, the administration of the houses shall be transferred to the bodies mentioned in article 19 hereof.

Art. 12. Any houses built pursuant to this Act, and the State's sites thereof, shall remain the property of the N.I.I. Housing Board until their transfer pursuant to articles 14 and 19 hereof.

Art. 13. One-half of the dwellings built by the N.I.I. Housing Board shall be set aside for persons wishing to acquire the ownership thereof and one-half shall be allotted to tenants under lease.

The principles governing priority in the allocation of such dwellings, whether for purposes of ownership or for lease, shall be set forth in the regulations . . .

Art. 14. The allocation of dwellings set aside for transfer to private ownership shall be effected under a promise of sale, with immediate delivery and for payment by instalments.

The allottee shall acquire full ownership of the dwelling on the expiry of a period of twenty-five years during which he shall pay invariable monthly instalments which shall include the price of the dwelling and a proportionate part of the N.I.I. Housing Board's overhead costs, less the net capital value of the State contribution of 1 per cent referred to in article 22 hereof . . .

The allottee may at any time either redeem the balance of the residual debt before the due date or effect payments, additional to the compulsory monthly instalments, to reduce his debt, provided that no such payment shall amount to less than 100,000 lire.

Art. 15. An allottee may, on the terms and in the manner to be set forth in the regulations, assign his right to a dwelling by means of a promise to sell to another worker who must have paid one full year's contributions and must not have had any dwelling allotted to him . . .

Art. 16. All ordinary and exceptional maintenance expenses incurred in connexion with dwellings allotted pursuant to article 14 hereof shall be borne by the allottees.

Art. 17. The relevant rights of any uninsured allottee who dies during the period during which instalments in payment for the dwelling are payable shall vest in his heirs . . .

Art. 18. An allottee may conclude with an insurance institution a life insurance policy also covering the risk of complete and permanent disability, for a term not exceeding twenty-five years. The conditions of the policy shall provide that in the event of the premature decease or of the total and permanent disability of the allottee the insurer shall assume the allottee's obligation to pay the remaining instalments maturing for payment until the expiration of the term of twenty-five years, the allottee or his beneficiaries being thereby released from such obligation.

Art. 19. One-half of the said dwellings intended for lease pursuant to article 13 hereof shall be entrusted by the Committee to the administration of people's housing institutions, the National Institute of Housing for State Employees, welfare institutions, or other similar bodies . . .

On the termination of its own period of management, the N.I.I. Housing Board shall, under agreements previously approved by the Committee referred to in article 1 hereof and by the Ministers of the Treasury and of Labour and Social Security, transfer the ownership in the dwellings referred to in the next preceding paragraph, and in the dwellings built for letting directly by business undertakings pursuant to article 11 hereof, to the bodies referred to in the next preceding paragraph.

The rents for dwellings allotted to tenants for lease shall be established in such a manner as to take into account every expense, without exception, for maintenance, administration, amortization and taxation, and shall vary according to the state of the market and also according to variations in rates of remuneration.

Art. 20. After the first seven years, the Committee shall arrange for the preparation, each year, of a plan for the building of new dwellings with the funds accruing from the payments of instalments in respect of houses allotted to prospective owners, from the net proceeds of the rents of the dwellings referred to in article 19, and from the State contribution referred to in article 22 hereunder.

The dwellings built pursuant to the next preceding paragraph shall be allotted according to the provisions of articles 13, 14 and 19 hereof.

The instalments payable by persons to whom dwellings built in and after the eighth year onwards are allotted with a view to ownership shall not be exhibited to the benefit of the State contribution of 1 per cent referred to in article 22 hereof.

Art. 21. The Minister of the Treasury, after consultation with the Interministerial Credits Committee, may authorize the N.I.I. Housing Board to issue bonds for the purpose of accelerating the housebuilding programme. The funds specified in the first paragraph of article 20 hereof shall be applied to the redemption of the said bonds.

Art. 22. In addition to the contribution provided for in article 5 hereof, the State shall pay to the N.I.I. Housing Board, in respect of each dwelling built in the first seven years of the currency of the plan, a contribution at the rate of 3.2 per cent of the cost, up to an amount not in excess of 400,000 lire per room.

Such contribution shall be paid for a period of twenty-five years dating from the beginning of the half-year next following the allocation of each dwelling.

The accessory offices shall be counted as one room in the case of dwellings having one habitable room, as one and a half rooms in the case of dwellings having two habitable rooms, and as two rooms in other cases.

In the case of dwellings allocated on lease, the entire contribution, and in the case of said dwellings allotted with a view to ownership 2.2 per cent, shall be paid to the N.I.I. Housing Board for the purposes set forth in article 20 hereof, whilst in respect of dwellings allotted with a final view to ownership 1 per cent shall be applied to reducing the instalments pursuant to article 14 hereof.

Art. 23. For the purpose of receiving the building sites necessary for the implementation of the present Act, expropriation proceedings on the grounds of public interest may be instituted . . .

Any sites so expropriated shall be restored to the full ownership of the dispossessed owners, on reimbursement of the expropriation compensation received by the said owners if the actual building of the house is not commenced within one year from the date of the expropriation order or temporary occupation, if any.

Art. 24. The materials used in the building projects contemplated by this Act shall be exempt from the consumers' tax . . .

All and any documents and contracts, with the exception of bills of exchange necessary for the operations provided for by the present Act shall be exempt from stamp duties and shall be subject to the fixed minimum registration and mortgage charge, without prejudice, however, to the fees payable to the land registry officers.

Houses built in implementation of this Act shall be exempt from the tax on manufactures for a term of twenty-five years.

Art. 25. For the satisfaction of the liabilities chargeable to the State pursuant to this Act, an annual expenditure of 15,000 million lire is authorized for seven financial years, the first to be the financial year 1948–1949 . . .

Art. 26. Employers who fail to comply with the obligations imposed on them by articles 5 and 7 hereof, either in respect of the payments due from themselves or in respect of the contributions which are payable by their own employees and which the employers are required to withhold and pay over, shall, except where the circumstances of the case constitute a more serious offence, be liable to a fine not exceeding 500,000 lire.

Any sums paid as fines shall be used to increment the funds of the Board.

Art. 27. Without prejudice to the jurisdiction of the administrative courts in respect of disputes coming within their competence, no action falling within the jurisdiction of the ordinary judicial authority on any matter which may arise in the implementation of this Act may be brought by a worker against the N.I.I. Housing Board unless there has first been an administrative appeal to the Committee referred to in article 1.

A judicial action may be brought at any time after the expiry of ninety days from the date of presentation of the appeal.

. . .

ACT No. 230, PROVIDING MEASURES FOR THE SETTLEMENT OF THE SILA PLATEAU AND OF THE CONTIGUOUS IONIAN TERRITORIES[1]

dated 12 May 1950

Art. 1. The Sila Development Authority set up by Act No. 1629 of 31 December 1947 is hereby made responsible for organizing the redistribution of landed property, and for arranging the subsequent conversion thereof for the purpose of setting aside therein the lands to be granted in ownership to peasants, within the delimited territory . . .

[Then follows an enumeration of the sections through which the line of demarcation passes.]

Art. 2. For the purposes of this Act, privately owned land shall be liable to expropriation if it is suitable for conversion and, including properties situated outside the territory defined in article 1 hereof, is vested, under whatever title, jointly or in common in individuals or bodies corporate which, on 15 November 1949, owned more than 300 hectares.

The provisions of the preceding paragraph shall also apply to properties held under perpetual or long-term lease.

Any land which, between 15 November 1949 and the date of entry into force of this Act, was transferred *mortis causa* to descendants in the direct line shall be disregarded for the purpose of computing the extent of the territory under the foregoing paragraph.

Land which is suitable for conversion and which is vested in a body corporate may be expropriated in its entirety.

Nothing contained herein shall prejudice the right of the authority to acquire, subject to authorization by the Minister of Agriculture and Forests, other lands not liable to expropriation.

The Authority may be empowered by the Minister of Agriculture and Forests to exchange land of which it has by any procedure become the owner for land considered better suited to the establishment of farms...

Art. 6. Leases relating to expropriated land, other than leases concluded with actual cultivators, shall lapse without further formality on the expiry of the current farming year, provided that the Authority shall have given notice thereof to the tenant not less than three months prior to the expiry of the year . . .

Art. 7. The expropriation compensation for any individual parcel of land shall be adjusted to the final value as assessed for the purpose of levying the extraordinary progressive tax on capital assets . . .

Art. 8. The expropriation compensation shall be paid in the form of State bonds at 5 per cent net, redeemable in twenty-five years.

. . . Owners who are bound, or who intend, to carry out improvements to their residual lands may apply for payment of the compensation in cash up to the amount of the cost of the work to be done less the State subsidy.

Art. 9. The rights of third parties, including rights of user, shall for all purposes become exercisable against the expropriation compensations . . .

Art. 13. The president of the Authority shall be assisted by a board consisting of twelve members of whom six shall be selected among persons particularly expert in the problems related to land conversion and settlement and representing the agricultural categories, four persons representing the Ministries of the Treasury, Agriculture and Forests, Public Works, and Labour and Social Security respectively, and two representatives of the local administrations, one for the province of Cosenza and the other for the province of Catanzaro . . .

Art. 16. The lands transferred to the ownership of the Authority shall be allotted to manual land-workers who are not the owners or perpetual or long-term tenants of rural holdings or where, if they are such owners or tenants, the said rural holdings are too small to give employment to the working members of the family.

Qualification as a land-worker, and occupational capacity, shall be certified by the provincial land inspectors competent for the territory . . .

Art. 17. The allotment [of land] shall be effected by a contract of sale providing for payment of the purchase price in thirty annual instalments, ownership being reserved to the Authority until payment shall have been made in full.

In no case shall the selling price exceed two-thirds of the sum yielded by the cost of the improvement work carried out by the Sila Development Authority on the land, less the State contributions, plus the expropriation compensation paid to the owner.

Interest shall be computed at the rate of 3½ per cent.

The instalments payable shall be fixed in such a way that the first two years' instalments are equal to the interest only on the capital.

Art. 18. The contract shall stipulate a probationary period of three years with an express condition of avoidance.

Payment of the contractual annual instalments before maturity shall not be permitted.

Until the purchase price has been paid in full, any transaction *inter vivos* disposing of or letting the

[1] Italian text in *Gazzetta Ufficiale* No. 115, of 20 May 1950. English translation from the Italian text by the United Nations Secretariat.

land allotted or otherwise assigning the total or partial user of the same, shall be null and void. During the same period, the rights of the allottee may not be pledged as security or subject to distraint, except in favour of the Authority.

Art. 19. The rights and obligations of an allottee who dies before he has paid the purchase price in full shall vest in his descendants in the direct line or, in the absence of such, in his spouse, provided that the latter shall not have been legally separated as a guilty party, and provided that such successor or successors shall fulfil the requirements of the first paragraph of article 16 hereof.

Otherwise, the land shall return to the disposal of the Authority . . .

Art. 21. The Authority may promote and facilitate grants of perpetual or long-term leases to manual land-workers by private land-owners whose properties do not exceed in extent the limit specified in article 2 hereof.

Art. 22. The Authority shall, for the purpose of performing its tasks, organize services of technical, economic and financial assistance to allottees.

It shall promote, encourage and organize: (*a*) special, free courses of occupational instruction; (*b*) the mechanization of agriculture, or agricultural machinery centres.

The Authority shall, furthermore, promote in respect of each organic land settlement until the establishment of co-operative societies or institute compulsory syndicates to which the functions and services enumerated above shall gradually be entrusted.

Art. 23. The allottees shall be bound, for a period of twenty years from the conclusion of the contract of sale, to participate in the co-operative societies or syndicates which the Authority shall have promoted or established to ensure technical, economic and financial assistance to the new small farms.

On failure of an allottee to comply with the aforesaid obligation, he shall, by a ruling of the Authority, be declared to have lost his rights in the law allotted to him.

. . .

Art. 27. For the purposes of determining the limit specified in article 2 hereof, grants to bodies corporate and transfers effected without valuable consideration, other than gifts made in contemplation of marriage and donations to charitable, relief and teaching institutions, shall be without effect in law, in relation to the Authority if made after 1 January 1948, as shall also any transfers made for valuable consideration to sons or daughters after that same date. Transfers for valuable consideration to persons other than sons or daughters shall likewise be ineffective if made after 15 November 1949 . . .

Art. 28. The Deposit and Loan Bank, the land credit and land improvement institutions, and, in general, all banking, insurance and welfare institutions subject to State supervision are hereby authorized to grant loans to the Sila Development Authority even in cases where the grant of such loans would but for this provision be inadmissible under their articles of association.

The aforesaid institutions may, furthermore, discount annual instalments due to the Authority by peasants to whom land has been granted, for the payment of the price of such land.

ACT No. 860, OF 26 AUGUST 1950, CONCERNING THE PHYSICAL AND ECONOMIC PROTECTION OF WORKING MOTHERS AS AMENDED BY ACT No. 394 OF 23 MAY 1951 [1]

PART I

PROTECTIVE MEASURES

Art. 1. The provisions of this part shall apply to female workers who are pregnant or in childbirth who give their services to private employers, including female agricultural workers (female wage-earners, female agricultural workers and female workers remunerated by a share in profits), and to female employees in offices and undertakings belonging to the State, to the regional, provincial or communal authorities or to other public bodies or to co-operative societies, even if they are members of the said co-operative societies, where such female workers enjoy under other legislation less favourable conditions than those provided for in this Act.

Art. 2. A subsequent Act shall provide rules respecting the physical and economic protection of female domestics in the service of families and home workers who give their services under the authority of another person for remuneration.

Until the promulgation of the aforementioned Act, the provisions of part III of this Act shall apply to the female workers referred to in the preceding paragraph.

[1] Italian text in *Gazzetta Ufficiale* No. 253, of 3 November 1950. Italian text of the amendment in *Gazzetta Ufficiale* No. 134, of 15 June 1951. English translation of the complete text of Act No. 860 of 1950 in: International Labour Office, *Legislative Series*, 1950—It. 2. English translation from the Italian text of article 6 by the United Nations Secretariat.

Art. 3. No female worker referred to in section 1 above shall be dismissed during the period of pregnancy (such pregnancy being duly certified by a medical practitioner) up to the end of the period in which she is forbidden to work as laid down in section 6 or before the child is one year old.

This rule shall not apply:

(*a*) In the case of misbehaviour on the part of the female worker which would be sufficient cause for the termination of her contract of employment;

(*b*) In the case of stoppage of work in the undertaking where she is employed;

(*c*) In the case of completion of the work for which the female worker was engaged or the rescission of the contract of employment on the expiry of the period for which the contract was made.

In the case of illness caused by pregnancy occurring in the months preceding the period during which it is forbidden to dismiss the female worker, the employer must keep open the post of every female worker covered by the above rule forbidding dismissal.

Art. 4. Until regulations for the execution of this Act are published, it is forbidden to employ in transport or for lifting heavy objects or in the dangerous, tiring or unhealthy work referred to in the legislation in force, any worker referred to in section 1 during her pregnancy (from the date on which the medical certificate of pregnancy referred to in sections 3 and 31 of this Act is submitted) or during the three months following the confinement (seven months if the said worker breast-feeds her child).

The female worker shall be assigned other work during the period covered by the prohibition laid down in the preceding paragraph.

Art. 5. Women must not be employed:

(*a*) During the three months preceding the presumed date of confinement indicated in the medical certificate of pregnancy in the case of workers in industry, during the eight weeks preceding the confinement in the case of workers in agriculture, and during the six weeks preceding the presumed date of the confinement in the case of workers in all other categories;

(*b*) If the confinement does not occur on the presumed date, during the entire subsequent period preceding confinement;

(*c*) During the eight weeks following the confinement.

Art. 6 [*as amended in 1951*]. The labour inspectorate, on presentation of a medical certificate stating that the conditions of work and the place where the work is carried out might be prejudicial to the health of the female worker and her child, may extend each of the periods of interruption of work referred to in paragraph (*a*) of the preceding section by a further compulsory period of interruption not exceeding six weeks.

Furthermore, on the expiry of the period of compulsory interruption of work referred to in paragraph (*c*) of the preceding section, the female worker shall be entitled to remain absent for a further period of six months, during which her post must be kept open for her for all purposes of privileges arising out of length of service.

The provisions of section 17 of this Act shall not apply during the period of six months referred to in the preceding paragraph.

Art. 7. Female employees covered by the prohibition laid down in section 5 shall be entitled, in the case of serious complications during pregnancy or pathological conditions which might be aggravated by pregnancy, to be absent from work as from the date on which a medical certificate of pregnancy is submitted, after verification by the labour inspectorate.

Art. 8. The female workers referred to in section 1 shall receive maternity benefit from the institution with which they are insured for medical aid, even where the contract of employment is interrupted. (The pregnancy must, however, have commenced while the contract of employment was still in force.)

Pregnant female workers may undergo free periodic examination arranged by the institution with which they are insured. The labour inspectorate shall be empowered to supervise such examinations.

Art. 9. An employer must grant to every mother employed by him who breast-feeds her child and is covered by the prohibition laid down in section 5, for one year following the confinement, two pauses daily in which to feed her child.

. . . The said pauses shall be of one hour each and shall entitle the mother to leave the premises of the undertaking (unless the employer provides a nursing mothers' room and crèche as provided for in section 11; even in this case the mother shall still be entitled to leave the premises of the undertaking if the said room and crèche are situated outside the undertaking or if the hours of commencement and termination of work are such as to render it impossible for the mother to bring her child to the nursing mothers' room or to the crèche).

If, however, the employer has provided a nursing mothers' room, the pauses for breast-feeding shall be of half-an-hour's duration each, and in this case the mother shall not be entitled to leave the premises of the undertaking.

Art. 10. Pauses for breast-feeding shall be deemed to be hours of work for the purpose of the calculation of hours of work and remuneration for work.

Art. 11. Every employer must provide a nursing mothers' room within the premises on which the work is carried out for the children of every female worker in his service if there are thirty or more married women under fifty years of age employed in the undertaking.

The labour inspectorate may permit the employer to provide in premises adjacent to the workplace, instead of a nursing mothers' room, a crèche where the children under three years of age of his female workers can be left and breast-fed by their mothers or have meals provided; the labour inspectorate may likewise promote the establishment of suitably situated crèches common to two or more undertakings.

The labour inspectorate shall be empowered to exempt from the obligation of providing a nursing mothers' room any employer who contributes to the establishment and financial upkeep of a suitably situated crèche common to two or more undertakings for the benefit of his female workers. This exemption may likewise be granted to employers whose female workers are able to make use of crèches administered and managed by public assistance institutions, if the employer contributes to the financial upkeep of such institutions.

In the case of agricultural work carried on in zones where female labour is employed (female wage-earners, labourers and produce-sharing workers), the labour inspectorate shall promote the establishment of the nursing mothers' room and crèches, to which the employers in the zone concerned shall be obliged to contribute. The nursing mothers' room and crèches may be established either in the principal village of each commune, or in the sectors in which the agricultural activity is most intense.

Art. 12. The nursing mothers' room must satisfy the rules of hygiene; be suitably furnished; be kept scrupulously clean; and be provided with water.

The nursing mothers' room must be provided with qualified staff for the supervision of the children while their mothers are at work.

Art. 13. In addition to fulfilling the conditions laid down respecting the protection of children, every crèche must be provided with the necessary technical arrangements for safeguarding the children while their mothers are at work, in accordance with provisions to be laid down by the labour inspectorate. Every crèche must be provided with staff having the necessary training in infant welfare and education.

PART II

CASH BENEFITS

Art. 14. The period of compulsory absence from work, as defined in sections 5 and 6 of this Act, must be taken into account in calculating length of employment for the purpose of the supplementary annual bonus of one month's wages and holidays.

Art. 15. In the case of voluntary termination of the contract of employment by a female worker in the course of the period during which, under section 3 of this Act, it is forbidden to dismiss her, she shall be entitled to the benefits provided for under the legislation in force and under the contract in the case of dismissal.

Art. 16. If a female worker who has interrupted her employment under this Act returns to work, the contract of employment of the person engaged to replace her shall be automatically rescinded, without notice and without any right to the compensation provided for (if any), but only if the said person was warned of the temporary nature of the work at the time of taking up the employment.

Art. 17. Every female worker in an industrial, commercial, credit or private insurance undertaking and every female worker in agriculture shall be entitled to a daily benefit of 80 per cent of her remuneration for the entire period of compulsory absence from work provided for in sections 5 and 6 of this Act. Payment of such benefit shall exclude payment of any other benefit payable in respect of sickness.

The benefit referred to in the preceding paragraph shall be paid:

(*a*) By the appropriate managing bodies of the National Sickness Insurance Institution, in the case of female workers to whom the sickness benefit would be paid by the Institution itself;

(*b*) Directly out of his own pocket by the employer, in the case of female workers who are not entitled in the case of sickness to cash benefit from the aforementioned Institution.

The daily benefit shall be paid in the same manner as the compulsory sickness-insurance benefits.

Periods of sickness due to pregnancy or confinement shall not be taken into consideration as periods for the normal treatment of sickness under the provisions of any Act, regulation or contract.

The provisions laying down rules for the granting of benefits to female employees in offices and undertakings belonging to the State, to the regional, provincial or communal authorities or to other public bodies shall remain unchanged.

Art. 19. The benefits referred to in section 17 shall be paid likewise on termination of the contract of employment in the cases referred to in (*b*) and (*c*) of section 3, when such cases arise during the periods of absence from work provided for in sections 5 and 6 of this Act.

Art. 20. Every female worker who avails herself of her right under section 7 of this Act shall be subject to the normal rules governing sickness benefits during the period which does not fall within the period of compulsory absence from work preceding the confinement.

Art. 21. Miscarriage or therapeutic abortion, but not criminal abortion, shall be deemed for all purposes to be sickness due to pregnancy or confinement.

Art. 22. Until the present system of unified contributions in agriculture is reorganized, the female agricultural workers referred to in section 1 who are not salaried employees shall be entitled, in addition to full maternity benefit, under Legislative Decree of the Lieutenant-General No. 212 of 9 April 1946,[1] as subsequently amended, to a lump-sum benefit calculated as follows according to category:

[Four categories and the lump-sums provided for them are listed.]

Art. 23. To cover the expenses resulting from the application of (*a*) of section 17 and section 22 of this Act every employer must pay to the National Sickness Insurance Institution . . . an additional contribution calculated as follows:

[Percentages of the remuneration to be paid by the employers as contributions are listed.]

. . .

PART III

PARTICULAR PROVISIONS RESPECTING FEMALE HOME WORKERS AND FEMALE DOMESTICS IN THE SERVICE OF FAMILIES

Art. 25. Until the measures referred to in section 2 are adopted, female home workers who give their services under the authority of another for remuneration and female domestics in the service of families shall be entitled to a maternity allowance of 12,000 lire in the case of confinement.

In the case of miscarriage or therapeutic abortion, an allowance of 7,000 lire shall be payable.

The allowances referred to in the preceding paragraphs shall be paid by the National Social Welfare Institution.

Art. 26. Entitlement to the allowances referred to in the preceding section shall be acquired where the employer owes at least fifty-two weekly contributions in respect of the two years preceding the date of confinement, irrespective of whether any contributions have actually been paid by him or not.

The female worker shall retain her right to the allowance up to 30 June 1951,[2] with respect to confinements which took place prior to that date, where the employer owes at least twenty-six weekly contributions, irrespective of whether any contributions have actually been paid by him or not.

The allowances referred to in the preceding section shall not be payable if the female worker is entitled to the benefits provided for in sections 17 and 22 of this Act.

Art. 27. For the purpose of financing the allowances referred to in section 25, employers shall pay the contributions to the National Social Welfare Institution in the following amounts:

[The amounts to be paid for the various categories of workers are listed in the following paragraphs of this article.]

PART IV

[This part contains various provisions among which penalties for employers who violate the provisions of the present Act.]

[1] Legislative decree to amend the law in force respecting the sickness insurance of agricultural workers (*Gazzetta Ufficiale* No. 100, of 30 April 1946).

[2] The above date is extended to 31 December 1951 under Act No. 987, of 12 December 1950 (*Gazzetta Ufficiale* No. 291, of 20 December 1950).

ACT No. 841 CONTAINING RULES GOVERNING THE EXPROPRIATION, RECLAMATION AND CONVERSION OF LAND AND THE ALLOTMENT THEREOF TO PEASANTS[1]

dated 21 October 1950

Art. 1. The Government of the Republic is hereby authorized to apply, subject to the amendments set forth in the following articles, the provisions of Act No. 230 of 12 May 1950 and subsequent amendments thereto to territories suitable for land holding or agrarian conversion.

The territories themselves shall be defined by the Government not later than 30 June 1951, after consultation with the regional administrations, where such have been set up, through decrees having the force of ordinary law and issued under the powers delegated by this Act.

Art. 2. It shall be the duty of the Government of the Republic to issue, within six months of the entry into force of this Act, regulations concerning the establishment of land settlement or land conversion associations or of special sections of such associations...

Art. 3. The associations referred to in the next preceding article shall make provision for the preparation of the landholding and agrarian conversion programmes in all the territories referred to in article 1 hereof and for the application of the said programmes to land liable to expropriation proceedings.

[1] Italian text in *Gazzetta Ufficiale* No. 249, of 28 October 1950. English translation from the Italian text by the United Nations Secretariat.

Art. 4. For the purposes of this Act, article 2 of Act No. 230 of 12 May 1950 shall be replaced by the following:

"In the territories covered by this Act, landed property in private ownership, as held on 15 November 1949, shall be liable to the expropriation of a proportion determined on the basis of the owner's income from the entire property as at 1 January 1943 and of the mean yield to the owner per hectare, this latter figure being obtained as the quotient of the division of the total yield to the owner by the area; however, land classified in the land register as woodlands or uncultivated productive lands shall be disregarded in the calculation of the yield to the owner and in that of the area.

"The proportion to be expropriated from each owner, whether the latter be an individual or a body corporate, out of the property vested in him under whatever title, even if such property is held jointly or in common, shall be determined according to the table annexed to this Act.

"The provisions of the preceding paragraphs shall also apply to estates granted in perpetual or long-term lease.

"Any land which passed on death, between 15 November 1949 and the date of entry into force of this Act, to descendants in the direct line shall be taken into account in the calculation of the assets of the said descendants.

"Nothing contained herein shall prejudice the right of the associations to acquire, subject to authorization by the Ministry of Agriculture and Forests, other land not liable to expropriation.

"The associations may be empowered by the Ministry of Agriculture and Forests to exchange land of which they have by any procedure become the owners for land considered better suited to the establishment of farms."

Art. 5. In general, woodlands shall not be liable to expropriation. The association may, however, at its discretion, expropriate such level or slightly sloping woodlands as are suitable for agrarian conversion and are not essential from the point of view of hydrogeology.

Art. 6. In regions in which the old land registers are in force, both the expropriating authority and the dispossessed owner may appeal, for the purposes of the final determination of the yield to the owner that shall be applied, in any case where it is sought to show that the area, the productive category, or the farming quality of the land, is not in conformity with the data recorded in the land register.

. . .

Art. 7. For a period of six years from the determination of the proportion to be expropriated, owners subject to the provisions of this Act may not acquire rural land by any transaction *inter vivos* whereby, together with the land left in their ownership, their holdings would exceed 750 hectares of workable area.

In the event of any infringement of this provision, the area in excess of 750 hectares shall be entirely expropriated pursuant to and in the manner indicated by this Act.

Art. 8. In the case of land which becomes liable to expropriation in conformity with the table annexed to this Act, the expropriation shall be proceeded with immediately, subject to the provisions, applicable to one-third of such land, which are contained in articles 9, 10, 11 and 12.

Where, pursuant to the provisions of the articles enumerated in the next preceding paragraph, only two-thirds of the land liable to expropriation is expropriated immediately, the residual third, which may not in any case exceed 300 hectares in area, shall be inalienable and shall not be liable to distraint. The association responsible for carrying out the reform shall cause the fact of such inalienability to be recorded in the land register of the place in which the property is situated.

Art. 9. An owner proposing to retain permanently a part of the land constituting the residual third may, within sixty days from the date of publication of the expropriation plan, apply for permission to carry out throughout the land comprising the residual third, within two years from the date of authorization, the conversion work stipulated by the association . . .

In such an event the owner shall in addition be bound to proceed with the conversion and improvement of all the lands remaining in his ownership within the boundaries of the territories to which this Act applies, in accordance with plans approved or prepared by the association . . .

On completion of the conversion of the land constituting the residual third, the owner shall surrender to the association half of the said land against payment of the expropriation compensation and reimbursement of the costs of conversion . . . In this way, the owner shall retain the ownership of the other half.

The owner shall have the right to select the peasants to be installed in the farming units resulting from the conversion . . .

Art. 10. This Act shall not be applied for the expropriation of intensively cultivated land which forms part of organic and efficient agricultural undertakings conducted in association with the workers and provided with modern, centralized equipment, on condition that each of the following conditions is fulfilled:

(*a*) The mean unit production of the principal crops of the undertaking, calculated on the basis of the next preceding period of five years, must exceed by about 40 per cent that of the same crops in the land survey district in which the undertaking is situated;

(*b*) The intensity of labour, both regular and casual, applied to the workable area, calculated, in respect of

the period of the three years next preceding, from the table annexed to the regulations governing the implementation of this Act, must not be lower than 0.3 work units per hectare;

(*c*) The economic and social conditions of the peasants living on the estate must be distinctly superior to the average conditions prevailing in the district, particularly as regards continuity of employment and the participation of the workers in the proceeds of production;

(*d*) The undertaking must be organized in farms and the farmhouses shall comply with the requirements of hygiene . . .

Art. 11. A person who owns more than one undertaking of the type described in the next preceding article shall be entitled to exemption from expropriation in respect of only one such undertaking to be selected by him . . .

Art. 18. The compensation for the expropriated lands shall be equal to the final value as assessed for the purposes of the extraordinary progressive tax on capital assets instituted by Legislative Decree No. 143 of 29 March 1947.

The said compensation shall be paid to the dispossessed owner in State securities bearing interest of 5 per cent net and redeemable on the expiry of a term of twenty-five years to run from the third financial year following the entry into force of this Act . . .

Art. 19. Where an owner is bound or proposes to carry out land improvement work on residual land, the compensation payable in cash shall relate exclusively to the cost of the work to be carried out, less the State subsidy, and shall in no case exceed 25 per cent of the indemnity . . .

Art. 20. Article 27 of Act No. 230 of 12 May 1950 shall be replaced by the following:

Without prejudice to the provisions of article 4, fifth paragraph, relating to transfers *mortis causa*, for the purposes of this Act all transactions *inter vivos*, without valuable consideration, effected subsequently to 1 January 1948, other than gifts made in contemplation of marriage and donations to charitable, relief and teaching institutions, shall be without effect in law in relation to the associations responsible for applying the said Act. Likewise, all instruments purporting to sell or grant property to bodies corporate shall be without effect in law if executed later than 1 January 1948.

Instruments of alienation executed after 1 January 1948 in favour of the alienating party's heirs in the direct line shall be deemed to have been made without valuable consideration unless they were recognized as transactions for valuable consideration at the time of the assessment of the registration tax.

Transactions for valuable consideration concluded after 15 November 1949 shall likewise be without effect in law . . .

Art. 21. The allotment of the land shall proceed in accordance with the provisions of article 17 of Act No. 230 of 12 May 1950, the State contributions deductible from the cost of the improvement work being deemed to be the contributions paid by the State pursuant to the Sole Enactment No. 215 of 13 February 1933 and subsequent amendments thereto.

In the allotment of the expropriated land, preference shall as a rule be given, subject to the limitations of the provisions governing allotment, to peasants who are already parties to long-term improvement contracts relating to the same land, where the said contracts were concluded on a definite date prior to the entry into force of this Act, and who have carried out substantial and permanent improvements to the land. Where land is allotted under these circumstances, the expropriation compensation shall be reduced in proportion to the improvements carried out, pursuant to the rules and regulations in force.

The land referred to in article 16 of Act No. 230 of 12 May 1950 may also be transferred to legally recognized institutions whose specific object is to give occupational training to orphans or children of peasants on model estates or training farms to be established for this purpose, with the intention that the said orphans or children shall later be installed in directly farmed property.

JAPAN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. CIVIL LIBERTIES

Religious Juridical Persons Act—Act No. 126, promulgated on 3 April 1951. This Act was published in *Official Gazette*, English edition, No. 1504, of 3 April 1951.

The purpose of this Act is to give legal capacity to religious organizations in order to facilitate their owning, maintaining and operating establishments for worship and other properties and also to carry on business affairs, under certain conditions, and public welfare enterprises for the achievement of their objects. Paragraph 2 of article 1 provides as follows:

"Freedom of faith guaranteed in the Constitution must be respected in all phases of government. Therefore, no provision in this law shall be construed as restricting any individual, group or organization from disseminating teachings, observing ceremonies and functions on the basis of the said guaranteed freedom."

II. ECONOMIC AND SOCIAL RIGHTS

Social Welfare Service Act—Act No. 45, promulgated on 29 March 1951. This Act was published in *Official Gazette*, English edition, No. 1500, of 29 March 1951.

The object of this Act is to regulate fundamental matters common to the entire field of social welfare services. Extracts from this Act are reproduced in the present *Yearbook*.

Public-operated Housing Act—Act No. 193, promulgated on 4 June 1951. This Act was published in *Official Gazette*, English edition, No. 1555, of 4 June 1951.

The purpose of this Act is to contribute towards the stabilization of the people's livelihood and the promotion of public welfare by requiring the State and the local public bodies to co-operate in constructing houses suitable to maintain wholesome and cultural living and to be let at a low rent to people of low income who are in need of housing accommodation. The State is required, when it deems it necessary, to give fiscal, financial and technical aid regarding the construction of public-operated housing accommodation.

Daily Life Security Amendment Act—Act No. 168, promulgated on 31 May 1951. This Act was published in *Official Gazette*, English edition, Extra No. 50, of 31 May 1951.

The present Act amends the principal Act[2] (Act No. 144 of 1950) by providing for changes in agencies and institutions concerned, etc., necessitated by the promulgation of the principal Act.

Disabled Persons Welfare Amendment Act—Act No. 169, promulgated on 31 May 1951. This Act was published in *Official Gazette*, English edition, Extra No. 50, of 31 May 1951.

This Act amends the principal Act[3] (Act No. 283 of 1949), in order to adjust the operations and functions of administrative offices concerned and also to clarify the office jurisdiction of agencies and institutions in this field, in accordance with the promulgation of the Social Welfare Service Act (Act No. 45 of 1951).

Child Welfare Amendment Act[4]—Act No. 202, promulgated on 6 June 1951. This Act was published in *Official Gazette*, English edition, No. 1557, of 6 June 1951.

This Act amends the principal Act (Act No. 164 of 1947), in order to add and improve the functions to be performed by the child welfare centre, the office of welfare and the health centre. It provides, *inter alia*, for medical examination, consultative service, medical guidance by the superintendent of the health centre for children with physical handicaps, and for the supply or repair of blind persons' safety sticks or such artificial appliances as hearing aids, artificial limbs, wheelchairs, etc. It also provides for the steps to be taken for termination of the parental authority where it is abused or the person exercising it is guilty of gross misconduct, and for the appointment and removal of children's guardians.

Tuberculosis Control Act—Act No. 96, promulgated on 31 March 1951. This Act was published in *Official Gazette*, English edition, Extra No. 27, of 31 March 1951.

The purpose of this Act is to prevent tuberculosis from injuring individuals and society by making efforts

[1] This note is prepared from texts received through the courtesy of the Government of Japan.

[2] See *Yearbook on Human Rights for 1950*, pp. 177–179.

[3] See *Yearbook on Human Rights for 1949*, p. 133.

[4] See *Yearbook on Human Rights for 1949*, p. 133 and *Yearbook on Human Rights for 1950*, p. 171.

for the prevention and control of tuberculosis and proper treatment of tuberculosis patients and thereby to promote public welfare. The State and the local public bodies shall, with the co-operation of physicians and other persons connected with medical treatment, take measures necessary for achieving its objects. The Act establishes a Tuberculosis Control Advisory Council and a Tuberculosis Advisory Committee and makes provisions, *inter alia*, for health examination, preventive inoculation, prevention of infection and medical treatment.

Act No. 301, concerning the free distribution of milk, etc., promulgated on 6 December 1951. This Act was published in *Official Gazette*, English edition, No. 1711, of 6 December 1951.

The Act provides that the Government may organize free distribution of dried skimmed milk and wheat purchased under the Food Management Special Account for the use of schools and nursery feeding. The Act sets a price limit for milk and wheat so distributed.

III. CULTURAL RIGHTS

Vocational Education Promotion Act—Act No. 228, promulgated on 11 June 1951. This Act is published in *Official Gazette*, English edition, No. 1561, of 11 June 1951.

The purpose of this Act is to promote vocational education in compliance with the spirit of the Fundamental Education Act (Act No. 25 of 1947). Extracts from this Act are reproduced in this *Yearbook*.

Act No. 49, concerning the free supply of textbooks, promulgated on 29 March 1951. This Act was published in *Official Gazette*, English edition, No. 1500, of 29 March 1951.

The purpose of this Act is to encourage local public bodies to supply textbooks to children who enter the public schools in the school year 1951 so as to achieve a wider realization of the ideal of free compulsory education. It provides for national subsidies to be given for the supply of textbooks in order to achieve its objects.

IV. ELECTORAL RIGHTS

Public Offices Election Amendment Act—Act No. 25, promulgated on 19 March 1951. This Act was published in *Official Gazette*, English edition, Extra No. 19, of 19 March 1951.

The present Act contains amendments as well as additions to the Public Offices Election Act, 1950[1] (Act No. 100 of 1950). It extends the provisions with regard to voting by an absentee elector to include voters obliged to dwell, stay or perform their duty or carry on their business on islands with scarce means of communications.

[1] See *Yearbook on Human Rights for 1950*, p. 171.

LEGISLATION

SOCIAL WELFARE SERVICE ACT, 1951[1]

Act No. 45 of 29 March 1951

CHAPTER I

GENERAL PROVISIONS

Art. 1. The purpose of this Act is to regulate fundamental matters common to the entire field of social welfare services and, in conjunction with the Daily Life Security Act (Act No. 144 of 1950),[2] the Child Welfare Act (Act No. 164 of 1947),[3] the Disabled Persons Welfare Act (Act No. 283 of 1949)[4] and other laws aiming at social welfare, to secure fair and appropriate practice of social welfare services, and thus to assist in the promotion of social welfare.

Art. 2. "Social welfare services" in this Act shall mean the first-type social welfare services and the second-type social welfare services.

2. Services mentioned in each of the following subparagraphs of this paragraph shall be the first-type social welfare services:

[1] English text based on the translation in *Official Gazette*, English edition, No. 1500, of 29 March 1951. The Act came into force on 1 June 1951, with the exception of chapters 4 and 5 and paragraphs 3–6 and 10 of the Supplementary Provisions, which came into force on 1 April 1951, and of chapter 3 and paragraphs 7–9 of the Supplementary Provisions of this Act, which came into force on 1 October 1951.

[2] See the text in *Yearbook on Human Rights for 1950*, pp. 177–179.

[3] This Act was amended by Act No. 211, of 15 June 1949, in order to improve the provisions for physically handicapped children and other children in need of assistance. See *Yearbook on Human Rights for 1949*, p. 133.

[4] *Ibid.*

(1) Services rendered through the operation of institutions for the aged, relief institutions, rehabilitation institutions or other institutions which provide lodging to the destitute free of or at a small charge for the purpose of providing livelihood aid, and the services of providing funeral aid as provided for by the Daily Life Security Act;

(2) Services rendered through the operation of infants' homes, mothers' homes, homes for dependent neglected and abused children, homes for feeble-minded children, homes for blind, deaf, and dumb children, homes for physically weak children, homes for crippled children or homes for juvenile training and education, as provided for by the Child Welfare Act;

(3) Services rendered through the operation of institutions for rehabilitation and guidance of disabled persons, institutions for the rehabilitation of persons with acquired blindness or the sheltered workshops for disabled persons, as provided for by the Disabled Persons Welfare Act;

(4) Services rendered through the operation of public pawn-shops or work-shops and by providing loans to the destitute either interest-free or at a low rate of interest;

3. Services mentioned in each of the following sub-paragraphs of this paragraph shall be the second-type social welfare services:

(1) Services rendered by providing the destitute at their homes with food, clothing and other daily necessities or with money needed to obtain them or by providing consultations on living conditions;

(2) Services rendered through the operation of lying-in agencies, day nurseries or children's recreational agencies and services promoting the welfare of children through consultations, as provided for by the Child Welfare Act;

(3) Services rendered free of or at a small charge through the operation of institutions manufacturing artificial limbs or other prosthetic appliances, Braille libraries, Braille publishing institutions and services of providing free of or at a small charge consultation for rehabilitation of the disabled persons, as provided for by the Disabled Persons Welfare Act;

(4) Services rendered by renting to the destitute simple houses free of or at a small charge, or the service of allowing them to utilize lodging or other institutions free of or at a small charge;

(5) Services rendered by providing to the destitute medical care free of or at a small charge;

(6) Services of providing co-ordination or financial aid to the services stated in each sub-paragraph of the preceding paragraph and in each of the preceding sub-paragraphs of this paragraph.

4. "Social welfare services" in this Act shall not include services enumerated in each of the following sub-paragraphs:

(1) Rehabilitation work provided for by the Act for Immediate Aid to Offenders, etc. (Act No. 203 of 1950);

(2) Services rendered for a period not longer than six months (or three months with respect to services stated in sub-paragraph (6) of the preceding paragraph);

(3) Services rendered by corporations or associations for the benefit of the corporation or association members;

(4) Services enumerated in each sub-paragraph of paragraph 2 and in sub-paragraphs (1) to (5) inclusive of the preceding paragraph, provided that, in the case of institutional care, the persons receiving regular care are less than five persons and less than twenty persons in other cases;

(5) Services enumerated in sub-paragraph (6) of paragraph 3, services of providing financial aid to social welfare services, provided the financial aid rendered is less than 500,000 yen during each fiscal year or the social welfare services receiving such aid are, during the same fiscal year, less than fifty in number.

Art. 3. Social welfare services shall be operated with the purpose of providing the persons in need of measures of relief with such nurture or rehabilitation assistance as will enable them, without impairing their spirit of independence, to live as normal members of society.

Art. 4. Of the welfare services, the first-type social welfare services shall, in principle, be operated by the State, local public bodies or social welfare juridical persons.

Art. 5. The State, the local public bodies, the social welfare juridical persons or other persons operating social welfare services shall clarify their respective responsibilities in accordance with what is provided for in each of the following sub-paragraphs:

(1) The State and the local public bodies shall not delegate the responsibilities placed on them by laws to other persons operating social welfare services; nor shall they request financial assistance from them;

(2) The State and the local public bodies shall respect the independence of other persons operating social welfare services, and shall not interfere with them unduly;

(3) The persons operating social welfare services shall not unduly request financial or managerial assistance from the State and the local public bodies.

2. The provisions of sub-paragraph (1) of the preceding paragraph shall not preclude the State or the local public bodies from consigning, with respect to social welfare services operated by them, measures of accommodation or other measures relative to persons in need of relief, etc., to persons operating welfare services.

CHAPTER II

THE SOCIAL WELFARE COUNCIL

Art. 6. The Social Welfare Council shall be established in order to investigate and deliberate on fundamental matters common to the entire field of social welfare services and other related important matters.

2. The Social Welfare Council shall be under the supervision of the Minister of Welfare and shall answer the questions asked by the latter, or give opinions to the administrative agencies concerned.

[Arts. 7–12 deal with organization, members, chairman, specialized sub-committees, miscellaneous affairs and conduct of business of the Social Welfare Council. Chapters 3–9 deal with the Office of Welfare, the Social Welfare Secretary, the guidance, supervision and training, the Social Welfare Juridical Person, the Social Welfare Service, the Community Chest and the Social Welfare Conference, and miscellaneous provisions.]

VOCATIONAL EDUCATION PROMOTION ACT, 1951[1]

Act No. 228 of 11 June 1951

CHAPTER I

GENERAL PROVISIONS

Art. 1. This Act shall have as its object the promotion of vocational education in cognizance of the fact that such education is the basis of the industrial and economic development of the national and of a higher national life, with the ultimate view of producing such able citizens as will contribute towards the economic independence of the nation by establishing a true faith in labour, developing industrial skill and fostering creative ability during such education, in the spirit of the Fundamental Act of Education (Act No. 25 of 1947).

Art. 2. "Vocational education" in this Act shall be construed to mean the education which is given to pupils or students by the lower secondary schools (including lower secondary sections of schools for the blind, the deaf and the otherwise handicapped—hereinafter the same), the upper secondary schools (including upper secondary sections of schools for the blind, the deaf and the otherwise handicapped—hereinafter the same) or the universities for the purpose of educating them in knowledge, skill and the general attitude required for engaging in agriculture, manufacture, commerce, fishery, etc. (including the household courses).

Art. 3. In accordance with the provisions of this Act and other relevant acts and orders, the State shall encourage local bodies to promote vocational education by the methods mentioned in the following items:

(1) The establishment of a general programme concerning the promotion of vocational education;

(2) The rendering of necessary assistance for improving the subjects and methods of vocational education;

(3) The provision of facilities and equipment for vocational education and the integration thereof;

(4) The establishment of a programme of in-service and pre-service training of teachers or leaders of vocational education and the implementation thereof;

(5) The promotion of co-operation with business circles with respect to the implementation of vocational education.

[Chapters 2 and 3 provide for the establishment of a central vocational education council and local vocational education councils and financial aid to public and private schools.]

[1] English text based on the translation in *Official Gazette*, English edition, No. 1561, of 11 June 1951, as revised by the International Labour Office, *Legislative Series*, 1951—Jap. 1. The Act came into force on 11 June 1951, except for articles 15–19, which came into force on 1 April 1952.

ACTIVITIES OF THE CIVIL LIBERTIES BUREAU

PROCEEDINGS OF THE CIVIL LIBERTIES BUREAU OF THE ATTORNEY-GENERAL'S OFFICE RELATING TO THE PROTECTION OF HUMAN RIGHTS[1]

1. Right to Personal Liberty; Abuse of the Process of Warrant of Arrest

The facts. In order to help a creditor to recover money due under a loan, a policeman obtained a false report from him alleging fraud on the part of his debtor. On the basis of this false report, a warrant of arrest was issued against the debtor and the policeman threatened to execute it unless the loan was repaid.

Measures taken: The Civil Liberties Bureau carried out an independent investigation and, on ascertaining the truth of the facts stated above, advised the chief of police of the police station concerned to instruct his subordinates to prevent such occurrences in the future. The procedure adopted by the police, being outside their authority, was a serious violation of fundamental human rights.

2. Right of Arrested Persons; Use of Torture to Obtain Confession

The facts. In the prefecture of Nara atrocious crimes were frequently being committed, including robbery with murder. Policemen of the Criminal Branch, who were over-anxious to carry out their duties, suspected certain persons to have committed these offences and applied torture to obtain their confessions.

Measures taken: The Civil Liberties Commissioner in the Nara Prefecture reported the incident to the Civil Liberties Bureau which conducted an independent investigation. On ascertaining the truth of the report, the Bureau submitted the case to the Public Procurator's Office and in addition warned the Public Safety Commission concerning police investigation in general from the point of view of the protection of civil liberties. As a result of the steps taken by the Bureau, the Nara District Public Procurator's Office brought an action against the police officials concerned for violence and insult.

3. Right to Privacy and Freedom from Search; Violation of the Right by an Official of a Tax Collector's Office

The facts. In a town in Shiga Prefecture, three officials of a tax collector's office searched the rooms of an income-tax defaulter and also those occupied by a third party in the same house. In doing so they used insulting language and injured the feelings of the third party and his family.

Measures taken: The injured parties reported the matter to the Otsu District Legal Affairs Bureau. As a result of the investigations, it was found that no breach of the law had been committed in searching the premises of an income-tax defaulter, as an independent witness was present when his premises were searched, but the law had been transgressed when the rooms of a third party were searched. Accordingly, the director of the tax office was requested to instruct and urge the members of his staff to be especially cautious in conducting a search of the premises of a third party not involved in the tax default in question.

4. Right to Personal Liberty; Forced Labour; Violation of the Rights of Infants

The facts. Consequent upon a news item appearing in the Tochigi edition of the *Mainichi Shinbun* of 3 December 1949 under the heading: "Five children kidnapped and sold", the Civil Liberties Bureau conducted an investigation in the locality concerned. It discovered that in Hiraishi-mira, a farming village in Tochigi Prefecture, numerous children were employed as farm hands under a contract of employment ranging from one to ten years. The contracts were executed by persons exercising parental authority over the children in consideration for loans advanced by farmers.

Measures taken: The Civil Liberties Bureau was of the opinion that such practice was the revival of the old traffic in human beings and was contrary to the spirit of legislation enacted under the new constitution, such as the Child Welfare Act, the Labour Standards Act, the School Education Act, etc. It therefore advised the Ministries of Welfare, Labour and Education, the Governor of Tochigi Prefecture and other authorities to take appropriate measures to remedy this evil practice. As a result of the representations made by the Civil Liberties Bureau, nation-wide measures were taken for the protection of children living as servants with other families. This was done through the Child Section of the Ministry of Welfare.

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[1] A text summarizing typical cases dealt with by the Civil Liberties Bureau of the Attorney-General's Office, was published on 16 March 1951 and received through the courtesy of Mr. Masanao Toda, Director, Civil Liberties Bureau, Attorney-General's Office, Japan. The Civil Liberties Bureau, in taking steps for the protection of human rights, acted in compliance with Act No. 139 of 1949 concerning the appointment of the Civil Liberties Commissioners. See also *Yearbook on Human Rights for 1949*, pp. 134–135.

THE HASHEMITE KINGDOM OF THE JORDAN

CONSTITUTION OF THE HASHEMITE KINGDOM OF THE JORDAN[1]

adopted in December 1951

PART I

THE STATE AND ITS FORM OF GOVERNMENT

Art. 1. The Hashemite Kingdom of the Jordan is an Arab independent sovereign State. The Kingdom is indivisible and no part of it may be ceded. The people of Jordan form part of the Arab nation. The form of government shall be representative, with an hereditary monarchy.

Art. 2. Islam shall be the religion of the State and Arabic shall be its official language.

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PART II

RIGHTS AND DUTIES OF THE JORDANIAN PEOPLE

Art. 5. Jordanian nationality shall be defined by law.

Art. 6. (1) No discrimination of any kind shall be made before the law between Jordanians in regard to their rights and obligations, on the ground of race, religion or language.

(2) The Government shall ensure work and education, within its possibilities, and shall safeguard security and equal opportunity for all Jordanians.

Art. 7. Personal freedom shall be safeguarded.

Art. 8. No person shall be detained or imprisoned except in accordance with the provisions of the law.

Art. 9. (1) No Jordanian shall be exiled from the territory of the Kingdom.

(2) No Jordanian shall be prevented from residing anywhere, or shall be obliged to reside in any specified place except in the circumstances prescribed by the law.

Art. 10. Dwelling houses are inviolable. No one may enter these houses except in the circumstances and in the manner prescribed by the law.

Art. 11. No property may be expropriated except for purposes of public utility and on payment of fair compensation as may be prescribed by the law.

Art. 12. No forced loan may be imposed and no property, movable or immovable, may be confiscated except in accordance with the law.

Art. 13. No compulsory labour shall be exacted from anyone, but exaction of work or service from any person may be applied in circumstances prescribed by law in the case of:

(1) An emergency—that is to say, in the event of war, or the occurrence of public danger, fire, flood, famine, earthquake, violent epidemic affecting man or animal, or invasion of insect or vegetable pest or any other like calamity—or in any other circumstances which would endanger the well-being of the whole or part of the population;

(2) A conviction by a court, such work or service being carried out under the supervision of an official authority, and the person convicted not being hired to, or placed at the disposal of, any individual, company, society or public body.

Art. 14. The State shall ensure the free exercise of all forms of worship and religious beliefs in accordance with the custom observed in the Kingdom, subject only to the maintenance of public order and morals.

Art. 15. (1) The State shall guarantee the freedom of opinion. Every Jordanian is free to express his opinion verbally, in writing, and pictorially, and in other forms of expression within the limits of the law.

(2) The press and forms of publication shall be free within the framework of the law.

(3) Publication of newspapers may not be suspended, nor their licences be cancelled except in accordance with the provisions of the law.

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[1] English text based on the translation in *The Constitution of the Hashemite Kingdom of the Jordan* (published by the Press and Publicity Bureau of the Ministry of Foreign Affairs), Amman, January 1952. The Constitution was promulgated by the King on 1 January 1952 and published in the *Official Gazette* of the Government of the Hashemite Kingdom of the Jordan No. 1093, of 8 January 1952. It supersedes the Constitution issued on 7 December 1946 with all its amendments and also repeals the Palestine Order-in-Council of 1922 together with all its amendments (article 129). The new Constitution came into force on 8 January 1952 (article 130).

(4) A limited censorship on newspapers, pamphlets, publications and broadcasts affecting the public safety or national defence may be imposed by legislation in the vent of a declaration of a state of martial law or an emergency.

(5) The law shall specify the manner of controlling the resources of the press.

Art. 16. (1) Jordanians shall have the right of assembly within the limits of law.

(2) Jordanians shall have the right to form associations and political parties; provided their objects are lawful, their means are peaceful, and they are organized in a manner not contrary to the provisions of the Constitution.

(3) The law shall specify the manner in which associations and political parties may be formed and the manner of controlling their resources.

Art. 17. Jordanians are entitled to address the public authorities regarding matters affecting their persons, or concerning public affairs, in such manner and under such conditions as may be prescribed by the law.

Art. 18. All postal, telegraphic and telephonic communications shall be treated as secret, and shall not be subject to censorship or to interruption except in the circumstances prescribed by the law.

Art. 19. Communities shall have the right to establish and maintain their own schools for the education of their own members while conforming to the general requirements of the law and submitting to government supervision with regard to their curricula and educational policy.

Art. 20. Elementary education shall be compulsory for Jordanians and shall be free in government schools.

Art. 21. (1) Political refugees shall not be extradited on account of their political principles or for their defence of liberty.

(2) International agreements and laws shall regulate the procedure for extraditing ordinary criminals.

Art. 22. (1) Every Jordanian shall be eligible for appointment to public office on terms specified in any law or regulation.

(2) Appointments to public office, be it temporary or permanent, in the State, in its governmental departments or in the municipalities, shall be made on the basis of merit and qualification.

Art. 23. (1) Every citizen has the right to work, and it is the duty of the State to provide opportunities for work for Jordanians by directing the national economy and raising its standard.

(2) The State shall protect labour and shall therefore enact legislation based upon the following principles:

(*a*) The workman's pay shall be proportionate to the quantity and kind of work;

(*b*) The limitation of the hours of work per week and the grant to labourers of weekly and annual holidays with pay;

(*c*) The fixing of special compensation to workmen supporting families and on account of retrenchment, illness, old age and emergencies arising out of work;

(*d*) Regulating special conditions for the employment of women and juveniles;

(*e*) Making factories subject to health rules;

(*f*) The free formation of trade unions within the limits of the law.

PART V

THE LEGISLATIVE POWER— THE NATIONAL ASSEMBLY

Section I

THE COUNCIL OF NOTABLES

Art. 63. The Council of Notables, including its president, shall not exceed one-half the number of the members of the House of Representatives.

Art. 64. In addition to the requirements stated in article 75 of this Constitution, a member of the Council of Notables must have completed forty solar years of age and belong to any of the following categories of persons:

Present and past Prime Ministers and Ministers, persons who have held appointments of Ambassador or Minister Plenipotentiary, Presidents of the House of Representatives, Presidents and judges of the Court of Cassation, and of the Civil and Sharia Courts of Appeal, retired Army officers of the rank of colonel and above, former members of the House of Representatives who have been not less than twice elected, and other similar personalities who enjoy the confidence and trust of the people for their services to the nation and country.

Section II

THE HOUSE OF REPRESENTATIVES

Art. 67. The House of Representatives shall consist of members, elected by secret ballot, in a general direct election held in accordance with the provisions of the electoral law, which shall guarantee the following principles:

(1) The validity of the elections;

(2) The right of candidates to supervise the process of election;

(3) The punishment of those interfering with the will of the electors;

Art. 70. In addition to the requirements stated in article 75 of this Constitution, the member of the House of Representatives must have completed his thirtieth solar year of age.

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Section III

GENERAL PROVISIONS FOR THE COUNCIL AND THE HOUSE OF REPRESENTATIVES

Art. 75. (1) No person shall become a member of the Council of Notables and of the House of Representatives:

(*a*) Who is not a Jordanian;

(*b*) Who claims foreign nationality or foreign protection;

(*c*) Who has been adjudged bankrupt and has not been discharged;

(*d*) Who has been interdicted and the interdiction has not been removed;

(*e*) Who has been sentenced for a term of imprisonment exceeding one year for a non-political crime and has not been pardoned;

(*f*) Who has a material interest in any contract other than a contract of lease of land and property with a government department. This does not apply to a member who is a shareholder in a company of more than ten members;

(*g*) Who is insane or an imbecile;

(*h*) Who is related to the King within such degree of consanguinity as shall be prescribed by special law.

(2) Should any member of the Council of Notables or member of the House of Representatives become disqualified during the term of his membership; or should it appear after the election of that member that he lacks one or more of the qualifications stated in the preceding paragraph, his membership shall, by a resolution of two-thirds of the members of the Council or House to which he belongs, be dropped and considered vacant. Such a resolution, if passed by the Council of Notables, shall be submitted to the King for approval.

PART VI

THE JUDICIARY

Art. 97. The judges shall be independent and subject to no authority except the law in their administration of justice.

Art. 101. (1) The courts shall be open to all and shall be free from interference in their affairs.

(2) The sittings of the courts shall be public except where the court decides that it should be held *in camera* in the interest of public order or protection of morality.

Art. 102. The civil courts shall have jurisdiction over all persons in the Hashemite Kingdom of the Jordan in all matters civil and criminal, including cases of claims by and against the Government, except in those matters which, under the provisions of this Constitution or any other law for the time being in force, shall be assigned to the jurisdiction of the religious courts or special courts.

Art. 103. (1) The civil and criminal jurisdiction of civil courts shall be exercised in accordance with the law for the time being in force; provided that, in matters regarding the personal status of foreigners, or in other matters of a civil and commercial nature in which it is customary by international usage to apply the law of another country, such law shall be applied in a manner to be prescribed by law.

(2) Matters of personal status are those matters which the law declares to be such, and accordingly are within the exclusive jurisdiction of the Sharia courts if the parties are Moslems.

Art. 106. The Sharia courts shall enforce the provisions of the Holy Moslem Religious Law (Sharia).

Art. 108. Religious community councils shall be councils of such non-Moslem religious communities as are or shall be recognized by the Government as being established in the Hashemite Kingdom of the Jordan.

Art. 109. (1) Religious community councils shall be established in the manner provided in a special law regulating these councils. Such laws shall define their jurisdiction regarding matters of personal status and *wakfs* constituted for the benefit of the community concerned. Matters of personal status for such communities shall be the same as matters of personal status for Moslems which are within the jurisdiction of the Sharia courts.

(2) Such laws shall determine the procedure to be followed by the religious community councils.

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PART VII

FINANCIAL MATTERS

Art. 111. No tax or duty shall be levied except by law . . . In imposing taxes, the Government shall be guided by the principle of progressive taxation, provided that it ensures equality and social justice and provided that this taxation shall not overburden the capacity of taxpayers or exceed the financial needs of the State.

Art. 118. No person shall be exempted from the payment of taxes and duties in circumstances other than those prescribed by the law.

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PART VIII

GENERAL PROVISIONS

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Art. 124. In the event of an emergency necessitating the defence of the country, a law shall be passed which shall be known as the Defence Law and which shall empower a person to be specified therein to take those necessary actions and measures, including the suspension of the ordinary laws of the State, in order to ensure the defence of the country. This Defence Law shall come into force when proclaimed by an *irada* based on a decision of the Council of Ministers.

Art. 125. (1) In the event of the emergency being of so serious a nature that the action which would be taken under the preceding article of this Constitution would be considered insufficient for the defence of the Kingdom, the King may, by an *irada*, issued on the basis of a decision of the Council of Ministers, declare martial law in all or any part of the Kingdom.

(2) When martial law is declared, the King may, by *irada*, issue such instructions as may be necessary for the defence of the Kingdom, notwithstanding the provisions of any law in force. All persons acting under such instructions shall be legally responsible for their acts against the law of the country until they have been relieved of that responsibility by a special law passed for the purpose.

KOREA

PROHIBITION OF LYNCHING ACT

Act No. 156, promulgated on 1 December 1950[1]

Art. 1. The purpose of this Act is to prohibit lynching during the period of the emergency situation brought about by the invasion of the North Korean puppet group on 25 June 1950, and to guarantee thereby maintenance of public order and democracy.

Art. 2. For the purposes of this Act "lynching" signifies deprivation of life or freedom, or injury to body or property under pretext of punishing traitors or their collaborators without recourse to due process of law.

Art. 3. Any member of the armed forces or of the public security forces, who by reason of the state of emergency directly orders or executes a lynching, or who indirectly through connivance causes a lynching shall be sentenced as follows:

(1) The death penalty, or penal servitude for life shall be imposed for homicide;

(2) Penal servitude for life, or for not less than one year, shall be imposed for deprivation of liberty, bodily injury and torture, plunder or damage to property.

The words "member of the armed forces or of the public security forces" signify any person performing military or public security duties such as soldiers, policemen, members of the Youth Defence Corps and of the Self-defence Corps.

Art. 4. This Act shall also be applicable in the areas under martial law.

[1]Korean text made available through the courtesy of the Korean Ministry of Justice. English text based on the translation prepared by the United Nations Civil Assistance Command for Korea. The Act came into force on 2 December 1950.

DECREE ON SPECIAL MEASURES FOR PUNISHMENT OF CRIMINALS IN THE EMERGENCY SITUATION

Presidential Decree (Emergency Decree No. 1), promulgated on 28 June 1950, as amended by Act No. 175, promulgated on 30 January 1951[1]

Art. 1. The purpose of this decree is to punish anti-national or inhuman criminals rapidly and severely during the emergency situation.

Art. 2. In this decree the term "emergency situation" signifies the situation caused by the invasion of the North Korean puppet group on 25 June 1950.

The situation defined in the preceding paragraph shall terminate when public peace is completely restored by the agencies of the Government of the Republic of Korea.

Art. 3 (as amended on 30 January 1951). A person who commits any of the following crimes, taking advantage of the emergency situation, shall be sentenced to death, *or to penal servitude for life or for not less than four years.*[2]

1. Murder;
2. Arson;
3. Rape;
4. Destruction or damage of military facilities, or transportation, communications, water supply, electric or gas supply, government property, other important facilities or important documents, maps or plans regarding such facilities;
5. Deprivation, extortion, robbery or illegal possession of munitions or other vital materials in large quantities;
6. Any act causing a prison or jail break.

[1]English text received through the courtesy of the Ministry of Justice of the Republic of Korea. The decree of 28 June 1950 came into force with retroactive effect to 25 June 1950. See also the public statement on this Act and its application, issued by the Minister of Justice on 21 December 1950 and made available to the United Nations Commission for the Unification and Rehabilitation of Korea (published in the Report of that Commission, *General Assembly, Official Records, Sixth Session, Supplement No. 12*, A/1881, New York, 1951, pp. 20–22).

[2]Words in *italics* added in 1951.

Art. 4 (as amended on 30 January 1951). A person who, taking advantage of the emergency situation, commits any of the following crimes, shall be sentenced to death, penal servitude for life or imprisonment at hard labour for not less than *two* years;[1]

1. Deprivation, extortion or robbery of another person's property;
2. Destruction, damage or occupation of another person's dwelling;
3. Arrest, detention, injury or violence committed by a person pretending to be a government official or for the purpose of assisting the enemy;
4. Abuse of authority by providing information or guidance for the enemy;
5. Voluntary assistance to the enemy by supplying arms, food, petroleum fuel, *money or articles*,[2] or by any other means.

Art. 5. A person who is an accessory to any of the crimes enumerated under articles 3 and 4 by assisting the principal offender with information, guidance or any other means, shall be punished in proportion to his participation in the crime committed by the principal offender.

Art. 6. A person who commits a crime under item 5 of article 3 or items 1 or 2 of article 4, but who restores the property to its original condition within forty-eight hours after the cessation of the emergency situation, may be punished leniently or exempted from punishment.

Art. 7. A person who gives a false report or false testimony regarding any crime enumerated in this decree or who causes such crime to be committed by abuse of authority in order to plot against another person shall be sentenced to the penalty for the crime to which his report or testimony on the crime is related.

Art. 8. For any of the crimes enumerated in this decree, the usual criminal procedure shall be applied, except as otherwise herein prescribed.

Art. 9. Judgment of any crime enumerated in this decree shall be in a single instance, and one judge of a district court or a chamber of a district court shall sit in judgment.

(*As added in 1951*) For the benefit of the accused, a re-trial with collegial judgment may be requested from the district court or a chamber of such a court by any accused person sentenced to death or to penal servitude for life or for not less than ten years for any of the crimes enumerated in this decree, or by the prosecutor of the court, or the legal representative of the accused or an assistant, a lineal ascendant, a lineal descendant, the spouse of the accused, or the head of the family to which the accused belongs.

(*As added in 1951*) The provisions concerning appeal in the Code of Criminal Procedure shall apply *mutatis mutandis* to the procedure concerning re-trial, except as provided for in this decree.

Art. 10. A person accused of committing any crime enumerated in this decree shall be put on trial within thirty[3] days, and any sentence shall be passed within sixty[4] days after the commencement of the prosecution.

Art. 11. Elucidation of evidence may be omitted in case of judgment on one of the crimes enumerated in this decree.

Art. 12. The sentence of death shall be executed by hanging or shooting.

Art. 13. If the definition of crimes contained in this decree conflicts with the definition of any crime contained in any criminal law other than this decree, criminal proceedings shall conform to the provisions of this decree.

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[1] *Former text:* ten years.

[2] Words in *italics* added in 1951.

[3] *Former text:* twenty days.

[4] *Former text:* forty days.

ACT CONCERNING THE ELECTION OF MEMBERS OF THE NATIONAL ASSEMBLY [1]

Act No. 121, promulgated on 12 April 1950, as amended by Act No. 204, promulgated on 2 June 1951

CHAPTER I

FRANCHISE AND ELIGIBILITY

Art. 1. Every person over twenty-one years of age shall have the franchise.

Art. 2. Every person over twenty-five years of age shall be eligible to be elected.

Art. 3. The age of the electors shall be computed from the date on which the voters' list as provided for in article 16 is made, and the age of the candidates from election day.

Art. 4. Any person coming under any of the following categories shall have neither franchise nor be eligible to be elected:

1. Any person declared incompetent or quasi-incompetent;

2. Any person who, having been sentenced to a punishment not lighter than imprisonment, is undergoing this punishment; or who, having been sentenced to a punishment, has not yet served his sentence;

3. Any person whose civil rights have been suspended by the judgment of a court.

Art. 5. No person who has been sentenced to a punishment not lighter than imprisonment shall be eligible to be elected unless three years have elapsed since the completion of the punishment.

Art. 6. Members of the election committee and public officials in charge of the conduct of the election shall not be eligible to be elected in the district in which they exercise their functions.

Art. 7. Members of the armed forces on active service, justices, judges, prosecutors, auditors, members of the Inspection Commission and police officials shall not be eligible to be elected.

[Chapters II–V deal with electoral and voting districts, voter's lists, election committees and candidates.]

CHAPTER VI

JOINT LECTURE MEETING

Art. 33. The electoral district election committee, on a suitable day and at an adequate place after the close of registration of the candidates and on behalf of the candidates, shall hold joint lecture meetings more than once in a ward of a city, and once in a town or a township of a county.

The candidates or their chief election secretaries shall be notified of the date and place of a joint lecture meeting at least five days prior to such a meeting.

The place, the time and the lecturers shall be determined by the electoral district election committee in a manner impartial to all candidates.

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CHAPTER VII

ELECTION CAMPAIGNS

Art. 35. A candidate, shall appoint for purposes of his election campaign, one chief election secretary from among the persons who have the franchise and notify the electoral district election committee thereof; . . .

Art. 35—2. A candidate or his chief election secretary shall open one election office and may have not more than twenty liaison offices . . .

Art. 36. Public officials of the State and local autonomous organizations, and members and officials of election committees of all classes shall not engage in any election campaign, members of the National Assembly and the local councils excepted . . .

Art. 37. Any person may freely hold a lecture meeting solely for the purpose of a candidate's campaign.

Art. 38. A candidate or his chief election secretary may send out campaign literature to voters only once by free mail, in keeping with the provisions of the relevant presidential decree.

Art. 40. A candidate or his chief election secretary may, in keeping with the provisions of the presidential decree, campaign for election by use of posters or signboards.

Art. 41. Subject to the provisions of the presidential decree, school buildings and public institutions may be used as lecture halls for the election campaign.

Art. 42—1. No person shall take advantage of special relations with pupils of primary and secondary schools or with students under twenty years of age in order to conduct an election campaign.

Art. 42—2. No candidate shall conduct the election campaign by visiting individual voters.

Art. 42—3. After election day no person shall entertain or give parties designed to reward the service of the voters on the successful or unsuccessful outcome of the election.

[The remaining chapters deal with election day and voting, the opening of the ballots, the determination of the successful candidates, the terms of office and by-election of members of the National Assembly, objections to the validity of elections and penal provisions.]

[1] Korean text made available through the courtesy of the Korean Ministry of Justice. English text based on the translation prepared by the United Nations Civil Assistance Command for Korea. The Act came into force on the day of its promulgation.

GOVERNMENT COMPENSATION ACT[1]

Act No. 231, promulgated on 8 September 1951

SUMMARY

This Act, which came into force on the day of its promulgation, states that if a public official, in the exercise of his official functions, intentionally or by negligence has inflicted damage upon another person in contravention of a legal statute, the Government shall be liable to compensate the person for the damages. If it is ascertained that the damage has been caused intentionally or by gross negligence on the part of the public official, the Government may require reimbursement from the official in question.

[1]Korean text of the Act made available through the courtesy of the Korean Ministry of Justice. English translation of the Act prepared by the United Nations Civil Assistance Command for Korea. Summary prepared by the United Nations Secretariat.

DISASTER REHABILITATION ASSOCIATION ACT[1]

Act No. 126, promulgated on 3 April 1950

SUMMARY

Disaster rehabilitation associations shall strive to provide funds for disaster rehabilitation and to contribute to the livelihood of those whose houses, properties, etc., have been damaged as a consequence of extraordinary natural calamities and other accidents, and to maintain joint undertakings for disaster rehabilitation. Occupational and territorial associations shall be established by residents of districts affected by such calamities, who have suffered damage and are unable to rehabilitate themselves through their own efforts. The Act sets forth the procedure in forming rehabilitation associations, their organs, the choice of directors and auditors, who shall be elected by a majority of the members; the functions of these associations shall be to provide funds by floating loans for disaster rehabilitation, repairing or re-building dwellings, providing materials for disaster rehabilitation and utilizing any other means necessary for the rehabilitation of members of the associations, victims of calamities or accidents.

The Minister of Social Affairs supervises the rehabilitation associations and is empowered to request reports on their business transactions and properties and to delegate their supervision to his subordinates. He may control a rehabilitation association with regard to its business or property and issue orders to this effect. If an association has violated the law, orders issued or measures taken in implementation of the law, or has injured or intended to injure the public interest, the Minister of Social Affairs may suspend or dissolve the association. The Act also contains provisions on the management of associations, the admission and withdrawal of members and the dissolution and liquidation of associations, and provides for penalties against directors or other officials of the associations who have violated provisions of the Act.

[1]Korean text of the Act made available through the courtesy of the Korean Ministry of Justice. English translation of the Act prepared by the United Nations Civil Assistance Command for Korea. Summary prepared by the United Nations Secretariat. The Act came into force on the date of its promulgation.

ACT CONCERNING PROVISIONAL MEASURES FOR THE ACCOMMODATION OF REFUGEES[1]

Act No. 146, promulgated on 4 August 1950, as amended on 25 September 1950

SUMMARY

The principal Act, which came into force on 1 August 1950, obliges the administrator of a dwelling house, inn, restaurant, or other building in which proper accommodation for refugees can be made, to accommodate refugees in a number and for a period which may be determined by the Minister of Social Affairs. No rent shall be collected from refugees. Penalties are provided for violations of this Act.

[1]Korean text of the Act made available through the courtesy of the Korean Ministry of Justice. English translation of the Act prepared by the United Nations Civil Assistance Command for Korea. Summary prepared by the United Nations Secretariat.

NATIONAL MEDICAL TREATMENT ACT[1]

Act No. 221, promulgated on 25 September 1951

SUMMARY

The purpose of this Act, which came into force ninety days after its promulgation, is to improve public health and to establish public medical services. It deals with qualifications, licence, control, rights and duties of the members of the medical profession and with medical installations such as hospitals, infirmaries, sanatoria, maternity hospitals and dispensaries of oriental medicine, and institutes a system of public physicians; such physicians are appointed by the Minister in charge to serve in villages having no physician or where their help is elsewhere needed locally. A public physician shall live at the place of his assignment and practise there under the direction and supervision of the head of the local administration. In addition, public physicians shall assume the following tasks: the treatment and prevention of epidemics and matters relating thereto; the development of national health and improvement of sanitary installations and matters relating thereto; research on, and stamping out of endemic diseases; medical jurisprudence and matters relating thereto; and such other matters as are assigned to the physician by the head of the local administration.

The Act also makes provision for the forming of associations of physicians, dentists, midwives, etc.

[1]Korean text of the Act made available through the courtesy of the Korean Ministry of Justice. English translation of the Act prepared by the United Nations Civil Assistance Command for Korea. Summary prepared by the United Nations Secretariat.

LAOS

ACT No. 98 FORBIDDING OFFICIALS, MEMBERS OF THE ARMED FORCES AND MEMBERS OF THE POLICE TO ENGAGE IN POLITICAL ACTIVITIES[1]

of 9 April 1951

Art. 1. Officials of all national services of Laos, members of the national Army and members of the Royal Police and members of the Royal Guard are strictly forbidden to engage in political activities or to belong to a political party under penalty of severe disciplinary measures.

Art. 2. Officials, members of the Army, members of the police and members of the Royal Guard have, however, the right to vote.

Art. 3. Ordinances to be issued by the Cabinet shall lay down the details of the application of this Act.

[1]French text received through the courtesy of the Minister of Foreign Affairs of the Royal Government of Laos. English translation from the French text by the United Nations Secretariat. This Act was promulgated by royal ordinance No. 108, of 26 April 1951. See also the following text.

ACT No. 103 REPEALING ACT No. 98 OF 9 APRIL 1951 FORBIDDING OFFICIALS, MEMBERS OF THE ARMED FORCES AND MEMBERS OF THE POLICE TO ENGAGE IN POLITICAL ACTIVITIES[1]

of 21 December 1951

Art. 1. Act No. 98 of 9 April 1951 forbidding officials of all national services of Laos to engage in political activities is hereby repealed.

Art. 2. The prohibition of political activities, including membership in a political party, remains in force for members of all armed forces of Laos, the Royal Guard, the personnel of the police, and magistrates of tribunals or officials exercising the function of magistrates; they retain, however, the right to vote.

[1]French text received through the courtesy of the Minister of Foreign Affairs of the Royal Government of Laos. English translation from the French text by the United Nations Secretariat. This Act was promulgated by royal ordinance No. 17, of 15 January 1952.

Art. 13. The medical officer's hours of attendance shall be proportionate to the number of employees, at the rate of one hour a month for every twenty employees.

Art. 14. Two or more undertakings may agree to establish a joint medical department.

Art. 15. Employers shall pay the fees of medical officers attached to their undertakings.

Art. 16. A works medical officer shall:

1. Examine employees before engagement in the undertaking, to determine the amount and type of work of which they are capable;

2. Carry out periodic inspections to assess the physical and mental capacity of employees as indicated by their work records, and to decide whether persons who fall sick should return to their work on recovery or should be transferred to other work;

3. Make general arrangements to ensure hygiene in the premises of the undertaking, especially with regard to safety precautions, lighting, ventilation, drinking water, toilets, removal of dust and smoke, and sleeping accommodation for employees;

4. Give employees any necessary preliminary medical treatment before sending them to a specialist.

Art. 17. An employer may authorize the works medical officer to verify sick-leave certificates submitted by employees in accordance with article 41 of the Labour Code.

Art. 35. Courts investigating cases arising out of contraventions of this decree may order stoppage of the machinery and suspension of the operations which have caused the injury, and prescribe the measures to be taken to remove the danger, besides imposing the penalty prescribed in the statutes relating to employees.

Art. 39. After promulgation of this decree, leave to establish an industrial undertaking of any kind may not be given except with the consent of the Ministry of Social Affairs.

PRESIDENTIAL DECREE No. 3976 OF 18 JANUARY 1951 DEFINING THE CONDITIONS GOVERNING THE GRANTING OF SCHOLARSHIPS AND FINANCIAL ASSISTANCE TO LEBANESE STUDENTS STUDYING IN LEBANON

as amended by Decree No. 6301 of 22 October 1951 [1]

SUMMARY

The decree defines conditions for granting scholarships and financial assistance to Lebanese students, enabling them to continue their education at schools in Lebanon. The academic standing of the students, as well as their financial needs, shall be considered in distributing the grants; a system of priorities is set up by virtue of which the following categories of students will have precedence over others in the order of enumeration:

(1) Children of martyrs who laid down their lives in the line of duty;

(2) Orphans of superior academic standing;

(3) Students of superior academic standing;

(4) Children of civil servants whose basic salary does not exceed L. £150 monthly;

(5) Orphans and children of such families as have more than three children pursuing their studies;

(6) Needy students.

The decree further provides that financial grants shall cover only tuition fees or parts thereof and that no grant shall be given to more than one child of a family, except in the case of martyrs' children.

[1] Arabic text of decrees No. 3976 and No. 6301 in *Official Journal of the Republic of Lebanon* Nos. 4 and 43, of 24 January and 24 October 1951 respectively. Summary prepared by the United Nations Secretariat.

LIBYA

CONSTITUTION OF THE UNITED KINGDOM OF LIBYA[1]

as adopted by the National Assembly on 7 October 1951

Introductory Note.[2] General Assembly resolution 289 (IV) of 21 November 1949 provided, *inter alia*, for the framing of a constitution for Libya by a national assembly consisting of representatives of the inhabitants of Cyrenaica, Tripolitania and Fezzan. To assist the people in the formulation of a constitution and the establishment of an independent government, the General Assembly appointed a United Nations Commissioner in Libya and a council of ten members to aid and advise him in this task.

A preparatory committee (Committee of Twenty-one) constituted on the basis of equality of representation from each of the three territorial units of Libya was entrusted with the task of establishing the National Assembly. On 22 October 1950, the Committee of Twenty-one unanimously approved a resolution embodying the following points:

The National Assembly was to be composed of sixty members;

Representation of the three territories was to be on a basis of equality;

Representation in the National Assembly was to be by means of selection, with consideration being given to equitable representation of the national Arab parties in the various areas, and also of independent individuals and leading personalities, particularly where the territory of Tripolitania was concerned;

Non-national minorities, according to the resolution, were not to be allowed to participate or to be represented in the National Assembly, though it was stressed that all rights of minorities and foreigners should be fully safeguarded in the future constitution of Libya; . . .

On 2 December 1950, the Libyan National Assembly, so constituted, adopted unanimously a resolution establishing Libya as a democratic, federal, independent and sovereign State, the form of government of which was to be a constitutional monarchy under the Amir of Cyrenaica as its King. The Constitution was drafted and finally adopted on 7 October 1951 by the Libyan National Assembly, and was promulgated the same day by the President and Vice-Presidents of the National Assembly.

PREAMBLE

In the name of God the beneficent, the merciful,

We, the representatives of the people of Libya from Cyrenaica, Tripolitania and the Fezzan, meeting by the will of God in the cities of Tripoli and Benghazi in a National Constituent Assembly,

Having agreed and determined to form a union between us under the Crown of King Mohammad Idriss el Mahdi el Senussi, to whom the nation has offered the Crown and who was declared constitutional King of Libya by this the National Constituent Assembly;

And having decided and determined to establish a democratic, independent, sovereign State which will guarantee the national unity; safeguard domestic tranquillity; provide the means for common defence; secure the establishment of justice; guarantee the principles of liberty, equality, and fraternity; and promote economic and social progress and the general welfare;

And trusting in God, Master of the Universe, do hereby prepare and resolve this Constitution for the United Kingdom of Libya.

CHAPTER I

FORM OF THE STATE AND THE SYSTEM OF GOVERNMENT

Art. 1. Libya is a free independent sovereign State. Neither its sovereignty nor any part of its territories may be relinquished.

Art. 2. Libya is a State having a hereditary monarchy, its form is federal and its system of government is representative. Its name is "the United Kingdom of Libya".

Art. 3. The United Kingdom of Libya consists of the provinces of Cyrenaica, Tripolitania and the Fezzan.

Art. 5. Islam is the religion of the State.

. . .

[1] English text in the *Official Gazette of the United Kingdom of Libya*, Extraordinary (published under the authority of the Minister of Justice), 7 October 1951.

[2] This note is based on the following document: United Nations, *Annual Report of the United Nations Commissioner in Libya, General Assembly Official Records, Sixth Session, Supplement No. 1* (A/1844), pp. 15–19; see also *Yearbook on Human Rights for 1949*, p. 286.

CHAPTER II

RIGHTS OF THE PEOPLE

Art. 8. Every person who resides in Libya and has no other nationality, or is not the subject of any other State, shall be deemed to be a Libyan if he fulfils one of the following conditions:

(1) That he was born in Libya;

(2) That either of his parents was born in Libya;

(3) That he has had his normal residence in Libya for a period of not less than ten years.

Art. 9. Subject to the provisions of article 8 of this Constitution, the conditions necessary for acquiring Libyan nationality shall be determined by a federal law. Such law shall grant facilities to persons of Libyan origin residing abroad and to their children and to citizens of Arab countries and to foreigners who are residing in Libya and who at the coming into force of this Constitution have had their normal residence in Libya for a period of not less than ten years. Persons of the latter category may opt for Libyan nationality in accordance with the conditions prescribed by the law, provided they apply for it within three years as from 1 January 1952.

Art. 10. No one may have Libyan nationality and any other nationality at the same time.

Art. 11. Libyans shall be equal before the law. They shall enjoy equal civil and political rights, shall have the same opportunities and be subject to the same public duties and obligations, without distinction of religion, belief, race, language, wealth, kinship or political or social opinion.

Art. 12. Personal liberty shall be guaranteed and everyone shall be entitled to equal protection of the law.

Art. 13. No forced labour shall be imposed upon anyone save in accordance with law in cases of emergency, catastrophe or circumstances which may endanger the safety of the whole or part of the population.

Art. 14. Everyone shall have the right of recourse to the courts, in accordance with the provisions of the law.

Art. 15. Everyone charged with an offence shall be presumed to be innocent until proved guilty according to law in a trial at which he has the guarantees necessary for his defence. The trial shall be public save in exceptional cases prescribed by law.

Art. 16. No one may be arrested, detained, imprisoned or searched except in the cases prescribed by law. No one shall under any circumstances be tortured by anyone or subjected to punishment degrading to him.

Art. 17. No offence may be established or penalty inflicted except by law. Only offences committed after the promulgation of a law shall be subject to the penalties specified therein for those offences; the penalty inflicted shall not be heavier than the penalty that was applicable at the time the offence was committed.

Art. 18. No Libyan may be deported from Libya under any circumstances nor may he be forbidden to reside in any locality or compelled to reside in any specific place or prohibited from moving in Libya except as prescribed by law.

Art. 19. Dwelling houses are inviolable; they shall not be entered or searched except in cases and according to the manner prescribed by law.

Art. 20. The secrecy of letters, telegrams, telephonic communications and all correspondence in whatever form and by whatever means shall be guaranteed; they shall not be censored or delayed except in cases prescribed by law.

Art. 21. Freedom of conscience shall be absolute. The State shall respect all religions and faiths and shall ensure to Libyans and foreigners residing in its territory freedom of conscience and the right freely to practise religion so long as it is not a breach of public order and is not contrary to morality.

Art. 22. Freedom of thought shall be guaranteed. Everyone shall have the right to express his opinion and to publish it by all means and methods. But this freedom may not be abused in any way which is contrary to public order or morality.

Art. 23. Freedom of the Press and of printing shall be guaranteed within the limits of the law.

Art. 24. Everyone shall be free to use any language in his private transactions or religious or cultural matters or in the Press or any other publications or in public meetings.

Art. 25. The right of peaceful meetings is guaranteed within the limits of the law.

Art. 26. The right of peaceful association shall be guaranteed. The exercise of that right shall be regulated by law but the establishment of secret associations and those which have as their purpose the realization of political objectives by means of organizations of a military nature shall be prohibited.

Art. 27. Individuals shall have the right to address public authorities by means of letters signed by them in connexion with matters which concern them but only organized bodies or juristic persons may address the authorities on behalf of a number of persons.

Art. 28. Every Libyan shall have the right to education. The State shall ensure the diffusion of education by means of the establishment of public schools, and of private schools which it may permit to be established under its supervision, for Libyans and foreigners.

Art. 29. Teaching shall be unrestricted so long as it does not constitute a breach of public order and is not contrary to morality. Public education shall be regulated by law.

Art. 30. Elementary education shall be compulsory for Libyan children of both sexes; elementary and primary education in the public schools shall be free.

Art. 31. Property shall be inviolable. No owner may be prevented from disposing of his property except within the limits of the law. No property of any person shall be expropriated except in the public interest and in the cases and in the manner determined by law and provided such person is awarded fair compensation.

Art. 32. The penalty of general confiscation of property shall be prohibited.

Art. 33. The family is the basis of society and shall be entitled to protection by the State. The State shall also protect and encourage marriage.

Art. 34. Work is one of the basic elements of economic life. It shall be protected by the State and shall be the right of all Libyans. Every individual who works shall be entitled to fair remuneration.

Art. 35. The State shall endeavour to provide as far as possible for every Libyan and his family an appropriate standard of living.

CHAPTER VII

PARLIAMENT

Art. 93. Parliament shall consist of two chambers, the Senate and the House of Representatives.

Part I

THE SENATE

Art. 94. The Senate shall consist of twenty-four members; each of the three provinces of the Kingdom of Libya shall have eight members.

Art. 95. The King appoints one-half of the members. The other members shall be elected by the legislative councils of the provinces.

Art. 96. A senator must be a Libyan and have completed the fortieth year of his age (Gregorian) and possess such qualifications as are provided in the federal electoral law.

Members of the Royal Family may be appointed to the Senate but may not be elected.

Art. 98. Membership of the Senate shall be for eight years. Half the appointed senators and half the elected senators shall be replaced every four years. Retiring senators may be re-appointed or re-elected.

. . .

Part II

THE HOUSE OF REPRESENTATIVES

Art. 100. The House of Representatives shall consist of members elected in the three provinces in accordance with the provisions of a federal electoral law.

Art. 102. A voter must be:

(1) A Libyan; and

(2) Shall have completed his twenty-first year (Gregorian), in addition to the conditions prescribed by the federal electoral law.

Art. 103. A deputy must:

(1) Have completed his thirtieth year (Gregorian);

(2) Be inscribed on one of the electoral rolls of the province in which he resides; and

(3) Not be a member of the Royal Family, in addition to the conditions prescribed by the federal electoral law.

. . .

CHAPTER VIII

THE JUDICIARY

. . .

Art. 142. The judges shall be independent; in the administration of justice, they shall be answerable only to the law.

. . .

CHAPTER IX

FEDERAL FINANCE

. . .

Art. 167. No tax may be imposed, modified or abolished except by law. No one may be exempt from the payment of taxes except in cases provided by law. No one may be asked to pay any amounts or fees except within the limits of the law.

Art. 168. No pension, compensation, gratuity or payment from the provident fund may be approved for payment out of the Government Treasury except within the limits of the law.

. . .

CHAPTER X

THE PROVINCES

. . .

Art. 177. Each province shall formulate its own organic law provided that its provisions are not contrary to the provisions of this Constitution. The formulation of such laws and their promulgation shall take place within a period not exceeding one year from the promulgation of this Constitution.

Art. 178. The provinces shall be bound to observe the provisions of this Constitution and to enforce the federal law in the manner prescribed in this Constitution.

Art. 185. Judicial power shall be exercised by the local tribunals in the provinces in accordance with the provisions of this Constitution.

CHAPTER XI

GENERAL PROVISIONS

Art. 186. Arabic shall be the official language of the State.

Art. 187. Cases in which a foreign language may be used in official transactions shall be determined by a federal law.

Art. 189. The extradition of political refugees shall be prohibited. International treaties and the federal laws shall prescribe the grounds for the extradition of ordinary criminals.

Art. 190. Foreigners shall be deported only in accordance with the provisions of the federal law.

Art. 191. The legal status of foreigners shall be prescribed by federal law in accordance with the principles of international law.

Art. 192. The State shall guarantee respect for the systems of personal status of non-Moslems.

Art. 193. General amnesty shall not be granted except by federal law.

Art. 195. No provision of this Constitution may be suspended under any circumstances except where such suspension is temporary in time of war or during the operation of martial law and is in accordance with law. In any event a parliamentary session may not be suspended when the conditions prescribed by this Constitution for the holding of such a session exist.

Art. 200. Immigration into Libya shall be regulated by a federal law. No immigration shall be permitted into a province without the approval of the province having been secured.

CHAPTER XII

TRANSITORY AND PROVISIONAL PROVISIONS

Art. 201. This Constitution shall come into force upon the declaration of independence, which must take place by 1 January 1952 in accordance with the resolution of the United Nations General Assembly dated 21 November 1949.[1] Nevertheless the provisions of article 8 of this Constitution and of this chapter shall come into force on the promulgation of this Constitution.

Art. 204. The Provisional Federal Government shall draw up the first electoral law for Parliament, provided it is not contrary to the provisions laid down in this Constitution. The law shall be submitted to the National Assembly for approval and promulgation. The said law must be promulgated within a period not exceeding thirty days from the date of the promulgation of this Constitution.

Art. 205. The first elections to the House of Representatives must take place within a period not exceeding three and a half months from the date upon which the electoral law is promulgated.

Art. 206. In the first elections to the House of Representatives and until a census of the Libyan people has been made, the province of Cyrenaica shall have fifteen deputies; the province of Tripolitania thirty-five deputies and the province of the Fezzan five deputies.

Art. 207. Notwithstanding the provisions of articles 95 and 98 of this Constitution, the King shall appoint all members of the first Senate. Its term of office shall be four years as from the date of the first session of Parliament.

Art. 208. Articles 95 and 98 shall become operative as from the date of the expiration of the term of office of the first Senate. The members of the Senate who will retire at the end of the first four years in accordance with the provisions of articles 95 and 98 shall be selected by lot.

Art. 210. Unless they are inconsistent with the principles of liberty and equality guaranteed by this Constitution, all laws, subsidiary legislation, orders and notices which may be in operation in any part of Libya upon the coming into force of this Constitution shall continue to be effective and in operation until repealed or amended or replaced by other legislation enacted in accordance with the provisions of this Constitution.

Art. 211. The first Parliament shall be convened within a period of not more than twenty days from the date on which the final results of the elections are announced.

. . .

[1] See *Yearbook on Human Rights for 1949*, p. 286.

ELECTORAL LAW FOR THE ELECTION OF THE LIBYAN FEDERAL HOUSE OF REPRESENTATIVES[1]

Law No. 5 of 6 November 1951

PART I

1. Every person who resides in Libya and has no other nationality or is not the subject of any other State, shall be deemed to be a Libyan if he fulfils one of the following conditions:

(*a*) That he was born in Libya;

(*b*) That either of his parents was born in Libya;

(*c*) That he has had his normal residence in Libya for a period of not less than ten years.

2. For the purpose of the elections, the residence of a person shall be the place in which he normally resides, or the place of origin, within his province, of his family.

3. Every male Libyan who has completed his twenty-first year (Gregorian) shall be entitled to vote unless he is a person who:

(*a*) Is a lunatic; or

(*b*) Has been declared to be a bankrupt and has not been discharged; or

(*c*) Is serving a term of imprisonment.

4. Subject to the provisions of sections 5 and 23 of this law, every male person who has completed his thirtieth year (Gregorian) and who is inscribed upon the electoral rolls of a district within his province shall be qualified to be a member of the House of Representatives.

5. All persons who are members of the Royal Family shall be disqualified for election as members of the House.

6. The number of deputies shall be on the basis of one deputy for every 20,000 inhabitants or fraction of that number exceeding half; provided that the number of deputies in any of the three provinces shall not be less than five; and provided that, in the first elections to the House of Representatives and until a census of the Libyan people has been held, the province of Cyrenaica shall have fifteen deputies, the province of Tripolitania thirty-five deputies, and the province of Fezzan five.

7. (1) The provinces of Libya shall be divided up, as may be necessary, into urban electoral districts and rural electoral districts.

(2) Both urban electoral districts and rural electoral districts shall be sub-divided, as may be necessary, into constituencies or tribal units, each containing, as near as may be, 20,000 inhabitants; provided that the Minister of Justice shall, in the case of the province of the Fezzan, determine its five constituencies without any reservation regarding the aforesaid number of inhabitants.

(3) For purposes of voting, constituencies (or corresponding tribal units) will be sub-divided into polling districts, in each of which a polling station will be situated. No polling district shall contain more than 3,500 electors.

. . .

PART II

ISSUE OF WRITS AND NOMINATION OF CANDIDATES

20. Each constituency shall return one deputy to serve in the House of Representatives.

23. (1) Subject to the provisions of section 5, any person who possesses the qualifications set out in section 4 and who is qualified to vote in a constituency and who is willing to stand for election, may be nominated as a candidate for that constituency; provided that an elector registered in an urban electoral district may be a candidate in any constituency in that urban electoral district or in any other constituency in which he has his place of origin provided that it is situated in a district within the province in which he is registered.

(2) No person may be nominated as a candidate for more than one constituency.

(3) Each candidate shall be nominated by means of a nomination paper to be supplied by the returning officer on application therefor at his office. The nomination paper will be signed by two persons as proposer and seconder respectively and by not less than four other persons, all of whose names must appear in the register of electors for the constituency for which the candidate seeks election. No person shall sign the nomination papers of more than one candidate. The written consent of the candidate must be endorsed on the nomination paper, which may be in the form set out in schedule No. 3 to this law.

(4) Each candidate shall, at the time of his nomination deliver to the returning officer a statement

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[1] English text in *The Official Gazette of the United Kingdom of Libya* (Translation) No. 3, Vol. 1, of 6 November 1951. This Act was prepared by the Provisional Federal Government in accordance with article 204 of the Constitution of Libya (see p. 228 of this *Yearbook*), submitted for approval on 20 October 1951 to, and adopted with amendments by, the National Assembly on 6 November 1951. It was promulgated on the same day by the President of the National Assembly.

showing that he possesses the qualifications required for election as a member of the House of Representatives. This statement may be in the form set out in schedule No. 4 to this law. Should this statement not be delivered to the returning officer, the nomination of such candidate shall be void.

[Sections 25–28 provide for a deposit of fifty Libyan pounds to be made by the candidate or some person on his behalf. If a candidate is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled in his constituency, the amount deposited is forfeited.]

. . .

PART III

THE CONDUCT OF ELECTIONS IN URBAN ELECTORAL DISTRICTS

. . .

37. Only such persons as are included in the electoral roll of the polling district in which the polling station is situated may vote at that polling station.

38. A list of the duly nominated candidates shall be prominently displayed in the polling station.

39. Voting shall be by secret ballot by means of a voting token, which shall not be identifiable by individual mark, and which shall be issued direct to the voter in the polling station by the person in charge. It shall not be signed or marked by the voter.

43. (1) In the voting room of each polling station there shall be placed a number of ballot boxes equal to the number of candidates; and the name of one of the candidates together with such other mark of identification as the returning officer shall think fit, shall be prominently displayed on each of the ballot boxes. Each ballot box shall have an aperture large enough to receive a voting token.

(2) The presiding officer shall immediately prior to the opening of the poll satisfy himself, in the presence of the Committee assigned to his polling station, that the ballot boxes are empty. He shall then lock them and place his seal upon them in such manner as to prevent them being opened without breaking the seal. Only the apertures shall be left open for the receipt of votes.

. . .

[Part IV deals with procedure in respect of election of representatives in rural districts. The Minister of Justice shall specify the names and, where possible, the boundaries of the rural electoral districts and constituencies or corresponding tribal units and polling districts taken as constituencies. He shall appoint the required number of literate persons acquainted with tribal custom and procedure as officers to supervise the election of rural or tribal deputies. Each registering officer shall draw up a list of male members normally resident in the polling district to which he is appointed, possessing the qualifications referred to in section 3. If in any constituency or equivalent tribal unit no more candidates have been nominated than there are vacancies to be filled, the returning officer shall declare the candidate or candidates who have been nominated to be duly elected. Section 60 provides for the following procedure in cases where there are more candidates nominated than there are vacancies in any constituency or equivalent tribal unit].

(1) The returning officer of the constituency concerned shall furnish each registering officer in his constituency with a list containing the names of the candidates nominated. Thereafter the registering officer shall, with the help, if necessary, of the chiefs or sub-chiefs of the tribe concerned, call together the electors, whose names are on the list prepared by him under section 55 (4), upon the day appointed for the election, and inquire from each of them in turn, in the presence of the committee appointed under sections 16 (4) for whom they wish to vote. The registering officer shall thereupon, in the presence of the aforesaid committee, write down the name of the candidate for whom each tribesman wishes to vote opposite the name of the tribesman in question in the list aforesaid, and such entry shall be deemed a duly recorded vote as though the tribesman had completed a ballot paper under the provisions of section 44 of this law.

(2) At the counting of votes, the aforesaid committee shall, in the presence of the registering officers and of the chiefs or sub-chiefs, count up the number of times the name of each candidate has been entered on the list, and the candidate obtaining the highest number of entries in the constituency (or corresponding tribal unit), shall be declared by the returning officer to be the duly elected representative for the constituency (or corresponding tribal unit) concerned.

[Part V deals with irregularities in elections; competence of the House of Representatives in deciding the validity of elections; non-eligibility of the senators and of members of province legislatures and of government officials to be elected as deputies in the House of Representatives; forfeiture of membership in the House of Representatives; and qualifications of senators. Part VI deals with public security during elections.]

PART VII

OTHER ELECTION OFFENCES

[Section 69 provides for penalties for a certain number of election offences.]

70. Any person who:

(*a*) Infringes the secrecy of the ballot or the secret of an elector's vote without his permission;

(*b*) Publishes or spreads before or during the election false statements regarding the conduct of a candidate, or his character in order to affect the result of the election;

shall on conviction by a competent court be liable to imprisonment for a period not exceeding six months or to a fine not exceeding one hundred Libyan pounds or both.

LIECHTENSTEIN

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

No new developments in the field of human rights are to be recorded for the year 1951.

[1]Information received through the courtesy of Mr. Joseph Büchel, Secretary of the Government, Vaduz.

LUXEMBOURG

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. LEGISLATION

Article 11 (5) of the Constitution provides that the social security, health protection and leisure of workers shall be organized, and trade union liberties shall be guaranteed by law.[2]

The important measures adopted in this field in 1951 were the following:

(1) Act of 21 May 1951 to establish a Pension Fund for handicraftsmen. (*Mémorial* No. 33, 25 May 1951, p. 809.). The Fund's main object is the granting of old-age, invalidity and survivors' pensions. The insurance of all self-employed handicraftsmen legally and actually established in the Grand Duchy is compulsory.

(2) Act of 29 August 1951 respecting the sickness insurance of public officials and salaried employees. (*Mémorial* No. 51, 6 September 1951, pp. 1153 *et seq.*) Under this Act, civil servants and railway and private employees among others are insured against sickness.

(3) Act of 29 August 1951 to reform the pension insurance scheme for private salaried employees. (*Mémorial* No. 51, 6 September 1951, pp. 1157 *et seq.*) This Act, abrogating previous statutory and regulatory provisions conflicting with it, is a revision of previous legislation on the subject.

II. INTERNATIONAL AGREEMENTS

A

Act of 24 August 1951 approving the Declaration on the extradition of persons prosecuted for offences against the external security of the State, signed at Luxembourg on 24 August 1948 as a supplement to the Belgium-Luxembourg Extradition Convention of 23 October 1872. (*Mémorial* No. 52, 11 September 1951, pp. 1185 *et seq.*)

Under this Declaration, the Governments of Luxembourg and Belgium undertake, at the request of either Government, to surrender to each other all persons, with the exception of their own nationals, who are being proceeded against, taken into custody or indicted, or convicted as authors or accomplices by the courts of either country for offences committed either during a war waged against a common enemy or during the occupation of the territory of the High Contracting Parties by the same invader, or hostilities launched against them by the same aggressor, which have been perpetrated in violation of the relevant provisions of the Belgian or Luxembourg Penal Code.

The Declaration is published in this *Yearbook*.[3]

B. Social Questions, etc.

(1) The Act of 24 March 1950 approved the General and Supplementary Social Security Agreements concluded on 3 December 1949 between the Grand Duchy of Luxembourg and Belgium. (*Mémorial* No. 25, 6 April 1950, pp. 589 *et seq.*)

The General and Supplementary Agreements were ratified and instruments of ratification were exchanged at Brussels on 20 March 1951. The agreements came into force on 1 April 1951.

Their object is to ensure that the persons covered by the social security legislation in force in the two Contracting States receive the benefits of such legislation.

(2) The Act of 5 December 1951 approved the Social and Medical Assistance Convention concluded on 7 November 1949 by the Contracting Parties to the Treaty of Brussels, and the Supplementary Agreement for the implementation of the Convention, signed by the same Contracting Parties on 17 April 1950. (*Mémorial* No. 73, 18 December 1951, pp. 1457 *et seq.*)

The Contracting Parties, anxious to extend their co-operation in the social field in conformity with the spirit of the Treaty of Brussels, signed on 17 March 1948, laid down the principle of equality between their respective nationals in the application of social assistance and medical legislation.

(3) The Act of 8 December 1951 approved the Convention to Extend and Co-ordinate the Application of Social Security Legislation to Nationals of the Contracting Parties to the Treaty of Brussels, signed in Paris on 7 November 1949. (*Mémorial* No. 73, 18 December 1951, pp. 1453 *et seq.*)

The Convention's aim is to ensure equality of treatment for nationals of the Contracting Parties in respect of social security legislation, by allowing those nationals to retain the benefits to which they are entitled under that legislation, regardless of any journeys they may make between the territories of the Contracting Parties.

III. JUDICIAL DECISIONS

No decisions were taken by the Luxembourg courts in 1951 which constituted important new developments in the field of human rights.

[1] This note was prepared by Mr. Ferdinand Wirtgen, Registrar-General and Director of State Lands, Luxembourg.

[2] See *Yearbook on Human Rights for 1948*, p. 141.

[3] See p. 516.

MEXICO

LEGISLATION

REGULATION TO GIVE EFFECT TO ARTICLES 4 AND 6 (PARAGRAPH VII) OF THE ORGANIC PUBLIC EDUCATION ACT CONCERNING PUBLICATIONS AND ILLUSTRATED REVIEWS AFFECTING CULTURE AND EDUCATION[1]

of 15 March 1951

Art. 1. It is immoral and detrimental to education to publish, distribute, circulate, display or sell:

1. Any writings, drawings, engravings, paintings, printed matter, illustrations, advertisements, pictorial representations with titles, photographs or other objects which arouse and stimulate undesirable passions or sensual emotions;

2. Any publications, magazines or frivolous storybooks which answer the description given in any of the following paragraphs, that is to say if they:

(*a*) Deal with subjects likely to undermine devotion to work, zeal for study or regard for that effort without which no legitimate success is possible;

(*b*) Arouse and stimulate undesirable passions or sensual emotions, or are offensive to decency and morality;

(*c*) Encourage apathy, proneness to sloth or reliance on chance as a guide to conduct;

(*d*) Relate adventures in which the principal characters, in defiance of the laws and of the established institutions, succeed in their undertakings through means repugnant to the said laws or institutions;

(*e*) Provide instruction in the methods used for committing punishable acts;

(*f*) Tend, owing to the nature of the story or to the type of characters, directly or indirectly to disparage the Mexican people, its genius, customs, traditions or history, or democracy;

(*g*) Reproduce texts which systematically employ expressions that outrage the purity of the language;

(*h*) Contain articles, passages, scenes, plates, paintings, photographs, drawings or engravings which in themselves are objectionable in that they answer the description contained in any of the preceding paragraphs.

Art. 2. The editors and publishers of the publications and productions referred to in the preceding article shall be liable to the following administrative penalties:

1. Personal fines of not less than 500 nor more than 5,000 pesos, in accordance with the offender's personal circumstances, the motives for his conduct and the gravity or extent of the offence.

If the fine is not paid, the offender may alternatively be sentenced to imprisonment for not more than fifteen days.

2. If the offence is repeated, the fines shall be twice the amount imposed for the first offence, but may not exceed 10,000 pesos; and

3. Imprisonment for fifteen days in the case of a persistent repetition of the offence.

Art. 3. Administrative penalties not to exceed one-half of the amount of the penalties referred to in the preceding article shall be applicable to:

1. The authors of the productions referred to in article 1 of this regulation; and

2. Any person who displays or sells these publications or productions in fixed business premises.

Art. 4. A Board of Censors (*Comisión Calificadora*), composed of five members appointed by the Federal Executive through the Department of Education shall be empowered:

(*a*) To examine *ex officio* the productions referred to in article 1;

(*b*) To impose the relevant penalties on offenders;

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[1] Spanish text in *Diario Oficial*, Vol. 186, No. 35, of 12 June 1951. English translation from the Spanish text by the United Nations Secretariat. The regulation came into force on 15 June 1951. The new Organic Public Education Act was promulgated on 31 December 1941 and published in the *Diario Oficial* of 23 January 1942. Article 4 of the Act provides for regulations by which the State shall contribute to the protection, fostering and perfecting of education. Article 6, paragraph VII, lists among the duties of the State the promotion of culture and education in the country.

(*c*) In the circumstances described in article 2, paragraph 2, or if the gravity of any of the offences committed so warrants, to declare the publication illicit and to request the Postmaster-General to remove it from the mails;

(*d*) To inform the Federal Department of Public Prosecutions of any facts connected with the productions referred to in article 1 which the Board considers to be of a criminal nature;

(*e*) To communicate its decisions to the competent authorities for action.

Art. 5. The procedure set forth below shall be observed in the imposition of any of the penalties established by this regulation:

(*a*) The Board of Censors shall summon the offender to a hearing;

(*b*) The summons shall notify him of the reason for the proceedings and of the day, hour and place at which the hearing is to be held;

(*c*) The offender shall be entitled to produce whatever evidence he considers desirable at the hearing and to plead his case; and

(*d*) The Board of Censors shall thereupon give its decision.

Art. 6. Three members of the Board of Censors shall constitute a quorum; the Board shall decide matters within its competence by a majority vote of its members.

Art. 7. Before the title, heading, contents or copyright of the periodical publications referred to in article 1 can be registered, a certificate from the Board of Censors shall be required to the effect that they do not suffer from the defects specified in that article.

Art. 8. Any owner, editor or publisher of a publication may at any time apply to the Board of Censors for a ruling stating whether the particular publication is lawful or not.

Art. 9. The Postmaster-General shall not allow periodical publications to be sent through the mails unless the relevant application is accompanied by a suitable certificate issued by the Board of Censors.

Art. 10. The provisions of this regulation are applicable to all the publications mentioned in article 1, even if intended for adults only.

REGULATION CONCERNING THE CINEMATOGRAPHIC INDUSTRY ACT [1]

of 5 July 1951

Article 69

AUTHORIZATION

Films, whether of domestic or foreign origin, shall be authorized for exhibition to the public in Mexico, provided that neither the spirit nor the content of the films, as expressed in images or words, violates the limits which under articles 6 and 7 of the Political Constitution of the Republic [2] govern the expression of ideas and the freedom to write and to publish written material on any subject.

Articles 6 and 7 of the Constitution shall be deemed to have been violated, and the said authorization shall be withheld, in any case where the following circumstances, or any of them, occur, that is to say if either:

I. Privacy is infringed or not duly respected; or

II. The rules of decency are infringed; or

III. The film contains an incitement to the commission of an offence or defends a vice; or

IV. The film attacks the established order or tends to disturb the peace.

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[1] Spanish text in *Diario Oficial*, Vol. 187, No. 31, of 6 August 1951. English translation from the Spanish text by the United Nations Secretariat. The regulation came into force on 7 August 1951. It supersedes the regulation concerning the supervision of the cinematographic industry of 25 August 1941. The regulation consists of ninety-four articles.

[2] Articles 6 and 7 of the Constitution read as follows:

"*Art. 6.* Expression of ideas shall not be subject to any judicial or administrative investigation, unless it is contrary to morals or rights of third parties or incites to crime or disturbs public order.

"*Art. 7.* Freedom to write and to publish writings on any subject is inviolable. No law or authority may establish previous censorship or exact a bond from authors or printers, or restrict the freedom of the press, which may be restricted only by respect for privacy, morals and public order. In no case may a printing press be seized as an instrument of crime.

"The organic laws shall include whatever provisions may be necessary to prevent the imprisonment of vendors, distributors, workers or other employees of the establishment from which the denounced writing has issued, on the grounds that an offence of the press has supposedly been committed, unless the responsibility of such persons has previously been established."

Article 70

INFRINGEMENT OF PRIVACY

For the purpose of this article privacy shall be deemed to be infringed in any case where:

I. A person is held up to hatred, contempt or ridicule or is likely to suffer damage in his good repute or interests;

II. The memory of a deceased person is attacked for the purpose of damaging the good repute or public esteem of any of his heirs or descendants who are still living;

III. In any reference to any civil or criminal matter, false statements are made or true statements altered for the purpose of causing prejudice to any person, or opinions are expressed for the same purpose which are not warranted by the true facts.

Article 71

INFRINGEMENT OF THE RULES OF DECENCY

The following shall be deemed to be infringements of the rules of decency:

I. Offences against modesty, decency or morality, or incitement to prostitution or to the practice of lewd or immodest acts, this term to be construed as including any acts which are held by the public to be offensive to modesty;

II. The inclusion of scenes which are of an obscene nature or represent lewd acts;

III. The use of obscene or manifestly indecent expressions.

Article 72

INCITEMENT TO THE COMMISSION OF AN OFFENCE OR DEFENCE OF A VICE

A film shall be deemed to constitute an incitement to the commission of an offence or a defence of a vice if it:

I. Incites to anarchy, advocates or incites to robbery, murder or destruction of property or defends such offences or the persons committing them;

II. Defends, condones or advocates vice, contraventions or offences or attempts to vindicate them or the persons committing them;

III. Teaches or demonstrates the manner or method of committing such offences or practising such vices, without at the same time showing how the person practising the vice or committing the offence is punished.

Article 73

ATTACK ON THE ESTABLISHED ORDER AND DISTURBANCE OF THE PEACE

A film shall be deemed to constitute an attack on the established order or a disturbance of the peace if it:

I. Discredits or ridicules the fundamental institutions of the country, or advocates their destruction;

II. Insults the Mexican nation or the political entities which constitute it;

III. Directly or indirectly incites or encourages members of the armed forces to commit acts of disobedience, rebellion or desertion or to neglect any of their duties or directly counsels, incites or encourages the general public to commit acts of anarchy, mutiny, sedition or rebellion or to disobey the law or the lawful orders of the authorities;

IV. Insults the authorities of the country for the purpose of bringing them into hatred or contempt or for the same purpose attacks any public bodies corporate or the Army or the National Guard, or members thereof, in the performance of their duties;

V. Insults friendly nations, their sovereigns or chiefs or their duly accredited representatives in Mexico, or advocates, incites to or encourages the commission of a specific offence;

VI. Contains misleading or falsified accounts of current events, if these accounts are capable of disturbing the peace or tranquillity of the Republic or some part thereof, or of causing a rise or fall in the price of goods or of damaging the credit of the nation or of any state, municipality or lawfully constituted bank;

VII. Gives publicity to any information or report banned by statute or by the authorities in the public interest, or divulges anything for the publication of which the requisite statutory authority has not yet been granted.

FEDERAL ELECTORAL ACT[1]

of 3 December 1951

CHAPTER I

RENEWAL OF THE LEGISLATIVE AND EXECUTIVE POWERS OF THE UNION

Art. 1. This Act shall govern the preparation, conduct and supervision of the electoral process in ordinary and extraordinary elections of members of the legislative and executive authorities of the Union.

Art. 2. The ordinary elections of deputies shall be held every three years and the elections of senators and for President of the Republic every six years, on the first Sunday in the month of July of the year in which the particular election falls.

Art. 3. Extraordinary elections shall also be subject to the provisions of this Act, except as otherwise provided by the relevant writ ordering elections to be held, which in the event of any elections declared null by the Electoral College, shall be issued within forty-five days following such declarations. The said writ shall not restrict the rights of political parties or affect the procedures and formalities prescribed by this Act.

Art. 4. Extraordinary elections shall be ordered by a writ of the Congress of the Union or of the Chamber concerned, according to the circumstances, and shall be held on the dates stated in the relevant writs.

Art. 5. The Federal Electoral Commission shall, according to the date appointed for the extraordinary elections in the relevant writ, amend the time limits stipulated in this Act for the various stages prescribed for the designation and establishment of the electoral bodies and officials and for the preparation and conduct of the election. The Federal Electoral Commission may also extend the time limits prescribed in this Act for ordinary elections, if in its opinion, it would be materially impossible to complete, within those time limits, the procedures for which they are prescribed. The Commission shall publish, in due time, in the *Diario Oficial* of the Federation, any decision taken in pursuance of this article.

[1] Spanish text in *Diario Oficial* No. 28, of 4 December 1951. English translation from the Spanish text by the United Nations Secretariat. The Act came into force on 5 December 1951. It supersedes the Act regarding the Election of Deputies and Senators of the Federal Congress and the President of the Republic, of 31 December 1945, extracts of which have been published in the *Yearbook on Human Rights for 1948*, p. 355. The Act consists of 149 articles and four temporary articles. The extracts reproduced below deal with the renewal of the legislative and executive powers of the Union, political parties, the right to vote, and guarantees and appeals.

CHAPTER III

POLITICAL PARTIES

Art. 27. Political parties are associations constituted, in conformity with the law, by Mexican citizens entitled to exercise their full political rights, for electoral purposes and for the provision of political guidance.

The registered political parties assist the electoral bodies and share with them the responsibility for compliance with the constitutional provisions relating to elections.

Art. 28. For the purpose of this Act, only registered national parties shall be recognized as political parties.

Art. 29. The following are the requirements for the constitution of a national political party:

I. The party must be organized in accordance with this Act and must have more than 1,000 members in each of at least two-thirds of the federal divisions of the territory and a total membership in the Republic as a whole of not less than 30,000;

II. Its public activities must conform to the principles of the Political Constitution of the United States of Mexico and must respect the institutions established thereby;

III. Its articles of association must state that it is forbidden to enter into any convention or agreement binding it to take orders from an international organization or to be subordinate to foreign political parties;

IV. It must adopt a distinctive title of its own which must be in keeping with its purposes and political programme and may not contain allusions of a religious or racial nature;

V. Its activities must be of a peaceable nature; and

VI. It must issue a statement of its principles and must formulate its political programme in accordance with them, specifying what measures it intends to adopt to solve national problems.

Art. 30. The articles of association of a political party must define:

I. Its internal electoral system for the nomination of candidates which the party will support in the constitutional elections. The said internal electoral system may not take the form of public proceedings similar to the constitutional elections;

II. The methods employed for the political education of its members;

III. The penalties applicable to members failing to conform to the moral or political principles of the party; and

IV. The functions, obligations and powers of its various organs.

Art. 31. The operations of national political parties shall be conducted by their central bodies which shall, as a minimum, consist of the following:

1. A national assembly;
2. A national executive committee responsible for representing the party in the entire country; and
3. An administrative committee in each of the federal divisions of the Republic in which the party has more than 1,000 members.

Art. 32. To qualify as a national party and to be eligible for the rights conferred by this Act, a political party must be registered with the Department of the Interior. The said Department shall issue a certificate of registration or, if registration is denied, inform the party of the reasons for the denial, within sixty days after the date when the application for registration is first submitted.

Art. 33. For the purpose of qualifying for registration under the preceding article, political parties shall produce evidence to show that:

I. They fulfil the conditions specified in articles 29, 30 and 31 of this Act;

II. They have more than 30,000 members in the country, this evidence to be in the form of lists containing the names, addresses and other particulars of all and each of their registered members;

III. They have held, in at least two-thirds of the federal divisions of the Republic, a meeting attended by a notary or equivalent official. The identity and residence of at least 5 per cent of the members must be proved by witnesses who are not members of the group applying for registration; the witnesses shall swear that at least the minimum number required by this Act attended each of the said meetings, that at those meetings representatives were designated to attend the general constituent assembly of the party and that a majority of them were present at the said assembly, which was held in the presence of a public notary;

IV. The statement of principles, programme and articles of association, after being approved at subsidiary meetings and at the general meeting, were certified by a notary public.

Art. 34. On being registered, notice of such registration to be published in the *Diario Oficial* of the Federation, a national political party shall become a legal entity and enjoy all the rights attaching to this status and shall be entitled to acquire such premises as it requires for offices.

Art. 35. The Department of the Interior shall provide the Federal Electoral Commission, the local electoral commissions and the district electoral committees with a list of the legally registered political parties, together with particulars concerning them.

Art. 36. In the event of the reorganization of a party, its national executive committee shall apply to the Department of the Interior for re-registration in its new form, in accordance with article 32.

Art. 37. Upon registration of one or more of its candidates, any national party may accredit a representative to each of the electoral bodies responsible for preparing, conducting and supervising the elections for which the said candidates are nominated; it shall be the duty of these representatives to see to it that the law is strictly complied with and the franchise correctly exercised, to institute or apply for the institution of whatever legal proceedings may be necessary and to exercise the rights granted by this Act, in particular by its article 72.[1]

Representatives accredited to the Federal Commission, local commissions, district committees and polling stations shall rank as special representatives.

Representatives appointed to exercise their functions in elections in municipalities constituting an electoral district shall rank as general representatives.

The following persons may not act as officials or representatives of a party: persons holding high judicial or executive office under the Federation or in the states, members of the armed forces or the federal, local or municipal police in active status, and officials of the Public Law Department of the Federation or of the local government.

Art. 38. Political parties registered in accordance with this Act are required to produce a periodical publication of their own at least once a month and to maintain permanent offices and shall prove to the Department of the Interior at least once every six months that they are fulfilling these requirements. The Federal Electoral Commission shall certify that the publications are being issued.

It is also the duty of the political parties to maintain permanent centres for the civic education of their members.

Art. 39. Duly registered political parties may form national federations.

Parties may also form coalitions for the purposes of a single election, provided that the coalition is formed at least ninety days before the election and that the reasons and purposes of the coalition are published.

In both cases the federations or coalitions must be registered in the special register kept for the purpose by the Department of the Interior before they can be considered valid.

[1] Article 72 provides that the representatives may submit written protests charging the violation of this Act during the electoral campaign, on the day of the election and at the counting of votes.

Art. 40. No political group may style itself a national party, federation of national parties or coalition of national parties unless it fulfils the conditions prescribed by this Act.

Art. 41. Any duly registered political party shall be entitled to apply to the Department of the Interior for an investigation into the activities of any other party in order to ensure that it is conforming to the law.

If it is proved that a party does not fulfil the statutory requirements or that its activities do not conform to the law, its registration may be ordered to be cancelled, either temporarily or permanently.

Temporary cancellation shall be ordered if the party fails to hold internal elections for the nomination of candidates or violates the provisions of articles 31 and 38 of this Act. Permanent cancellation, which implies dissolution of the party, shall be ordered if the party fails to fulfil the requirements laid down in article 29, paragraphs II and V.

No registration may be ordered to be cancelled unless the party has first been summoned to answer the charges against it, submit exonerating evidence and present its defence.

Any cancellation shall be published in the same form as the registration.

Art. 42. Only political groups which are constituted in accordance with this Act and have been registered with the Department of the Interior for at least one year before the date of the election shall be entitled to take part in each election as political parties.

Art. 43. The leaders and representatives of the parties shall be liable under civil and penal law for acts committed in the exercise of their functions.

Art. 44. Where two or more political parties support the same candidate they shall appoint a joint representative to the electoral bodies. If they do not reach agreement the appointment may be made by the candidate himself.

CHAPTER V

THE RIGHT TO VOTE

Art. 60. Mexican males of eighteen years of age, if married, and twenty-one years of age if unmarried, in possession of their political rights and entered in the national electoral register, are electors.

Art. 61. It is the duty of every elector:

I. To cast his vote in the electoral district in which he resides, the vote being valid only in that district, save as otherwise provided by law; and

II. To perform his electoral functions and see that the franchise is correctly exercised.

Electoral functions cannot be refused and exemption from them may only be granted for serious reasons, in accordance with provisions laid down by the body which appointed the person to perform the function.

Art. 62. The following persons shall not be electors:

I. Persons not possessing the qualifications required of an elector;

II. Citizens who are placed under a disability by an order of the court;

III. Persons committed to an institution for drug addiction or a mental disease;

IV. Persons against whom criminal proceedings are pending for an offence punishable by imprisonment, as from the date of the order of committal to prison;

V. Persons serving a sentence of imprisonment in pursuance of a judicial decision;

VI. Fugitives from justice as from the date of issue of the warrant for their arrest until the date when the prosecution is barred by limitations of time; and

VII. Persons sentenced by a final judicial decision to the penalty of suspension of the right to vote.

Art. 63. Any citizen who satisfies the conditions laid down in article 55 of the Federal Constitution[1] may be elected a deputy of the Congress of the Union. Any citizen who satisfies the conditions laid down in article 58 of the Federal Constitution[2] may be elected a senator of the Republic.

Art. 64. Deputies of the local legislatures shall not qualify for election as federal deputies or senators during their term of office.

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CHAPTER IX

GUARANTEES AND APPEALS

Art. 115. In the cases in which this Act does not make provision for special appellate proceedings against acts by the electoral bodies, the persons concerned may appeal in writing to the immediately superior authority, supporting their appeal with the relevant evidence. The appeal shall be settled within three days, unless additional documents are required. Appeals may be presented for the rescission of actions

[1] "*Article 55.* A deputy must:

"1. Be a Mexican citizen by birth, and in the possession of his rights;

"2. Have attained twenty-five years of age on the date of the election;

"3. Be a native of the State or territory from which he is elected, or have been domiciled therein for more than six months prior to the date of the election. Domicile shall not be lost through absence in the discharge of popularly elective public office."

[2] "*Article 58.* A senator must have the same qualifications as a deputy, except that of age, which shall be more than thirty-five years on the day of his election."

taken by the Federal Electoral Commission and the decision shall be reached within five days following the presentation of the appeal, unless additional documents are required.

Art. 116. No authority other than those expressly designated by this Act may take part in the organization and conduct of elections or in the work in connexion with the count, except at the request and on the responsibility of the competent electoral bodies or officials.

Art. 117. It is the duty of federal, state and municipal officials to produce without delay any information in their possession, to certify facts which have been corroborated to their satisfaction, to issue certificates relating to documents held in the archives for which they are responsible, and to issue other appropriate documents, if requested to do so for electoral purposes by the bodies established under this Act.

Art. 118. The armed forces of the Federation, the states and the municipalities shall afford such assistance as the Federal Electoral Commission and other electoral bodies and officials may require in accordance with this Act to keep order and safeguard the electoral proceedings.

Art. 119. On the day of the election no authority may arrest a citizen before he has cast his vote, except in cases of *flagrante delicto*, or on the express written order of the polling officer of an electoral district or in pursuance of an order issued by a competent judicial authority.

Art. 120. On the day of the election and on the three preceding days, the holding of meetings or public political assemblies and the use of loud-speakers for political propaganda shall be prohibited.

Art. 121. On the day of the election and on the preceding day, all establishments selling intoxicating liquor shall be closed and the sale of alcoholic beverages shall be prohibited.

Art. 122. On the day of the election only uniformed members of the public security forces responsible for the maintenance of order may bear arms. It shall be the duty of these forces, at the request of the electoral officials or of any citizen, to disarm any person whatsoever who violates this article.

Art. 123. District, local or municipal courts shall remain open on election days. Similarly, the offices of the Public Law Department and other offices performing equivalent functions shall remain open on the said days.

Art. 124. The notaries public on duty and the officials authorized to deal with court business shall keep their offices open on election days and shall deal with any applications made to them by polling officers, authorized party representatives or citizens, for the authentication of facts or the certification of documents concerning the election.

Art. 125. Election propaganda shall be subject to the following rules:

I. The use of religious symbols, signs or slogans shall be prohibited;

II. Spoken or written expressions repugnant to public decency or constituting incitements to disturbance of the peace shall be prohibited;

III. Propaganda material may not be affixed to or written on the surface or curbs of streets, roads, highways, pavements, sidewalks, or on works of art or public monuments;

IV. Propaganda material may not be affixed to or written on public buildings owned by the nation, the states or the municipalities; or on the premises of or buildings occupied by any public offices whatsoever, or, without the permission of the owner, on buildings and structures owned by private persons.

DECISIONS OF THE SUPREME COURT RELATING TO OR SUPPORTING HUMAN RIGHTS[1]

The Right to a Hearing

1. The right to a hearing, referred to in article 14 of the Constitution,[2] is also binding on the Administrative Authorities since the provision in question does not in any way differentiate between the parties to which it applies.—*Riba de Cervantes Carmen and co-appellants*, p. 37, Vol. CVIII. 2 April 1951. 5 votes.

2. The right to a hearing laid down in article 14 of the Constitution[2] has to be respected not only by the judicial and administrative authorities but also by the Legislative Power which is under a duty to ensure that its legislation safeguards this guarantee with respect to private persons so that they may assert their rights.—*Godoy Maria Mercedes Loredo and co-appellants*, p. 963. 1951.

3. A careful assessment of the full scope of the right to a hearing leads to the conclusion that to be really effective it should be a right exercisable by private persons not only with respect to the administrative and judicial authorities (which are in any case bound to make their actions conform to the legislation applicable and, where the legislation expressly provides that a private person may intervene for the purpose of asserting his rights, bound to give him the opportunity to assert these rights), but also with respect to the legislative authority which is accordingly under a duty, for the purpose of complying with the express requirement of the Constitution, to make provision in its legislation for the procedures necessary to enable interested parties to receive a hearing and to be given an opportunity of stating their case whenever their rights are likely to be affected. Otherwise, to admit that the legislative authority is not bound to observe the right to a hearing and can omit that right from its legislation would amount to giving it unlimited power and to making private persons subject to its arbitrary will, a development which would obviously violate the principle of the supremacy of the Constitution and conflict with the objectives of the authors of the Constitution who expressly established the right in order to limit the activity of the State in any of its manifestations.—*Manterola Ma. Teresa and co-appellants*, p. 1198. 12 November 1951.

Presence at Examination of Witnesses

1. If the records of the proceedings do not mention that the accused was present at the examination of the witnesses who testified against him and whose depositions served to prove his liability, there has clearly been a violation of article 20 (4) of the General Constitution.[3] This irregularity of procedure means that the accused has not been allowed proper defence as prescribed in article 160 (3) of the Injunction Proceedings Act (Ley de Amparo).[4] On the basis of the said article 160, a fresh trial should be ordered so that the accused can be confronted with the witnesses and, once this procedural requirement has been satisfied, the new appropriate decision should be given.

The above interpretation is based not only on the provisions cited but also on the following considerations, which are of the very essence of the legal principle that witnesses should be examined in the presence of the accused:

(*a*) Since article 20 (4) of the Constitution contains the mandatory, categorical and unchallengeable provision that every accused person shall be confronted with the witnesses for the prosecution, then it must also be admitted that non-observance of this rule on the part of the penal authorities involved in the proceedings would constitute a flagrant violation of this express guarantee granted to the accused, which is so necessary, essential and overriding that it does not allow of interpretation or discrimination; and

(*b*) Since this direction also contains the proviso that the witnesses "shall, if available at the place of trial, testify in his [the accused's] presence so that he may ask them any questions helpful to his defence", it must also be admitted that if the witnesses live at the place of trial, there is no reason why the complainant should be deprived of the guarantee established on his behalf, the guarantee of being confronted with the "witnesses for the prosecution", for to proceed in any other way would be to disregard, in addition to the said pro-

[1] This digest was prepared by Dr. Javier Rondero, Chief, Department of United Nations Affairs, and Dr. Eulalia Alcalá, Officer in the same Department, in the Ministry of Foreign Affairs, Mexico. English translation by the United Nations Secretariat.

[2] Article 14 reads: "No law shall be given retroactive effect to the prejudice of any person.

"No person may be deprived of life, liberty, or his property, possessions, or rights except by means of a direct judgment before previously established tribunals, in which the essential formalities of procedure are complied with, and in conformity with laws enacted previous to the commission of the act.

"In cases of a criminal nature, it shall be unlawful to impose, either by reason of mere analogy or on *prima facie* evidence, any penalty that is not decreed by a law exactly applicable to the crime involved.

"In cases of a civil nature, the final decision shall be in keeping with the letter or the judicial interpretation of the law, and in the absence of the latter, it shall be founded on the general principles of law."

[3] Article 20 (4) provides: "He shall be confronted with the witnesses for the prosecution, who shall, if available at the place of trial, testify in his presence so that he may ask them any questions helpful to his defence;".

[4] Article 160 (3) of the Act provides: "When he has not been confronted with the witnesses who testified against him, they shall make their statement in the same court in the presence of the accused."

visions of article 20, article 14 of the Constitution, which expressly provides that no person may be deprived of his liberty or rights except in accordance with laws exactly applicable to the crime involved.—*Hernández López Miguel*, p. 1378. 1951.

2. The appellant cannot be heard to argue that he was denied the right to question the witnesses for the prosecution if he exercised this right through his counsel; nor can he claim that the fact that the court disallowed a question concerning the examination of witnesses on the ground of illegality in any way implies that the accused has been denied his rights in this matter, that is to say, that the guarantee granted to the individual in article 20 (4) of the Constitution has been in any way impaired.—*Ramos Márquez Victoriano*, p. 1999.

3. The accused's presence at the examination of witnesses cannot be dispensed with, for the object is that he should know who is testifying against him, to prevent the fabrication of false testimony to his detriment and to give him the opportunity to ask whatever questions he considers relevant to his defence.—*García Osorio Prisciliano*, p. 1997. 1951.

Representatives of ejidal *Land Commissions*

Where, under articles 21 and 22 of the Agrarian Code, representatives of *ejidal* land commissions are designated, this designation must be brought to the notice of officials of the Department of Agriculture since otherwise the interested parties would suffer prejudice; for if it were admitted that failure to take cognizance of their designation does not affect the guarantees which they enjoy as individuals, the absurd conclusion would follow that any authority could deprive them of their posts without observing the formalities prescribed by statute and without their being able to resist such action on the basis of the provisions of article 1 of the Constitution.—*Hernández Bernardo and co-appellants*, p. 331. 11 October 1951.

Export Duty (ejidal *communities*)

Since export duty is not one of the fiscal liabilities recognized by the Agrarian Code as payable by the *ejidal* communities, there is no doubt that these communities should be regarded as exempt from payment of the said duty.—*Union de las Sociedades de Crédito del Valle del Yaqui de R.S.*, p. 472.

Expropriation, Basis of Compensation

Any order which provides that the value of the expropriated property shall be taken as a basis for determining the amount of compensation violates constitutional guarantees, since, under article 27 of the Constitution,[1] the amount of the compensation must be based on the assessed value of the property, and if that value is not recorded in the offices of the tax collectors, it must be established by an appraisal or judicial decision.—*Amacuzac Hydroelectric Company*, p. 907. 20 October 1951.

Expropriation of ejidal *Land*

It was proved and admitted in an expropriation order that steps were being taken to establish a housing area in an *ejido* affected by the order, and that the proceedings had reached such a stage that a plan for the allocation of sites was being prepared. The expropriation order issued after these proceedings had been started affects the rights of the *ejidal* landholders, within the meaning of the Agrarian Code, in respect of the assignment of a housing area, since the order involved the discontinuance or annulment of the proceedings originally started and the initiation of another scheme under which the *ejidal* landholders no longer have the same rights, and thereby suffer injury to their constitutional guarantees. —*Comisionado Ejidal de Magdalena de las Salinas de Gustavo A. Madero*, p. 1848.

Release on Bail under the Injunction Proceedings Act (Ley de Amparo)

The only cases in which, under article 136 of the Injunction Proceedings Act,[2] the district court may grant release are those of detention by order of the criminal court and cases where an order has been issued for remand in custody. In such cases, release on bail may be allowed in accordance with the federal or local laws applicable. It is obvious, therefore, that where imprisonment is the result of a sentence imposed on the complainant, the district court has no power to grant his release from prison and even less his release on bail.—*Hernández Ramírez J. Guadalupe*, Vol. CXII, p. 1436. 17 February 1951.

[1] See *Yearbook on Human Rights for 1946*, pp. 193–196.

[2] Article 136 provides: "If the act complained of restricts personal liberty, the only effect of the suspension will be that the complainant shall, so far as merely his personal liberty is involved, remain at the disposal of the district court and, for the purposes of any subsequent action which may be taken, at the disposal of the authority which is to try him, if the order was issued in connexion with penal proceedings.

"If the act complained of consists of the detention of the complainant by the administrative authorities or the judicial police on the grounds that he has committed an offence, suspension, if allowed, shall be granted without prejudice to payment of the appropriate deposit. If suspension is granted in the case of warrants for arrest, the district court shall order whatever measures it considers necessary to ensure that if the decision under the Injunction Proceedings Act is against the complainant, he may be returned to the responsible authority.

"If the act complained of consists of the detention of the complainant by order of the administrative authorities, the complainant may be provisionally released, subject to security arrangements and the conditions described in the preceding paragraph.

"In cases of detention by order of the criminal court or of an order for remand in custody, the complainant may be released on bail in accordance with the federal or local laws applicable to the case.

"Release on bail may be revoked if circumstances come to light which provide sufficient reason to believe that the complainant is attempting to defeat the ends of justice."

Release on Bail (surety)

If in a case where the accused was sentenced to five years' imprisonment (against which he appeals) he acquired the right to release on bail and if this legal situation arose at a time when the amendment to article 20 of the Constitution was already in force,[1] this amendment should not be considered to have retroactive effect, especially since in the case of general constitutional legislation no provision can have retrospective effect.—*Cardoso Castillo Juan*, Vol. CVIII, p. 707. 21 April 1951.

Personal Liberty: Suspension of Restraint on Personal Liberty (release on bail)

Article 172 of the Injunction Proceedings Act (Ley de Amparo) provides that if the decision appealed against involves imprisonment, the effect of the suspension is that the appellant remains at the disposal of the Supreme Court of Justice through the intermediary of the authority which suspended execution of the sentence, the latter authority applying for the appellant's release on bail, if the requirements of article 20, paragraph I, of the Constitution have been fulfilled.[2] The constitutional guarantee of release on bail was established for persons on trial and cannot be applied to convicted offenders, whether the penalty imposed is greater or less than that referred to in article 20 of the Constitution, and irrespective of the effects of any suspension which may be granted if application is made under the Injunction Proceedings Act.—*Hernández González Jesús*, Vol. CXIX, p. 1883. 25 August 1951.

Release on Probation

For the purposes of release on probation, it will be sufficient evidence of the offender's good conduct, reformation and repentance if it is shown that, in the opinion of the director of the prison where he is detained, he has displayed good conduct and performed various tasks in the workshops of the institution; for these data, which are based on positive and observed acts, imply that the defendant has complied with all the prison rules, that his behaviour has not given ground for any complaints or punishments by the authorities and that he has used work as a means of rehabilitation, within the meaning of the express terms of article 79 of the Penal Code for the Federal District and Territories, which states that: "The Government shall organize the prisons . . . on the basis of work as the means of rehabilitation . . ." The authorities to which application is made are therefore acting arbitrarily if they require the plaintiff to prove good conduct and repentance by producing evidence of observed and positive acts other than those mentioned in the prison director's certificate of good conduct and of work other than that performed by him in the workshops of that institution.—*Sánchez José Cruz*, Vol. CVIII, p. 566. 12 April 1951.

Judicial Guarantees cannot be waived

1. Not even where two judicial guarantees provided by the Constitution are mutually contradictory can it be held that, when one of them is claimed, the other must be assumed to have been implicitly waived. —*Delegado M. Luisa*, Vol. CX, p. 443. 17 October 1951. (3 votes.)

2. The judicial guarantees provided by the Constitution cannot be waived, because they affect the public interest and not the interests of individuals.—*Delegado M. Luisa*, Vol. CX, p. 443. 17 October 1951. (3 votes.)

Duty of Employer to assign Workers to Posts in keeping with their Capacity

Article 319 of the Federal Labour Code provides that: "If an employee is unable to perform his former duties but is able to do other work, the employer shall be bound to give him such work if this is possible, and shall be entitled to make the changes in his staff necessary for the purpose." This provision places the employer under the obligation to provide a worker who has suffered permanent partial disablement with work suitable to his condition; and even though the article contains the phrase "if this is possible", this does not mean that the possibility or impossibility of providing such work depends merely on employer's willingness or judgment, but that the impossibility must be reflected in objective circumstances the existence of which must be demonstrated to the employment authorities. The contrary supposition would lead to the conclusion that the provision in question has no legal force, for in that case the employer's statement that it was impossible to provide suitable work would be enough to render nugatory his obligation to provide the worker with employment adapted to his capacity. The true interpretation of the provision, therefore, is that the possibility or impossibility of finding alternative employment for workers suffering from permanent partial disablement should be made a matter of objective determination and proof

[1] Article 20, as amended on 2 December 1948, reads:

"The accused shall have the following guarantees in any criminal suit:

"I. Immediately upon his application the accused shall be released on bail, the amount of which shall be fixed by the judge taking into account the personal circumstances of the accused and the gravity of the offence with which he is charged, provided that the arithmetical average of the penalty with which the offence is punishable does not exceed five years' imprisonment, and subject only to his placing the sum of money fixed at the disposal of the authorities or furnishing a personal surety or mortgage bond sufficient to cover it; the judge shall be responsible for the acceptance of such surety or bond . . ."

[*Former text:*

I. Immediately upon his application the accused shall be released on bail up to 10,000 pesos taking into account the personal circumstances of the accused and the gravity of the offence with which he is charged, provided that the arithmetical average of the penalty with which the offence is punishable does not exceed five years' imprisonment, and subject only to his placing the sum of money fixed at the disposal of the authorities or furnishing a personal surety or mortgage bond sufficient to cover it.]

[2] See the preceding footnote.

to the employment authorities, for it is an elementary principle in the construction of statutes that legislative provisions cannot be interpreted in such a way as to render them ineffective.—*Compañia Industrial Saltillera, S.A.*, p. 947. 29 October 1951.

Rights of Person authorized by Workers to represent them

At no time and in no judicial decision has it ever been held that by acting as his fellow-workers' representative or adviser a worker forfeits the right to payment of the remuneration to which he is entitled as a wage-earner, for this would render nugatory the rights of the working class and conflict with articles 15 and 22 of the Federal Labour Code.—*Guasque Ramón and co-appellants*, p. 1494.

Justified Dismissal of Workers

(Drunkenness). Under article 121, paragraph XIII, of the Federal Labour Code, an employee who reports for work in a state of intoxication is liable to dismissal. The employer, however, must establish the fact that the worker is in a state of intoxication by some method of proof of his own choice, since the legislation does not specify any particular one. Accordingly, the fact that the enterprise did not request the assistance of a labour inspector or send the worker concerned to an institution for the treatment of alcoholics, does not mean that it is debarred from proving justification for the dismissal on the grounds in question.—*Banco Mexicano Refaccionario, S.A. de C.V.*, p. 1835. 6 December 1951.

MONACO

SOVEREIGN ORDINANCE No. 421 TO ENACT THE REGULATIONS APPLICABLE TO MUNICIPAL OFFICIALS AND EMPLOYEES[1]

dated 28 June 1951

Art. 1. The officials, employees and agents on the established staff of the municipal services shall be subject, with respect to their appointment, remuneration, promotion and any disciplinary penalties applicable to them, to the regulations herein contained. The said regulations shall be carried into effect, under the authority of the Mayor, by the Principal Secretary and Director of Personnel of the Municipal Services.

TITLE I

GENERAL PROVISIONS

. . .

Art. 3. The officials are hereby declared to be entitled to trade union rights, subject to the conditions prescribed by legislation.

TITLE VI

APPOINTMENTS

. . .

Service—Leave

Art. 29. Every official shall be entitled while in the service to a continuous period of annual leave, subject to the conditions to be laid down by the municipality with the concurrence of the Minister of State; the Administration may, however, direct that such leave shall be taken in more than one period if the exigencies of the service so require.

Leave granted during the year for personal reasons shall be deducted from annual leave.

Absence authorized by the Director of Personnel with the concurrence of the chief of division for the performance of legal or family duties shall not, however, be deducted from the leave to which the official concerned is entitled pursuant to these regulations.

Art. 32. Any official on sick leave shall continue to receive full pay for a period of three months; and if he remains on sick leave thereafter, he shall receive half pay for the ensuing three months.

[Article 33 deals with the case of officials who are unable to resume their duties after the expiry of six months. They may be eligible for "extended sick leave" in which case they may receive half pay during this period.]

Art. 34. Independently of the sick leave and extended sick leave which are governed by the regulations contained in articles 32 and 33 above, it shall be permissible to grant leave with full pay for three years and on half pay for two years to any official who suffers from a tubercular, cancerous or mental disease requiring prolonged treatment. Such leave, known as "long leave", shall be granted in more than one period, either at the request of the person concerned or by official action, after consultation with the medical adviser.

Art. 37. Women staff members shall be entitled to the benefit of maternity leave with full pay for eight weeks before and eight weeks after the confinement. Thereafter, if their state of health requires it, such staff members shall receive the benefit of the provisions applying to sick leave.

Art. 38. In case of industrial accident or occupational disease, any official who is incapacitated from performing his duties shall continue to receive full pay until he recovers; if he is unable to resume his duties, he shall be eligible for the benefit of the provisions contained in article 4 of the Act No. 526 of 23 December 1950.

If he is able to resume his duties, he shall receive an annuity proportional to the extent of incapacity as calculated by a medical adviser, on the terms set forth in the Act No. 445 of 16 May 1947 or in any provisions now in force or hereafter coming into force pursuant to the said Act.

Art. 39. Dependants' allowances shall continue to be payable in all cases.

Art. 41. In case of accident or illness, the official affected shall be entitled to the reimbursement of expenses incurred for medical or surgical care and for supplies of pharmaceutical products for himself, his spouse or his children, subject to the conditions laid down in Sovereign Ordinances or Ministerial Orders enacted, or hereafter to be enacted, pursuant to the Act No. 486 of 17 July 1948.

[1] French text in *Journal de Monaco* No. 4893, of 16 July 1951. English translation from the French text by the United Nations Secretariat.

TITLE VIII

TERMINATION OF SERVICES

. . .

Art. 62. Husband and wife may not be members of the staff of the municipal services at the same time.

This provision shall not prejudice any acquired rights.

Art. 63. Loss of Monegasque nationality on the part of any woman to whom these regulations apply shall be deemed to constitute resignation; her separation from the service shall be effective as from the date on which she lost her nationality.

PEOPLE'S REPUBLIC OF MONGOLIA

CONSTITUTION (FUNDAMENTAL LAW) OF THE PEOPLE'S REPUBLIC OF MONGOLIA[1]

of 30 June 1940, as amended on 28 September 1944 and in February 1949

CHAPTER I

THE SOCIAL STRUCTURE

Art. 1. The People's Republic of Mongolia is an independent State of the working people (Arat cattle raisers, workers and intelligentsia) who have thrown off the yoke of imperialism and feudalism. It ensures the non-capitalist development of the country for transition to socialism in the future.

Art. 2. The political foundation of the People's Republic of Mongolia is the *khurals* of working people's deputies (people's representatives)[2] which grew and gained strength as a result of the overthrow of the feudal order and the seizure of political power by the people, the abolition of privilege and arbitrary rule and of the political and economic oppression and exploitation to which the feudal overlords (*khans*, *vans*, *guns*, *taidzhis*, *khutukhta* and *khubilgans*) subjected the broad masses of the Arats.

Art. 3. All power in the People's Republic of Mongolia belongs to the urban and rural workers as represented by the *khurals* of working people's deputies.

Art. 4. The development of the People's Republic of Mongolia along non-capitalist lines and its transition in the future to socialism are ensured by the introduction, in accordance with the State plan, of reforms in the economic, cultural and social life of the People's Republic of Mongolia, including the promotion by the State of the general development and improvement of the Arat labour economy, State assistance to voluntary and collective organizations of the Arat working people, the development of a network of stations for horse-drawn mowing-machines and the development of cattle raising, industry, transport and communications in the country.

The development of the national economy of the People's Republic of Mongolia shall be effected with a view to increasing public wealth, steadily improving material well-being, raising the cultural level of the working people, and strengthening national independence and the defences of the country.

Art. 5. All the land and the subsoil, forests, waters and their resources, factories, mills, mines, pits, gold-production, railway, motor, water and air transport, means of communication, banks, stations for mowing-machines, and State enterprises are the property of the State, that is, they belong to the people as a whole. Private ownership of the above is forbidden.

Art. 6. Citizens are guaranteed by law the right to private ownership of cattle, agricultural implements and other tools of production, raw materials, manufactured products, dwellings and outbuildings, *yurts*, household articles, earnings and savings and the right to inherit private property.

Art. 7. Public enterprises of co-operative organizations and Arat associations, including all equipment and stock, production and voluntarily socialized property such as livestock, agricultural implements and public buildings, shall constitute the public property of these co-operative organizations and Arat associations.

Art. 8. The land, being the property of the State, that is to say, the property of the people as a whole, is placed free of charge at the disposal of citizens and voluntary associations of workers for use as pastures and agricultural tracts.

Art. 9. Honest and conscientious labour is the basis of the development of the national economy, the strengthening of the defences and the further increase in the welfare of the workers of the People's Republic of Mongolia and is the honourable duty of every able-bodied citizen.

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[1] Mongolian text is not available. Russian text in: *Constitution (Fundamental Law) of the People's Republic of Mongolia*, Moscow, 1952. The Constitution of 30 June 1940 as amended on 28 September 1944 was published in *Yearbook on Human Rights for 1947*, pp. 247–249. The provisions concerning the electoral system in that Constitution also appear in *Yearbook on Human Rights for 1948*, p. 359. Of the chapters reproduced in this *Yearbook*, chapters VII and IX have been thoroughly amended, whereas minor corrections and precisions have been made in chapters I and X.

[2] *Earlier text: khurals* of Arat working people.

CHAPTER VII

THE COURTS AND THE PUBLIC PROSECUTOR'S OFFICE

Art. 62. The Supreme Court of the People's Republic of Mongolia is elected by the Supreme People's *Khural* for a period of four years.

Art. 63. The municipal and *aimak* (region) courts are elected by the municipal and *aimak khurals* of working people's deputies for a period of three years.

Art. 64. The people's district courts are elected by the citizens of the respective *aimak*, *somons*, *town* and *khorons* (in the town of Ulan Bator) on the basis of universal, direct and equal suffrage by secret ballot for a period of three years. Any citizen who has reached the age of twenty-three years, who enjoys electoral rights and who does not have a criminal record may be elected judge or people's assessor.

Art. 65. The judicial proceedings are conducted in the Mongolian language, persons not speaking that language being guaranteed the opportunity of fully acquainting themselves with the facts of the case through an interpreter and the right to address the court in their own language.

Art. 66. All court hearings are public, and the accused shall be guaranteed the right to defence. Closed court hearings are permitted in cases specially provided for by law.

Art. 67. Judges are independent and subject only to the law.

CHAPTER IX

THE ELECTORAL SYSTEM OF THE PEOPLE'S REPUBLIC OF MONGOLIA

Art. 80. The election of deputies to all *khurals* of working people's deputies, namely, the Supreme People's *Khural* of the People's Republic of Mongolia, and *aimak*, municipal, *somon*, *khoron*, *bag* and *khorin* khurals of working people's deputies shall be carried out by the electors on the basis of universal, equal and direct suffrage by secret ballot.[1]

Art. 81. Elections of deputies are universal: all citizens of the People's Republic of Mongolia who have reached the age of eighteen years may participate in the elections and be elected, irrespective of sex, race, national origin, religion, education, property status, social origin, and irrespective of whether they are nomads or permanently settled, with the exception of persons convicted by a court with deprivation of electoral rights and persons declared to be insane by due process of law.

[1]Until 1949 the ballot was open. Intermediary and higher government organs were elected in two and three stages.

Art. 82. Elections of the deputies are equal. Every elector has one vote. All citizens participate in the elections on an equal footing. Persons serving in the armed forces enjoy electoral rights on equal terms with all other citizens.

Art. 83. Women have the full right to elect and to be elected on equal terms with men.

Art. 84. Elections of deputies are direct: all *khurals* of working people's deputies, from the *bag* and *khoron khurals* of working people's deputies to the Supreme People's *Khural* of the People's Republic of Mongolia are elected by direct suffrage of the citizens.

Art. 85. All elections to all *khurals* of working people's deputies are by secret ballot.

Art. 86. Candidates are nominated by electoral district. The right to nominate candidates is ensured to public organizations and associations of working people, such as organizations of the People's Revolutionary Party, co-operative societies, trade unions, youth organizations, associations of Arats and cultural societies.

Art. 87. Every deputy must report to his electors on his work and on the work of the *khural* of working people's deputies, and is liable to recall at any time by decision of a majority of the electors as laid down by law.

CHAPTER X

FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

Art. 88. The Constitution of the People's Republic of Mongolia secures to the people the right they have won to the free use of pastures with a view to the fullest possible development of stock-raising and to enabling the citizens to apply their knowledge and labour in all branches of administrative, economic and cultural development.

Art. 89. The citizens of the People's Republic of Mongolia have the right to rest. The exercise of this right is ensured by the reduction of the working day to eight hours for factory and office workers, the institution of annual vacations with full pay for factory and office workers and by the provision of theatres, clubs, sanatoria and rest homes for the working people.

Art. 90. The citizens of the People's Republic of Mongolia have the right to education. The exercise of this right is ensured by the provision of free instruction, the development of a network of schools, technical schools and institutions of higher education, instruction in the native language and a system of State scholarships for higher education.

Art. 91. Citizens of the People's Republic of Mongolia working as hired labour have the right to maintenance in old age and in case of sickness or loss of capacity to work. This right is ensured by a system of social insurance of factory and office workers at the expense of the State or the employer, the provision of free medical care and the development of a network of health resorts.

Art. 92. All citizens of the People's Republic of Mongolia enjoy equal rights in all spheres of the administrative, economic, cultural, public and political life of the country, irrespective of nationality. Any direct or indirect restriction of the rights of citizens, manifestation of imperialist chauvinism, contempt or nationalist propaganda is punishable by law.

Art. 93. Women in the People's Republic of Mongolia enjoy equal rights with men in all spheres of the economic, administrative, cultural, public and political life. The exercise of these rights is safeguarded by the granting to women of equal conditions with men as regards work, rest, social insurance, and education, and by State protection of the welfare of the mother and child, and the provision of maternity leave with full pay.

Interference in any way whatsoever with the emancipation of women and their enjoyment of equal rights with men, such as giving minors in marriage, taking them in marriage, payment or receipt of payment for the bride, polygamy, prevention of school attendance or of participation in the economic, administrative, cultural, public and political life of the country is punishable by law.

Art. 94. In the People's Republic of Mongolia religion is separate from the State. The citizens of the People's Republic of Mongolia enjoy freedom of religion and of anti-religious propaganda.

Art. 95. With a view to furthering the interests of the working people and to promoting the development of organizational initiative and political activity among the working masses, citizens of the People's Republic of Mongolia are ensured the right to unite in public organizations, trade unions, co-operative societies, youth organizations, sport and defence organizations and cultural, technical and scientific societies. The most active and politically conscious citizens from the ranks of the workers, working Arats and the intelligentsia shall unite in the People's Revolutionary Party of Mongolia which is the vanguard of the working people in their struggle to strengthen and develop the country along non-capitalist lines, a party which shall be the guiding nucleus of all organizations of the working people, both public and State.

Art. 96. Every citizen of the People's Republic of Mongolia has the right freely to submit to the appropriate government and administrative organs, including the very highest, applications and written and oral complaints or declarations against unlawful acts of organs of government or individual officials. All organs of authority and officials concerned must forthwith examine the declarations and complaints promptly and give the person making the submission a reply bearing on the declaration or complaint.

Art. 97. All citizens of the People's Republic of Mongolia have the right to free movement and choice of place of residence.

Art. 98. In order to further the interests of the working people and with a view to developing and strengthening the political structure of the People's Republic of Mongolia, the citizens of the People's Republic of Mongolia are guaranteed by law:

(1) Freedom of speech;

(2) Freedom of the press;

(3) Freedom of assembly and meetings;

(4) Freedom of street demonstrations and processions.

Art. 99. The citizens of the People's Republic of Mongolia are guaranteed inviolability of person. No person may be placed under arrest except by decision of a court or with the authorization of the public prosecutor.

Art. 100. Inviolability of the citizen's home and privacy of correspondence are protected by law.

Art. 101. The People's Republic of Mongolia grants asylum to foreign nationals persecuted for defending the interests of the working people or for their struggle for national liberation.

Art. 102. It is the duty of every citizen of the People's Republic of Mongolia to abide by the Constitution (Fundamental Law) of the People's Republic of Mongolia, to observe the law, to maintain labour discipline, to contribute in every way to the economic and cultural and political growth of the country, to perform his public duties honestly, and to protect and consolidate public and State property.

Art. 103. Military duty is prescribed by law. Military service in the army of the People's Republic of Mongolia is an honourable duty for all citizens of the People's Republic of Mongolia.

Art. 104. It is the sacred duty of every citizen of the People's Republic of Mongolia to defend his country. Treason to his country—violation of the oath of allegiance, desertion to the enemy, undermining the military strength of the State and espionage —is punishable as the most heinous of crimes.

THE NETHERLANDS

LEGISLATION

ACT CONTAINING A REGULATION ON THE PREVENTION AND SUPPRESSION OF SILICOSIS AND OTHER PNEUMOCONIOSES (SILICOSIS ACT)[1]

dated 25 April 1951

SUMMARY

The Silicosis Act lays down general regulations for the prevention and suppression of silicosis and other pneumoconioses.

Under article 2, the possession, preparation or manufacture, and use of the articles and materials specified therein may, by general administrative regulations, be prohibited or subjected to restrictions.

The Sandstone Decree of 4 October 1951,[2] which, as a general measure, prohibits the preparation or manufacture of sandstone unless authorized by the chief district officer of the Labour Inspectorate or the Minister, is based on this provision.

The Silicosis Act does not apply to mining (surface and underground).

[1] Dutch text of the Act in *Staatsblad of the Kingdom of the Netherlands*, No. 134. Summary received through the courtesy of Dr. A. A. van Rhijn, Secretary of State for Social Affairs. English translation from the Dutch summary by the United Nations Secretariat.

[2] Dutch text of the Decree in *Staatsblad of the Kingdom of the Netherlands*, No. 443.

ACT CONTAINING AN EMERGENCY REGULATION ON CHILDREN'S ALLOWANCES FOR SMALL SELF-SUPPORTING FAMILIES[1]

dated 14 June 1951

SUMMARY

A (final) insurance scheme relating to children's allowances for all self-supporting families, based on the payment of a premium, is in course of preparation. Pending the introduction of this scheme, the Act of 14 June 1951 has come into force providing that, as an emergency measure, children's allowances shall be paid out of the public funds to small self-supporting families who frequently find themselves in financial difficulties.

[1] Dutch text of the Act in *Staatsblad of the Kingdom of the Netherlands*, No. 212. Summary received through the courtesy of Dr. A. A. van Rhijn, Secretary of State for Social Affairs. English translation from the Dutch summary by the United Nations Secretariat.

ACT CONTAINING REGULATIONS ON THE RENTS OF IMMOVABLE PROPERTY AND ON THE PROTECTION OF TENANTS (RENT ACT)[1]

dated 13 October 1950

SUMMARY

After the liberation of the Netherlands in 1945, the shortage of housing and of business premises assumed such proportions that the emergency regulations, adopted during the war, had to be retained for a considerable period. The above-mentioned Act replaced those regulations, but it too is necessarily an emergency measure. The housing shortage and the lack of business space, despite new building on the scale which economic and social conditions permit, will last for some time yet and, unless decisive action is taken by the competent authorities, may lead to serious abuses—rent increases, insecurity of tenancy, etc. The Rent Act lays down regulations setting a maximum for rents and affording tenants some protection against arbitrary action by landlords. The "Accommodation Act" already includes provisions under which accommodation can be distributed as cheaply and effectively as possible.[2]

The present Act, which came into force on 1 January 1951, authorizes in principle a rent increase in respect of immovable property built prior to 27 December 1940. In principle no rent increase is authorized for any other immovable property. The Sovereign has authority to sanction different regulations—e.g., to establish different rentals in exceptional cases when there are special reasons for so doing.

In the case of multiple occupancy of a self-contained dwelling, the percentages of rent increase are fixed by general administrative decree.

The Act adopts a different method in dealing with partial rents, i.e., rents of portions of dwellings and portions of business premises: a standard for fixing rents is prescribed which should apply irrespective of the amount of rent so far paid. This standard is established by basing the rent of the portion let on the total rent in proportion to the extent to which it is used.

The Act sets up rent advisory boards to provide impartial advice on rents due. Both tenants and landlords may consult the boards. In the course of 1951 a total of approximately 42,000 requests for advice were submitted to the rent advisory boards. Only in very rare cases after the board's advice has been obtained is an appeal made to the courts for a final ruling on rent due. It may therefore be concluded that the boards operate satisfactorily and that both tenants and landlords have confidence in their activities.

The Act also provides protection against unjustifiable termination of lease. Eviction may be effected only in the following cases (article 18 of the Act):

"(*a*) If the landlord cannot be required to allow the tenant or former tenant to remain any longer in usufruct of the property because the other tenants or the landlord have been affected by the improper use of the property or by the commission of a serious nuisance;

"(*b*) If the former tenant can obtain usufruct of similar property at a rent agreeable to him and if, at the same time, the landlord cannot be required to allow the former tenant to remain any longer in usufruct of the property;

"(*c*) If the former tenant does not accept a reasonable offer of a new lease in respect of the same property;

"(*d*) If the landlord needs the property for his own use (excluding alienation) so urgently that he cannot be required to allow the former tenant to remain any longer in usufruct of the property, due and fair account having been taken of the economic interests and social requirements of both parties and of *bona fide* subtenants;

"(*e*) If the landlord needs the property in order to comply with a statutory regulation or administrative order."

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[1] Dutch text of the Act in *Staatsblad of the Kingdom of the Netherlands*, No. K 452. Summary received through the courtesy of Dr. A. A. van Rhijn, Secretary of State for Social Affairs. English translation from the Dutch summary by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1948*, pp. 154–155.

JUDICIAL DECISION

FREEDOM OF THE PRESS—CONSTITUTION OF THE NETHERLANDS—MEANING OF THE TERM "LAW" IN CONSTITUTION—VALIDITY OF ARTICLE 15 *QUATER* OF TILBURG POLICE REGULATIONS—ARTICLE 220 OF MUNICIPALITIES ACT —UNIVERSAL DECLARATION OF HUMAN RIGHTS

PUBLIC PROSECUTOR *v.* F. A. v. A.

Supreme Court (Penal Chamber)[1]

28 November 1950

The facts. Article 15 *quater* of the Tilburg General Police Regulations provides:

"It shall be unlawful to sell, lend or distribute, or to possess for the purpose of selling, lending or distributing, or to display, offer, advertise or announce as obtainable any writings, pictures, or other articles likely or obviously intended to arouse the sensual passions, in, at the approaches to or outside premises accessible to the public, this expression to include shops and reading libraries."

F. A. v. A., an agent of the General Railway Book Stores, who sold books and periodicals in newsstands in the railway station of Tilburg, kept for the purpose of selling some copies of the periodical "Adam" which contained illustrations deemed to arouse the sensual passions and was sentenced for this offence by the cantonal court of Tilburg. V. A. appealed against this judgment to the court of Breda which quashed the judgment of the cantonal court, declaring article 15 *quater* of the Tilburg General Police Regulations to be inoperative admitting that the publication or distribution of printed material or pictures of the kind specified can be made a punishable offence, but ruling that according to the final section of article 7 of the Constitution[2] concerning individual liability under the law, such provisions could only be statutory provisions which, after adoption by the States General in the form of draft legislation and after receiving the Royal Assent, acquire the force of law and are promulgated by the Crown.

The public prosecutor attached to the court of Breda appealed against this judgment to the Supreme Court, arguing that the term "law" in articles 7 and 180, and the term "penal law" in article 174, of the Constitution must be construed as including the provisions formerly known as police regulations; that furthermore it could in no way be argued from the drafting history of article 7 of the Constitution that the said article debars lower legislative bodies from creating Press offences within the limits of the authority vested in them by statute; and that, finally, it had always been the spirit of the Constitution that the constitutional rights, including the freedom of the Press, were not absolute rights and it was abundantly clear that they were now no longer absolute rights, the modern tendency being to give greater prominence to the public interest.

Held: That the appeal should be dismissed. The Court said that article 7 of the Constitution did not rule out the enactment of statutory provisions whereby the publication or distribution of specified printed matter or pictures is declared to be an offence. Statutory provisions by virtue of which such a declaration may be made cannot, however, in the judgment of the Court, relying on the final section of article 7 of the Constitution concerning individual liability under the law, be other than provisions which, after adoption by the States General in the form of draft legislation and after receiving the Royal Assent, acquire the force of law and are promulgated by the Crown.

Apart from the expression "law", which appears in article 7 and many other articles, numerous other articles of the Constitution contain terms such as "general administrative decrees", "regulations", "decrees" and "rules", each of which has its own meaning and which are not laws (i.e., statute law) in the strict constitutional meaning as defined in article 124 of the Constitution which specifies when draft legislation acquires the force of law. One consequence of this distinction made in the terminology of the Constitution is that, whenever the word "law" occurs in an article of the Constitution it must be given its limited, strict meaning, where otherwise the carefully made distinction would have little meaning and where it is not to be assumed that when a particular term is employed in the Constitution it does not invariably, if at all possible, carry the same meaning. If this were not so and if article 7 of the Constitution should be taken as referring to a "law" in the material

[1] *Source:* Decision of *Hoge Raad (Strafkamer)* No. 137, summarized by the United Nations Secretariat from the Dutch text received through the courtesy of the Netherlands Delegation to the United Nations. See also *Nederlands Juristen Blad*, 1951, p. 177.

[2] Article 7 reads as follows: "No previous authorization shall be required in order that a person may publish his thoughts or opinions through the Press, except that every person shall be responsible according to law."

sense, the same would have to apply to article 180 of the Constitution, for, like article 7, it refers to responsibility according to law; this would lead to the inadmissible deduction that a municipal authority could prevent the publication of a church ordinance, an inference which demonstrates beyond doubt the inaccuracy of this interpretation.

It follows that article 15 *quater* of the Tilburg General Police Regulations is inoperative as a prohibition, for a prohibition can be imposed only by a law in the strict sense, so that the facts declared to have been proved, unless punishable under some other law or regulation in force, are not punishable and the accused must be exonerated from all charges brought against him.

As regards the argument invoked in the appeal that the provision is inoperative by reason of its alleged incompatibility with article 7 of the Constitution, the Court stated that in the predecessors of this article, from the Declaration of the Rights of Man and of the Citizen up to and including the Draft Revised Constitution of the Novemvirate[1] (*Grondwetsherzieningsontwerp der Negenmannen*) a reservation was attached to the recognition of the freedom of every person to publish his opinions through the Press, to the effect that the law could determine in what circumstances the abuse of this freedom nevertheless renders a person liable, and when the following passage was added as a reservation to the Government Draft of 1948: "subject to the responsibility of every person under the law". This passage was not further explained, and, in the Provisional Report of the Second Chamber, while various members felt that "not too much must be left to the law" at the important initial stage, the other members agreed that the provisions concerning responsibility should be "left to the usual legislators" without further elucidation. This does not indicate that the word "law" as employed in this article of the Constitution should be construed as including the provisions formerly known as police regulations nor that the article, in the light of its drafting history, authorizes (as is alleged) lower legislative bodies to create Press offences, so that the first two grounds relied on in the appeal must be dismissed.

With regard to the third contention, the statement that constitutional rights are not absolute rights only confirms the actual terms of article 7 itself, and the statement that a weakening of these rights is allegedly in keeping with modern developments is disproved by the adoption and proclamation of the Universal Declaration of Human Rights by the General Assembly of the United Nations on 10 December 1948. Furthermore, article 7 has invariably been held to proclaim the constitutional right of every person to publish his thoughts and opinions through the Press, without the prior permission of the authorities, so that others may be informed of these opinions, while the Civil Code and the Penal Code prohibit the publication of thoughts or opinions the contents of which are considered unlawful. Side by side with the constitutional right, in the matter of the expression of ideas, to publish opinions through the Press, the right of every person to make printed material and the contents thereof public by distribution, display or any other means, was later recognized by the courts as indispensable to the object contemplated by that right, though subsidiary thereto, this right, however, owing to its different nature (for it involves communication by public means and hence relates to an area), being *ipso facto* subject to restrictions.

The judicial recognition of this right of distribution did not prejudice the power of the municipal authorities, by virtue of the provision now contained in article 168 of the Municipalities Act, to make the distribution of printed matter in public thoroughfares subject to regulations enacted in the interests of the public peace and especially for the protection of public traffic, so long as the said authorities do not place a general ban on the distribution or make it dependent on previous official permission. In all cases, however, where this power of the municipal authorities has been referred to it was invariably expressly limited to the aforesaid right to distribute printed matter, in clear contradistinction to the right to publish and to print the matter itself, and was regularly based on the premise that a municipal authority, in prohibiting the distributions at certain times, in certain places or in a certain manner on the grounds that otherwise the public peace in its area would be disturbed, may not go so far as to prescribe what contents are inadmissible in a publication expressing opinions or to deprive the citizens of the freedom to publish their opinions in print, for, in conformity with the nature of this constitutional right, the Constitution prescribes that this intervention requires the concurrence of the Crown and of the States General.

From this definition of municipal competence it follows, as already stated, that limitations affecting distribution may never extend to a general ban on the distribution of printed matter in public thoroughfares, this limitation not only debarring the municipal authority from prohibiting the distribution of all printed matter—which would still leave it free to prohibit the distribution of printed matter with specified contents—but also preventing it from issuing a ban of the latter kind. Now that this system of rights and limitations has been applied for a long time, it cannot be held as a consequence of the municipal power to limit the distribution of printed matter as to time, place and manner (which as aforesaid is subject to the particular proviso against a total prohibition), that in addition a municipal power can be inferred, of a totally different nature, by virtue of which the municipal authority can prohibit the expression of thoughts or

[1] This is a reference to a committee of nine men which drafted the revised text of the Constitution of 1848 (ED. NOTE.)

opinions in print, but rather the observance of the limitation governing the first-mentioned power of the municipal authority—lest this power degenerate into a power to impose a total ban, equivalent to the second power mentioned—is the best way of showing respect for the Constitution.

Therefore, article 15 *quater* of the aforementioned police regulations, which contains such a total ban with regard to certain printed matter, was rightly held by the Court not to be binding, so far as each of the reasons given by it is concerned. The appellant is wrong in contesting this by relying on the Supreme Court's decision to set aside a declaration, made in 1939, whereby a police regulation issued by a burgomaster, by virtue of the exceptional powers of article 220 of the Municipalities Act, for the purpose of preserving the public peace in times of emergency, had been held to be invalid, from which the appellant argues that, according to precedent, the ruling now under review should similarly be set aside.

In that case, where the said police regulation forms an integral part of the definition of the offence against the public authority as contained in article 443 of the Penal Regulations, included in the State Regulations of the Penal Code, it is the latter provision, and hence the law, which in such an emergency involving a seditious movement, assembly or the like, permits a very temporary suspension of the exercise of the constitutional right, so that there is no question of conflict with article 7 of the Constitution.

NEW ZEALAND

NOTE ON LEGISLATION[1]

Coroners Act

1. Codifies the law as to coroners and provides that all violent and unnatural deaths, all deaths in a prison and all sudden deaths of which the cause is unknown are to be reported to a coroner for investigation.

2. Requires that the deaths of children in foster homes or of persons in a mental hospital or other institution or home be reported to the police for investigation and report to the coroner.

Destitute Persons Amendment Act

Amends the principal Act passed in 1910 (providing, *inter alia*, for the making of separation, maintenance and guardianship orders) by empowering a magistrate:

(*a*) To vest the tenancy of a dwelling house, previously occupied by the parties, in the person in whose favour a separation or guardianship order is made; and

(*b*) For the purpose of the education or training of a child, to extend an order for his maintenance beyond the normal age of sixteen years until he becomes eighteen.

Electoral Amendment Act

Provides that a serviceman who is serving outside New Zealand, and who is, or will be, of or over the age of twenty-one years before the date of the election or poll shall be qualified to vote as an elector of the electoral district in which he was residing immediately before he last left New Zealand.

Extracts from this Act are reproduced in this *Yearbook*.

Health Amendment Act

Enables the Board of Health to require any local authority to provide for the benefit of its district such sanitary works as the Board may specify.

Immigration Restriction Amendment Act

Provides for deportation of prohibited immigrants convicted of offences against the Immigration Restriction Act, 1908, and the Immigration Restriction Amendment Act, 1920.

Industrial Conciliation and Arbitration Amendment Act

Inter alia amends the principal Act in the following ways:

1. Rules must provide that the election of officers of industrial unions is to be by secret ballot, or some other democratic form of election.

2. Any person who objects on religious grounds to being a member of a union may apply to be exempted.

3. Provision may be made in awards and in industrial agreements for local and national disputes committees to whom shall be referred disputes arising out of the award or industrial agreement.

4. The definitions of "strike" and "lockout" are amended.

5. The penalties and fines relating to unlawful strikes and lockouts are increased and heavier penalties are provided where members of a union participate in a strike or lockout which has not been preceded by a secret ballot.

6. Unions are required to furnish copies of their accounts to financial members on demand.

7. There are new provisions made for inquiries into disputed elections in unions.

Extracts from this Act are reproduced in this *Yearbook*.

Juries Amendment Act

Amends the provisions relating to exemption from jury service.

Maori Purposes Act

1. Amends the law relating to Maori lands, particularly those held in trusts.

2. Makes further provision for Maori hostels.

3. Provides that marriages to which a Maori is a party shall be celebrated in the same way as if each of the parties were a European.

Maori Social and Economic Advancement Amendment Act

1. Restricts the supply of liquor to Maoris at Maori gatherings.

2. Enables a magistrate to make a prohibition order against a Maori.

[1] This survey was prepared by the New Zealand Government.—The following *corrigendum* should be made in the section on New Zealand in the *Yearbook on Human Rights for 1950*, p. 201: In the sixth line of the paragraph headed "Social Security Amendment" of the *Note on Legislation*, the words "2/6 a year for each year" should read "2/6 a week for each year".

Military Training Amendment Act

Imposes liability for military service in accordance with the principal Act on men born during the year ending 31 October 1931 and for service in the Reserve on men born during the year ending 31 October 1930.

Minimum Wage Amendment Act

Increases the minimum rates of wages for adult male and adult female workers.

Official Secrets Act

Creates offences in connexion with spying and wrongful communication of information and contains special provisions relating to proof of offences. (This Act is in force in the Cook Islands, the Tokelau Islands and the Trust Territory of Western Samoa.)

Police Offences Amendment Act

1. Makes it an offence to make seditious statements, to publish seditious documents, or to take part in a seditious conspiracy.

2. Makes it an offence to perform certain acts of intimidation for the purpose of compelling a person to refrain from carrying on his trade or occupation or to be a party to or to continue to be a party to any strike or lockout.

3. Creates offences in relation to the display of posters and badges, picketing or the holding of processions and demonstrations for the purpose of influencing a person to refrain from carrying on his trade or occupation or to be a party to or to continue to be a party to any strike or lockout.

Extracts from this Act are reproduced in this *Yearbook*.

Public Service Amendment Act

Provides, *inter alia*, that the Public Service Commission may transfer employees where necessary in the interests of national security.

Quarries Amendment Act

Prohibits persons under eighteen from handling explosives in quarries.

Samoa Amendment Act

Alters the term "native" to "Samoan" in all enactments and regulations concerning Western Samoa, and amends the legislation governing the Western Samoan Public Service.

Scaffolding and Excavation Amendment Act

Amends principal Act to give power to make regulations as to the safety, health and welfare of persons employed in building work, construction work or excavation work.

Servicemen's Settlement Amendment Act

Amends the procedure under which the Crown acquires land for the settlement of discharged servicemen.

Shops and Offices Amendment Act

Empowers the Governor-General to make regulations for the safety, health and welfare of persons employed in shops, offices, warehouses and stores.

Social Security Amendment Act

Sets out new rates of benefits for superannuation, old age, widows, orphans, invalids, miners, sickness and unemployment, and changes qualifications for family benefit.[1]

Statutes Amendment Act

1. Amends the Infants Act 1908 to enable an infant to enter into a contract with the prior approval of a magistrate's court.

2. Confers power to make regulations as to practice of midwifery and maternity nursing. (Amendment to Nurses and Midwives Act, 1945.)

Union Funds Distribution Act

Provides for the distribution among their members or the transfer to the new unions that have been formed of the funds and assets of the five unions which were de-registered by the Minister of Labour in connexion with the waterfront strike.

War Pensions Amendment Act

War Pensions and Allowances (Mercantile Marine) Amendment Act

Increase certain of the pension rates payable under the principal Acts.

Workers' Compensation Amendment Act

Workers' Compensation Amendment Act (No. 2)

Increase maximum scales of compensation.

[1]For a survey of New Zealand's social security system, see *Yearbook on Human Rights for 1949*, pp. 154 *seq.*; see also *idem for 1950*, p. 201.

ELECTORAL AMENDMENT, ACT 1951[1]

Act No. 6 of 1951

(Assented to 31 July 1951)

. . .

Sect. 4. (1) Every serviceman who is for the time being outside New Zealand and is or will be of or over the age of twenty-one years before the date of the election or poll, shall in accordance with this section be qualified to vote at every election of members of Parliament and at every licensing poll under the Licensing Act, 1908, whether or not he is registered as an elector of any electoral district.

(2) Every such person shall be qualified to vote as an elector of the electoral district (as existing at the date of the election or poll) in which is situated his usual place of residence immediately before he last left New Zealand.

(3) Subject to the provisions of this section and of any regulations made under this section, all the provisions of the principal Act and of the Licensing Act, 1908, shall, as far as they are applicable and with the necessary modifications, apply with respect to voting by servicemen and with respect to their votes.

(4) The Governor-General may from time to time, by Order-in-Council, make all such regulations as he deems necessary or expedient for the purpose of giving effect to the provisions of this section.

(5) Any regulations made under this section shall have effect notwithstanding anything inconsistent therewith contained in the principal Act or in any other enactment other than this section.

(6) All regulations made under this section shall be laid before Parliament as soon as may be after they are made.

(7) The validity of any election or of any licensing poll shall not be questioned on the ground that anything required to be done by this section or by any regulations under this section has been irregularly done, or has been omitted to be done, or that for any reason it had been found impracticable for any serviceman to vote, or for the vote of any serviceman to be counted, or that any person who has voted under this section was not entitled to vote.

(8) For the purposes of this section the term "serviceman" means any person ordinarily resident in New Zealand who is for the time being a member of the naval, military, or air forces of New Zealand, and includes any person ordinarily resident in New Zealand who is attached to or employed by or carries out duties which necessitate his accompanying any such force when outside New Zealand.

[1]English text: *1951 No. 6*, Wellington, Government Printer, 1951. Text received through the courtesy of the New Zealand Government. The Act was approved on 13 July 1951 and amends the Electoral Act, 1927 (the principal Act) and shall be read together with and deemed part of that Act (section 1). See extracts from the Electoral Act, 1927, in *Yearbook on Human Rights for 1948*, pp. 362–364.

POLICE OFFENCES AMENDMENT ACT, 1951[1]

Act No. 67 of 1951

(Assented to 5 December 1951)

PART I

SEDITION

2. (1) In this part of this Act, unless the context otherwise requires:

"To publish" means to communicate to the public or to any person or persons, whether in writing, or orally, or by any representation, or by any means of reproduction whatsoever.

"Seditious intention" means an intention:

"(*a*) To bring into hatred or contempt, or to excite disaffection against, His Majesty, or the Government of New Zealand, or the administration of justice; or

"(*b*) To incite the public or any persons or any class of persons to attempt to procure otherwise than by lawful means the alteration of any matter affecting the Constitution, laws, or Government of New Zealand; or

"(*c*) To incite, procure, or encourage violence, lawlessness, or disorder; or

"(*d*) To incite, procure, or encourage the commission of any offence that is prejudicial to the public safety or to the maintenance of public order; or

[1]English text: *1951 No. 67*, Wellington, Government Printer, 1952. Text received through the courtesy of the New Zealand Government. The Act was approved on 5 December 1951 and amends the Police Offences Act, 1927 (the principal Act), with which it shall be read together and of which it is deemed to be part (section 1).

"(*e*) To excite such hostility or ill will between different classes of persons as may endanger the public safety."

"Statement" includes words, writing, pictures, or any significant expression or representation whatsoever; and also includes any reproduction, by any means whatsoever, of any statement.

(2) Without limiting any other legal justification, excuse, or defence available to any person charged with an offence against this part of this Act, it is hereby declared that, for the purposes of this part, no one shall be deemed to have a seditious intention only because he intends in good faith:

(*a*) To show that His Majesty has been misled or mistaken in his measures; or

(*b*) To point out errors or defects in the Government or Constitution of New Zealand, or in the administration of justice; or to incite the public or any persons or any class of persons to attempt to procure by lawful means the alteration of any matter affecting the Constitution, laws, or Government of New Zealand; or

(*c*) To point out, with a view to their removal, matters producing or having a tendency to produce feelings of hostility or ill will between different classes of persons.

3. Every person commits an offence against this part of this Act who makes or publishes, or causes or permits to be made or published, any statement:

(*a*) That incites, encourages, advises, or advocates violence, lawlessness, or disorder; or

(*b*) That expresses any seditious intention.

4. (1) Every person commits an offence against this part of this Act who is a party to any seditious conspiracy.

(2) For the purposes of this section, the expression "seditious conspiracy" means an agreement between two or more persons to carry into execution any seditious intention.

5. (1) Every person commits an offence against this part of this Act who, with a seditious intention:

(*a*) Prints, publishes, or sells; or

(*b*) Distributes or delivers to the public or to any person or persons; or

(*c*) Causes or permits to be printed, published, or sold, or to be distributed or delivered as aforesaid; or

(*d*) Has in his possession for sale, or for distribution or delivery as aforesaid; or

(*e*) Brings or causes to be brought or sent into New Zealand:

any document, statement, advertisement, or other matter that incites, encourages, advises, or advocates violence, lawlessness, or disorder, or that expresses any seditious intention.

(2) On a prosecution in respect of an offence under paragraph (*d*) of sub-section one of this section, proof that the defendant had in his possession any document, statement, advertisement, or matter to which that sub-section applies shall be deemed to be proof that he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid, unless he establishes:

(*a*) That his having possession of it was contrary to his desire; or

(*b*) That he had possession of it for the purpose of delivering it to a constable or to some other proper authority or for any other lawful purpose; or

(*c*) That the circumstances in which he had it in his possession were such as to raise a reasonable doubt whether he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid.

(3) A prosecution for an offence against this section shall not be commenced except with the consent of the Attorney-General:

Provided that this sub-section shall not be construed to prevent the arrest of any person pursuant to this Act, and any such person may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the commencement of a prosecution has not been obtained, but no further or other proceedings shall be taken until that consent has been obtained.

(4) Any constable may seize any document, statement, or advertisement, or any other written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him to have been committed.

6. (1) Every person commits an offence against this part of this Act who, having in his possession or under his control any printing press, or any mechanical, photographic, or electrical apparatus, or any other apparatus whatsoever:

(*a*) Uses it; or

(*b*) Causes or permits it to be used:

for printing, making, or publishing, or for facilitating the printing, making, or publishing of, any document, statement, advertisement, or other matter that expresses or will express a seditious intention.

(2) On a prosecution under this section, proof:

(*a*) That the defendant was in actual occupation or in charge of any place or any premises or any part thereof; and

(*b*) That any printing press, or any mechanical, photographic, or electrical apparatus, or any other apparatus whatsoever, in respect of which the offence is alleged to have been committed was at that place or, as the case may be, on those premises or in that part:

shall be evidence from which the court may infer that the press or apparatus was in the possession or under the control of the defendant, in the absence of satisfactory evidence to the contrary.

(3) On a prosecution in respect of an offence under paragraph (*b*) of sub-section one of this section, proof:

(*a*) That any such press or apparatus as aforesaid was in the possession or under the control of the defendant at any place or on any premises or any part thereof; and

(*b*) That any document, statement, advertisement, or matter in respect of which the offence is alleged to have been committed was at that place or, as the case may be, on those premises or in that part, or was in the possession of the defendant, or was in the possession of any person at that place or on those premises; and

(*c*) That the document, statement, advertisement, or matter could have been printed or made on or by means of that press or apparatus:

shall be deemed to be proof that the defendant did the act alleged to have been done, unless he establishes:

(*d*) That the document, statement, advertisement, or matter was not printed or made on or by means of that press or apparatus; or

(*e*) That the document, statement, advertisement, or matter was printed or made without his knowledge or consent:

or unless the evidence is such as to raise a reasonable doubt whether he did that act.

ENFORCEMENT AND LEGAL PROCEEDINGS

7. Any constable may arrest without warrant any person who is found committing an offence against this part of this Act, or who is reasonably suspected by the constable of having committed or of having attempted to commit or of being about to commit such an offence.

8. (1) If a justice of the peace is satisfied on oath that there is reasonable ground for suspecting that there is on any premises or place any document or matter, or any printing press or apparatus, in respect of or in connexion with which an offence against this part of this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein to enter, with such assistants as may be necessary, any premises or place specified in the warrant, by force if necessary, and to search the premises or place and every person found therein, and to seize any document, matter, printing press, or apparatus, or anything which is evidence of an offence against this part of this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and in respect of or in connexion with which he has reasonable ground for suspecting that an offence against this part of this Act has been or is about to be committed.

(2) The warrant shall authorize the constable to enter such premises or place as aforesaid in the daytime:

Provided that if the justice granting the warrant is satisfied that the ends of justice require search to be made by night, he may by the warrant expressly authorize the entry and search to be made either by night or in the daytime.

9. (1) Every person who commits an offence against this part of this Act shall be liable on summary conviction before a magistrate to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

(2) Any information in respect of an offence against this part of this Act may be laid at any time within one year from the time when the matter of the information arose.

10. (1) Notwithstanding anything to the contrary in any other Act, but subject to the provisions of sub-section two of this section, no person convicted of an offence against this part of this Act and sentenced to a term of imprisonment shall be admitted to bail by reason of and during the pendency of an appeal under part IX or part X of the Justices of the Peace Act 1927, unless the magistrate so directs.

(2) Where on any such appeal the appellant is not admitted to bail by the magistrate, a warrant in execution of the conviction shall be issued, notwithstanding anything in the said Act, and:

(*a*) The provisions of section fourteen of the Criminal Appeal Act 1945 shall, as far as they are applicable and with the necessary modifications, apply as if references therein to the Court of Appeal were references to the Supreme Court, and as if references to the Supreme Court were references to the magistrate;

(*b*) The appellant shall, pending the determination of his appeal, be treated in the same manner as a prisoner before trial, and the provisions of the regulations for the time being in force under the Prisons Act 1908 relating to the matters specified in the said section fourteen shall, as far as they are applicable and with the necessary modifications, apply accordingly.

11. (1) Nothing in this part of this Act shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence punishable independently of this part, but no person shall be punished twice for the same offence.

[Section 12 deals with disposal of things seized under this part.]

PART II

INTIMIDATION

13. In this part of this Act, unless the context otherwise requires:

"Act" includes any act of omission as well as any act of commission:

"Lockout" means the act of an employer:

(*a*) In closing his place of business, or suspending or discontinuing his business or any branch thereof; or

(*b*) In discontinuing the employment of any workers, whether wholly or partially; or

(*c*) In breaking his contracts of service; or

(*d*) In refusing or failing to engage workers for any work for which he usually employs workers:

with intent:

(*e*) To compel or induce any workers to agree to terms of employment or comply with any demands made upon them by the said or any other employer; or

(*f*) To cause loss or inconvenience to the workers employed by him or to any of them; or

(*g*) To incite, aid, abet, instigate, or procure any other lockout; or

(*h*) To assist any other employer to compel or induce any workers to agree to terms of employment or comply with any demands made by him.

"To publish" means to communicate to the public or to any person or persons, whether in writing, or orally, or by any representation, or by any means of reproduction whatsoever.

"Statement" includes words, writing, pictures, or any significant expression or representation whatsoever; and also includes any reproduction, by any means whatsoever, of any statement.

"Strike" means the act of any number of workers who are or have been in the employment of the same employer or of different employers:

(*a*) In discontinuing that employment, whether wholly or partially; or

(*b*) In breaking their contracts of service; or

(*c*) In refusing or failing after any such discontinuance to resume or return to their employment; or

(*d*) In refusing or failing to accept engagement for any work in which they are usually employed; or

(*e*) In reducing their normal output or their normal rate of work:

the said act being due to any combination, agreement, common understanding, or concerted action, whether express or implied, made or entered into by any workers:

(*f*) With intent to compel or induce any such employer to agree to terms of employment or comply with any demands made by the said or any other workers; or

(*g*) With intent to cause loss or inconvenience to any such employer in the conduct of his business; or

(*h*) With intent to incite, aid, abet, instigate, or procure any other strike; or

(*i*) With intent to assist workers in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made upon him by any workers.

14. (1) Every person commits an offence against this part of this Act who:

(*a*) Forcibly hinders or prevents any person from working at or exercising any lawful, trade, business, or occupation;

(*b*) Assaults any person with intent to hinder or prevent him from working at or exercising any lawful trade, business, or occupation.

(2) Paragraph (*b*) of section two hundred and one of the Justices of the Peace Act 1927 is hereby repealed.

15. (1) Every person commits an offence against this part of this Act who, with intent to compel, induce, or influence any other person to do any act to which this section applies, or by reason of that other person refusing or failing to do any such act, or by reason of that other person having refused or failed, whether before or after the passing of this Act, to do any such act:

(*a*) Uses violence to or intimidates that other person or his wife, child, or parent; or

(*b*) Uses, either orally or in writing, any threatening intimidatory, offensive, or insulting words to that other person or to his wife, child, or parent; or

(*c*) Destroys or damages any property of that other person or of his wife, child, or parent; or

(*d*) Hides any tools, clothes, or other property owned or used by that other person, or deprives him of or hinders him in the use thereof; or

(*e*) Watches or besets any premises or place where that other person resides, or works, or carries on any trade, business, or occupation, or where that other person happens to be, or the approach to any such premises or place as aforesaid; or

(*f*) Follows that other person about from place to place; or

(*g*) Follows that other person with any other person or persons in a disorderly manner in or through any road or street.

(2) Every person commits an offence against this part of this Act who, with any such intent or for any such reason as aforesaid:

(*a*) Prints, publishes, or sells; or

(*b*) Distributes or delivers to the public or to any person or persons; or

(*c*) Causes or permits to be printed, published, or sold, or to be distributed or delivered as aforesaid; or

(*d*) Has in his possession for sale, or for distribution or delivery as aforesaid:

any document, statement, advertisement, or other matter that is intended or likely to expose any other person, or any class of persons to which that other person belongs, to hatred or contempt amongst the public or any class of persons, or that contains in relation to that person, or any class of persons to which he belongs, any threatening, intimidatory, offensive, or insulting words.

(3) The acts to which this section applies are:

(*a*) To refrain from or to cease working in any employment or doing any work; or

(*b*) To refrain from going to or attending or leaving any dwelling-house or residential premises, or any premises or place where any trade, business, or occupation is lawfully carried on; or

(*c*) To be a party or continue to be a party to a strike or a lockout.

(4) Where in any prosecution under this section it is alleged that the defendant did anything specified in sub-section one or sub-section two of this section with any intent or for any reason so specified, proof that the defendant did that thing, and that:

(*a*) He was usually working in any employment, or engaged in any work in respect of which a strike or a lockout existed; or

(*b*) He was a party to a strike or a lockout; or

(*c*) He was a member of any class of persons being parties to or supporting any strike or lockout; or

(*d*) He was supporting or was a member of any class of persons supporting any party or parties to a strike or a lockout:

shall be evidence from which the court may infer that he did that thing with the intent or for the reason so alleged, in the absence of satisfactory evidence to the contrary.

(5) On a prosecution in respect of an offence under paragraph (*d*) of sub-section two of this section, proof that the defendant had in his possession any document, statement, advertisement, or matter to which that sub-section applies shall be deemed to be proof that he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid, unless he establishes:

(*a*) That his having possession of it was contrary to his desire; or

(*b*) That he had possession of it for the purpose of delivering it to a constable or to some other proper authority, or for any other lawful purpose; or

(*c*) That the circumstances in which he had it in his possession were such as to raise a reasonable doubt whether he had it in his possession for sale or, as the case may be, for distribution or delivery as aforesaid.

(6) Any constable may seize any document, statement, or advertisement, or any other written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him to have been committed.

16. (1) Every person commits an offence against this part of this Act who:

(*a*) Displays, or drives or causes to be driven any vehicle displaying; or

(*b*) Carries or wears so that it may be seen by any other person; or

(*c*) Affixes in any place where it may be seen by any other person:

any banner, placard, sign, badge, card, or other thing which contains or bears any words or device to which this section applies.

(2) Every person commits an offence against this part of this Act who writes or prints or displays, or causes to be written or printed or displayed, on any vehicle, wall, fence, erection, road, street, or footway, or otherwise where it may be seen by any other person, any words or device to which this section applies.

(3) This section applies to:

(*a*) Any words or device intended or likely to result in or facilitate the victimization of any person or any class of persons, or to result in any person being prevented from or hindered in doing any act that he has a legal right to do;

(*b*) Any words or device intended to result in or facilitate, for the purpose of furthering any strike or lockout, the boycotting of any person or any class of persons in relation to any trade, business, or occupation, or to cause, for such purpose as aforesaid, any substantial interference with the trade or business of any person or any class of persons;

(*c*) Any words or device inciting or encouraging, or intended or likely to incite or encourage, any person or any class of persons or persons in general to be or continue to be a party or parties to a strike or a lockout;

(*d*) Any words or device intended or likely to influence any person to refrain from or to cease working in any employment or doing any work;

(*e*) Any words or device intended or likely to expose any person, or any class of persons, in any trade, business, or occupation, to hatred or contempt amongst the public or amongst any class of persons, whether engaged in the same or any other trade, business, or occupation;

(*f*) Any threatening, intimidatory, offensive, or insulting words or device relating to any person or any class of persons.

(4) Any constable may seize any vehicle, banner, placard, sign, badge, card, or other thing, or any written or printed matter, in respect of which an offence under this section is committed or is reasonably suspected by him to have been committed.

17. (1) In this section, the term "sergeant" means any member of the police force of or above the rank of sergeant.

(2) Where in the opinion of a sergeant the presence of any person on or in any public place within the meaning of section forty of the principal Act is intended or likely to influence any other person:

(*a*) To refrain from or to cease working in any employment or doing any work; or

(*b*) To be a party or continue to be a party to a strike or a lockout:

that sergeant may give to the first-mentioned person such oral directions as the sergeant considers necessary in the circumstances, including a direction to remove himself forthwith from the public place where he then is to such reasonable distance as the sergeant considers necessary, or both a direction so to remove himself and a direction to remain at such reasonable distance from the public place as may be specified by the sergeant.

(3) Where an opinion under sub-section two of this section is formed by a sergeant in respect of two or more persons present on or in any such public place as aforesaid, any direction authorized by that sub-section may be given to those persons collectively.

(4) Any sergeant, acting under sub-section two of this section, may direct any person not to enter or remain on or in any specified public place, whether or not that person is on or in the vicinity of the public place when the direction is given.

(5) Every person commits an offence against this part of this Act who fails to comply in any respect with the requirements of a direction given to him under this section.

18. (1) If a member of the police force of or above the rank of sergeant is satisfied that the holding or continuance of any procession or demonstration in or in view of a public place within the meaning of section forty of the principal Act is likely to incite or influence any person to be or to continue to be a party to a strike or a lockout, he may prohibit the holding or continuance of the procession or demonstration.

(2) Where the holding or continuance of any procession or demonstration is prohibited under this section, every person commits an offence against this part of this Act who, knowing of such prohibition, advises, encourages, organizes, conducts, leads, or takes part in the procession or demonstration, or who, being present at the procession or demonstration, continues to be present thereat after being requested by a constable to leave.

ENFORCEMENT AND LEGAL PROCEEDINGS

19. Any constable may arrest without warrant any person who is found committing an offence against this part of this Act, or who is reasonably suspected by the constable of having committed or of having attempted to commit or of being about to commit such an offence.

20. (1) If a justice of the peace is satisfied on oath that there is reasonable ground for suspecting that there is on any premises or place any document or matter, or any printing press or apparatus, in respect of or in connexion with which an offence against this part of this Act has been or is about to be committed, he may grant a search warrant authorizing any constable named therein to enter, with such assistants as may be necessary, any premises or place specified in the warrant, by force if necessary, and to search the premises or place and every person found therein, and to seize any document, matter, printing press, or apparatus, or anything which is evidence of an offence against this part of this Act having been or being about to be committed, which he may find on the premises or place or on any such person, and in respect of or in connexion with which he has reasonable ground for suspecting that an offence against this part of this Act has been or is about to be committed.

(2) The warrant shall authorize the constable to enter such premises or place as aforesaid in the daytime:

Provided that if the justice granting the warrant is satisfied that the ends of justice require search to be made by night, he may by the warrant expressly authorize the entry and search to be made either by night or in the daytime.

21. (1) Every person who commits an offence against this part of this Act shall be liable on summary conviction before a magistrate to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

(2) Any information in respect of an offence against this part of this Act may be laid at any time within one year from the time when the matter of the information arose.

22. Nothing in this part of this Act shall be so construed or shall so operate as to take away or restrict the liability of any person for any offence punishable independently of this part, but no person shall be punished twice for the same offence.

[Section 23 deals with disposal of things seized under this part.]

INDUSTRIAL CONCILIATION AND ARBITRATION AMENDMENT ACT, 1951[1]

Act No. 61 of 1951

(assented to 5 December 1951)

PART I

RULES OF UNIONS

3. (1) Section five of the principal Act is hereby amended by repealing sub-paragraphs (i) and (ii) of paragraph (*c*)[2] of sub-section one, and substituting the following sub-paragraphs:

"(i) The election or (if and so far as approved by the Registrar) the appointment of a committee of management, a president, a secretary, and any other necessary officers of the society or of any branch thereof, and delegates to conferences of the society, and the removal of any of them, and the filling of vacancies, so that the election, removal, and filling of vacancies shall be by secret postal ballot of the financial members[3] of the society or branch, or by such other secret ballot or other method as may be approved by the Registrar as being sufficiently democratic, having regard to the form of government of the society and all other relevant considerations;

"(ii) The powers and duties of the committee and of the president and secretary and of any other officers."

(2) Section five of the principal Act is hereby further amended by inserting in paragraph (*c*) of sub-section one, after sub-paragraph (X), the following new sub-paragraph:

"(XA) Any matter that is for the time being deemed or required by this or any other Act to be included in the rules."

(3) The Registrar may at any time require any industrial union which is registered at the passing of this Act to amend its rules to bring them into conformity with section five of the principal Act as amended by this section, and any such amendment may be made by the committee of management of the union. If any such requirement is not complied with within such period as may be specified by the Registrar, the Registrar may amend the rules in such manner as he thinks fit in order to give effect to the requirement, and may record the amendment.

(4) Where the Registrar amends any rules and records the amendment under this section, he shall supply a copy of the amendment to the secretary of the union concerned, and the rules shall thereupon be deemed to be amended accordingly on and from the date of the recording of the amendment.

4. (1) Where the Registrar is of opinion that any rule, or any amendment or alteration of a rule, is in any way unreasonable or oppressive, he may refuse to record it in accordance with sub-section two of section six or sub-section one of section thirteen of the principal Act, as the case may be.

(2) Where the Registrar refuses under this section to record any rule or any amendment or alteration of a rule, the society or industrial union concerned may in the prescribed manner appeal against the refusal to the court, whereupon the court, after making full inquiry, shall direct the Registrar whether his refusal should be insisted on or waived, and the Registrar shall act accordingly.

5. Section four of the Industrial Conciliation and Arbitration Amendment Act 1936[4] is hereby amended by inserting, after sub-section one, the following sub-section:

"(1A) Except with the concurrence of the Minister, it shall not be lawful for the rules of any industrial union of employers or industrial union of workers to be amended or altered for the purpose of extending the membership of the union so as to include employers or

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[1] English text: *Industrial Conciliation and Arbitration Amendment Act*, No. 61 of 1951, Wellington, Government Printer, 1952. Text received through the courtesy of the New Zealand Government.

[2] The Industrial Conciliation and Arbitration Act (No. 24) of 1925, section 5, deals with societies which may be registered, mode of application and terms of rules. Paragraph (*c*) provides that "Such rules shall specify the purposes for which the society is formed, and shall provide for:

"(i) The appointment of a committee of management, a chairman, secretary, and any other necessary officers, and, if thought fit, of a trustee or trustees;

"(ii) The powers, duties, and removal of the Committee, and of any chairman, secretary, or other officer or trustee, and the mode of supplying vacancies."

[3] According to section 2, a "financial member, in relation to any industrial union of workers or of employers or to any society of workers, means a member of the union or society who is a financial member within the meaning of the rules of the union or society; or, in any case where the rules do not contain any definition of a financial member, means a member of the union or society who is not in arrear for more than six months in payment of any subscription, fine, or levy payable by him to the union or society".

[4] The Industrial Conciliation and Arbitration Amendment Act (No. 6) of 1936, section 4, sub-section 1, deals with further provisions restricting the registration of new unions. Text of the Act in *New Zealand Statutes*, 1 EDW. VIII., session 1, 1936, pp. 74–89.

workers in or in connexion with any industry if there is in the same industrial district an existing union of employers or of workers, as the case may be, registered in respect of that industry (whether or not the maximum number of members of that union is limited by its rules or otherwise), or if there is in the same industrial district an existing trade union which was registered as such before the first day of May, nineteen hundred and thirty-six, and to which employers or workers, as the case may be, in or in connexion with that industry could properly belong."

COMPULSORY UNIONISM

6. (1) Any person who objects on religious grounds to being a member of a union may apply to the Registrar of Industrial Unions for a certificate of exemption from membership of any union covering the calling in which the applicant is for the time being employed.

(2) The Registrar shall refer every such application to the Conscientious Objection Committee appointed under the Military Training Act 1949.

(3) If, after hearing any such application, the Conscientious Objection Committee is satisfied that the applicant's religious objections are genuine, the Committee shall notify the Registrar accordingly, and on payment by the applicant to the credit of the Social Security Fund of an amount equal to the subscription fixed by the union, the Registrar shall issue to the applicant a certificate of exemption from membership of the union for the period specified in the certificate, and may from time to time, if he thinks fit, issue certificates for subsequent periods without further reference to the Committee.

(4) A certificate of exemption issued to any person under this section shall, while it continues in force, permit the employment or the continuation of the employment of that person in any position or employment as if he were a member of the union to which the certificate relates.

NATIONAL ORGANIZATIONS

7. (1) Any industrial union or industrial association may be a member of or be affiliated to any organization formed for the purpose of protecting or furthering the interests of employers or workers in connexion with conditions of employment throughout New Zealand, whether or not the organization is an industrial union or industrial association registered under this Act.

(2) Every industrial union or industrial association that on the passing of this Act is in accordance with the rules of any such organization a member of or affiliated to the organization shall be deemed to be and to have heretofore been lawfully a member of or affiliated to the organization:

Provided that nothing in this sub-section shall be deemed to affect any judgment given by any court in any proceedings before the passing of this Act, in so far as the judgment relates to the parties to the proceedings.

. . .

[The following sections deal with conciliation and awards and introduce local and national disputes committees.]

STRIKES AND LOCKOUTS

20. Section one hundred and twenty-one of the principal Act[1] is hereby amended by repealing subsection one, and substituting the following sub-section:

"(1) In this Act the term 'strike' means the act of any number of workers who are or have been in the employment of the same employer or of different employers:

"(*a*) In discontinuing that employment, whether wholly or partially; or

"(*b*) In breaking their contracts of service; or

"(*c*) In refusing or failing after any such discontinuance to resume or return to their employment; or

"(*d*) In refusing or failing to accept engagement for any work in which they are usually employed; or

"(*e*) In reducing their normal output or their normal rate of work:

the said act being due to any combination, agreement, common understanding, or concerted action, whether express or implied, made or entered into by any workers:

"(*f*) With intent to compel or induce any such employer to agree to terms of employment or comply with any demands made by the said or any other workers; or

"(*g*) With intent to cause loss or inconvenience to any such employer in the conduct of his business; or

"(*h*) With intent to incite, aid, abet, instigate, or procure any other strike; or

"(*i*) With intent to assist workers in the employment of any other employer to compel or induce that employer to agree to terms of employment or comply with any demands made upon him by any workers."

21. The principal Act is hereby amended by repealing section one hundred and twenty-two,[2] and substituting the following section:

[1] The Industrial Conciliation and Arbitration Act (No. 24) of 1925, section 121, deals with definition of "strike".

[2] The Industrial Conciliation and Arbitration Act (No. 24) of 1925, section 122, deals with definition of "lockout".

"122. In this Act the term 'lockout' means the act of an employer:

"(*a*) In closing his place of business, or suspending or discontinuing his business or any branch thereof; or

"(*b*) In discontinuing the employment of any workers, whether wholly or partially; or

"(*c*) In breaking his contracts of service; or

"(*d*) In refusing or failing to engage workers for any work for which he usually employs workers:

with intent:

"(*e*) To compel or induce any workers to agree to terms or employment or comply with any demands made upon them by the said or any other employer; or

"(*f*) To cause loss or inconvenience to the workers employed by him or to any of them; or

"(*g*) To incite, aid, abet, instigate, or procure any other lockout; or

"(*h*) To assist any other employer to compel or induce any workers to agree to terms of employment or comply with any demands made by him."

[The following sections provide for increased penalties and fines relating to strikes and lockouts, penalties in case of strike or lockout without secret ballot, restrictions as to levies and subscriptions payable by members of unions, etc. Sections 27–41 deal with disputed elections in unions.]

NICARAGUA

INJUNCTION PROCEEDINGS ACT (*LEY DE AMPARO*)[1]

of 6 November 1950

TITLE I

Chapter I

OBJECT OF THE ACT

Art. 1. It is the object of this Act to create statutory means for exercising the right to institute injunction proceedings for the purpose of maintaining and restoring the supremacy of the Political Constitution and of Constitutional Acts. This Act shall govern the mode of settling any question that may arise by reason of any of the circumstances described below, that is to say:

(1) By reason of the violation of the Constitution or of the Constitutional Acts through any legislation, decree, resolution, order, command or action by any official, authority, or public body or by any of their agents;

(2) By reason of the unconstitutionality of any legislation or decree relating to matters not within the competence of the courts of justice, if such legislation or decree is applied in a specific case to a particular person to the detriment of his rights;

(3) By reason of detention or the threat of detention by order of any official or authority;

(4) By reason of any action taken by individuals to restrict the personal freedom of any inhabitant of the Republic;

(5) By reason of any order to imprison a person who, not being under detention, applies to set aside the effects of the order.

Chapter II

PERSONS WHO MAY INSTITUTE INJUNCTION PROCEEDINGS

Art. 2. Only the injured party may apply for an injunction under this Act. The term "injured party" means any natural or legal person who is or may be injured by the legislation, decree, resolution, order command, provision or action complained of.

A public corporate body may apply for an injunction under this Act only if its property interests are affected.

Art. 3. In the cases described in article 1, paragraphs (3) and (4), any inhabitant of the Republic may institute injunction proceedings on behalf of the injured party, either orally, in writing or by telegram.

Chapter III

PERSONS AGAINST WHOM INJUNCTION PROCEEDINGS MAY BE INSTITUTED

Art. 4. Injunction proceedings may be instituted under this Act against the official or authority ordering the violation, or against the agent who carries out the order, or against both; such proceedings may also be instituted against any individual who restricts the personal freedom of others.

Art. 5. If the object is to challenge the constitutionality of any legislative Act or decree, the injunction proceedings shall be instituted against the Minister countersigning the legislative Act or decree.

If the object is to challenge the validity of an Act ratified in accordance with constitutional processes, the injunction proceedings shall be instituted against Congress, represented by its President.

Chapter IV

JURISDICTION

Art. 6. In cases arising under article 1, paragraphs (1) and (2), injunction proceedings shall be dealt with by the Supreme Court of Justice; in cases arising under article 1, paragraphs (3) and (5), by the criminal chamber of the appropriate court of appeals; and in cases where the proceedings are instituted in respect of actions by individuals, as referred to in paragraph (4) of the said article, by the district criminal courts.

Chapter V

TIME LIMITS

Art. 7. Injunction proceedings under this Act shall be instituted within thirty days, no extension being allowed by reason of distance.

[1] Spanish text of the Act in *La Gaceta* No. 27, of 8 February 1951. English translation from the Spanish text by the United Nations Secretariat. This Act was adopted by the National Constituent Assembly on 6 November 1950 and promulgated the same day by the President of the Republic. It came into force on the day of its publication in *La Gaceta*. The Act supersedes the previous *Ley de Amparo* enacted by the National Constituent Assembly on 22 January 1948 (article 63 of the Act).

The said time limit shall run from the time when the legislative Act enters into force, or when it is applied in a particular case, or from the time when the complainant receives notice or communication of the resolution, order, command or decision, or from the time when the action comes to his attention.

In the cases referred to in article 1, paragraphs (3), (4) and (5), injunction proceedings may be instituted at any time, on any day and at any hour of the day or night.

TITLE II

[Chapters I and II deal with procedural matters.]

Chapter III

SUSPENSION OF THE ACTION

Art. 17. An order to suspend the action complained of may be made *ex officio* or on application.

[Articles 18–22 contain details concerning suspension of an action.]

Chapter IV

JUDICIAL DECISION

Art. 23. In any injunction proceedings instituted under this Act, the judicial decision shall relate only to the individuals or to the private or public bodies corporate that instituted them, and, if it is held that an injunction should be issued, the said decision shall merely grant the applicants the remedy for the particular case in dispute. If, however, injunction proceedings are instituted under this Act against any legislation, the judicial decision shall contain a general statement concerning the legislation in question.

Art. 24. The judicial decision shall be accompanied by a statement of the grounds on which it is based. It shall describe in clear terms the action or actions challenged; shall cite the statutory provisions relied upon for holding the action challenged constitutional or unconstitutional, and shall specify the material features of the action or actions by reference to which it was held that the injunction proceedings should succeed or should be dismissed.

If injunction proceedings are instituted in respect of legislation alleged to be unconstitutional, the decision holding that an injunction should be issued shall declare the legislation inapplicable.

Art. 25. If the action complained of took the form of an act of commission, it shall be the object of the judicial decision allowing the injunction proceedings to restore to the injured party the full enjoyment of the right violated and to re-establish the situation as it existed before the violation occurred. If the action complained of took the form of an act of omission, the effect of the proceedings shall be to bind the responsible authority or official to act in such a way that the guarantee in question is respected and for his or its part to comply with the requirements of the said guarantee.

Art. 26. A judicial decision declaring a law or a decree to be constitutional or unconstitutional shall be definitive in respect of the validity or inapplicability of the said law or decree. Other decisions in injunction proceedings under this Act shall not acquire the force of *res judicata*; nevertheless, if any person has instituted injunction proceedings under this Act and these proceedings have been dismissed, then any further injunction proceedings instituted by the same person in respect of the same events and relying on the same legal arguments as the earlier proceedings shall be dismissed outright.

. . .

TITLE III

Sole Chapter

INADMISSIBILITY OF INJUNCTION PROCEEDINGS

Art. 31. Injunction proceedings may not be entertained in the following cases:

(1) If they challenge decisions by judicial officers in matters within their competence;

(2) If they challenge decisions by other public officials, so long as the ordinary remedies granted by statute have not been exhausted;

(3) If the effects of the action complained of have ceased, or if the action has been consummated in such a way as to be irreparable;

(4) If the injured party expressly consented, or must be presumed to have consented, to the action. Consent shall be presumed to have been given if no injunction proceedings in respect of the action complained of were instituted under this Act within the statutory time limit;

(5) If they challenge decisions relating to electoral matters;

(6) If they challenge the constitutionality of legislation which has been held constitutional in other injunction proceedings.

TITLE IV

Chapter I

HABEAS CORPUS

Art. 32. A person who institutes *habeas corpus* proceedings under this Act shall in his application state the circumstances which gave rise to his action, the whereabouts of the injured party, if known, and the

name of the person in authority or of the official alleged to be responsible. The application may be made on unstamped paper, by telegram or letter, or even verbally, in which latter case a proper record will be made.

Art. 33. When the application has been duly submitted, the criminal chamber of the competent court of appeals shall make an order to produce the person to whom the proceedings relate and shall appoint a *juez ejecutor*, who may be any civilian authority or employee, or a citizen, preferably a lawyer who is known to be of good repute and to possess sufficient education and who shall be of full age and resident in the place where the injured party or other person immediately concerned is physically present.

The duties of the *juez ejecutor* shall be unpaid and compulsory; the person designated may refuse to act only in cases of proved physical impossibility or where it is shown that he has an interest in the case. In all other cases, a person refusing to act shall be liable to a fine of not less than twenty-five or more than fifty córdobas, without prejudice to his liability to proceedings for contempt.

Art. 34. The *juez ejecutor* shall proceed to carry out his duties immediately. For this purpose he shall summon the authority or person to whom the order to produce was addressed to produce the injured person at the proceedings, exhibit the records of the case, if any, or, failing that, to explain the reasons for the detention and to state the date thereof.

Art. 35. The person or authority to whom the summons is addressed shall comply with the instructions set forth by the *juez ejecutor* in the notice containing the summons. In case of refusal to comply, the *juez ejecutor* shall report to the court so that it may issue appropriate orders to secure compliance with the instructions. If the person or authority to whom the summons is addressed claims that the person detained is not under his or its control, that person or authority shall state which authority or official ordered the detention; and in such case the *juez ejecutor* shall proceed against the authority named, if the said authority is in the same administrative district. Otherwise, the *juez ejecutor* shall refer the case to the chamber, which shall appoint another *juez ejecutor*, or, if appropriate, refer the case to the court exercising jurisdiction in the particular locality.

Art. 36. As from the time of the notice and final summons by the *juez ejecutor*, any proceedings on the part of the authority to whom the summons is addressed shall be wrongful.

Art. 37. When the documents relating to the case, the explanations of the person or authority to whom the summons had been addressed and the relevant legal references have been assembled, the *juez ejecutor* shall proceed in accordance with the following rules:

(1) If the person holding another in custody is an authority not competent to deal with the case, the *juez ejecutor* shall make an order requiring the delivery of the person under detention or imprisonment to the competent authority;

(2) If the person holding another in custody is the competent authority, but did not initiate the proceedings or did not issue the order for detention or imprisonment within the prescribed time limit, the *juez ejecutor* shall make an order for the release of the person under detention, subject to security entered into *apud acta* before the *juez ejecutor* himself. Except in these three cases, the *juez ejecutor* shall order the proceedings to take their course;

(3) If the person under custody was placed in custody by valid sentence after conviction, the *juez ejecutor* shall make an order to the effect that the person shall continue to be detained for the duration of the prescribed term; however, if he has already served his sentence, the *juez ejecutor* shall make an order for his immediate release;

(4) If the person in the custody of another is subject to greater severities than are allowed by law, or if in violation of the law he is debarred from communication with the outside, the *juez ejecutor* shall make an order to the effect that he shall not be so subject or that the ban on communication shall be removed;

(5) If a person has been illegally recruited or, though not of sound health, declared fit for service, the *juez ejecutor* shall make an order for his immediate release.

It is the duty of the *juez ejecutor* to order, within the terms of the law, all the security measures necessary for the protection of the person illegally detained or threatened with illegal detention.

Art. 38. The authority, official or public servant who is ordered to produce the person concerned shall without delay comply with the summons and instructions of the *juez ejecutor;* if he fails to comply, he shall be liable to a fine of not less than 100 or more than 200 córdobas, without prejudice to any judicial proceedings that may be instituted against him for contempt and related offences.

The court shall impose the fine and order the trial of the offender.

If the contempt is committed in respect of decisions of the court, the offender shall be liable to the same penalties and in addition to removal from office.

Art. 39. If the official who fails to comply with the order to produce is a servant or agent of the Executive Power, the court dealing with the proceedings shall immediately, through the Supreme Court of Justice, bring the order to the notice of the Executive Power, which shall secure compliance therewith, within twenty-four hours.

If the Executive Power refuses to take action or allows the time limit to elapse without enforcing the order,

the Supreme Court of Justice shall record the fact and report thereon to the Chamber of Deputies, without prejudice to any action that may be taken to prosecute the employee who committed the contempt or to the rights of the party or parties concerned.

If the Supreme Court of Justice does not bring the contempt of the employee or agent concerned to the notice of the Executive Power, or fails to make a record, or to make a report to the Chamber of Deputies, as described above, the party or parties concerned shall be entitled to appear directly before the Chamber for the purposes of articles 153 and 156 of the Constitution.[1]

Art. 40. The criminal chamber of the competent court of appeals shall, on application, make an order directing the *juez ejecutor* to secure delivery of the person in respect of whom the remedy is granted and to produce him before the said court if any of the following circumstances are present; that is to say:

(1) If it appears from the sworn statement of a trustworthy witness, or if there is strong evidence for believing, that a person is being held in prison or in custody unlawfully, and there is good reason to believe that such person will be removed from the territory of the republic;

(2) If there is sufficient reason to believe that the person under detention will suffer irreparable harm before he can obtain relief in the ordinary course of judicial proceedings;

(3) If the order to produce has not been complied with.

Art. 41. When the person who was under imprisonment or subject to restriction has been produced, the court shall make the appropriate arrangements for his protection according to the law, and may in such circumstances request the help of the police to secure compliance with its requirements.

Within not more than three days thereafter, and after inspecting the documents in the case, the court shall give whatever ruling justice requires.

Art. 42. If the criminal chamber of the competent court of appeals holds that the application for the production of the person should be dismissed or refuses to entertain the application without relying on any express statutory provisions, the applicant may lodge a complaint (*queja*) with the Supreme Court of Justice, and this court shall within twenty-four hours give whatever ruling justice requires, having regard to the considerations advanced by the party concerned.

[1] These articles provide that accusations against officials shall be brought before the Chamber of Deputies and that if the Chamber of Deputies presents such a case to the Senate, the latter shall cause the accused to appear before it and shall hear the case.

Art. 43. A complaint to the Supreme Court may be lodged within ten days after the dismissal of the application by the court of appeals; and if, owing to the existence of an impediment, a complaint cannot be lodged, the time limit shall begin to run as from the time when such impediment ceases to exist.

Art. 44. If it should be held that the judges who denied the application for the production of the person acted wrongfully, they shall be liable, in addition to the penalties provided for in the Penal Code, to a fine of 100 córdobas each, payable to the injured party.

Art. 45. If the restriction of personal freedom as referred to in this Act is due to an authority or official acting *ultra vires*, then the principal, and any accessory or aider and abettor, shall be liable to a fine of not less than fifty or more than 100 córdobas without prejudice to other penalties.

Chapter II

Injunction Proceedings in Respect of Actions by Individuals to Restrict Personal Freedom

Art. 46. If injunction proceedings are instituted under this Act against an individual who restricts the personal freedom of any inhabitant of the Republic, whether instituted orally or in writing, the judge shall order the person concerned to be produced before himself or his deputy.

Art. 47. The deputy may be an authority subordinate to the judge, or any police officer or agent.

Art. 48. The judge or his deputy, having considered the arguments advanced by the individual concerned, shall proceed as follows:

(1) If the person under detention was apprehended *in flagrante delicto*, the *juez ejecutor* shall place him at the disposal of the competent authority;

(2) If the person holding another person in his custody is the father, mother, guardian or other person entitled to exercise disciplinary powers, and if he (she) has exceeded his (her) powers, the judge shall make an order for the release of the person punished;

(3) If the restriction is not covered by any of the foregoing provisions, the judge shall release the person under detention immediately, no judicial order being required; and he shall initiate proceedings against the person who held the other person in custody; or, if the judge is represented by a deputy, the deputy shall report the case to the judge for whom he is acting.

Art. 49. The individual against whom the proceedings are instituted shall comply without delay with the order of the judge or deputy, who may request the help of the police, without prejudice to the penal responsibilities which the individual may incur through resistance to the order.

Chapter III

INJUNCTION PROCEEDINGS TO SET ASIDE AN ORDER OF IMPRISONMENT

Art. 50. If a person who has been tried, and who knows that an order of imprisonment has been issued against him, but who has not yet been arrested, wishes to apply to set aside the order, he may appear in person before the criminal chamber of the competent court of appeals and, either orally or in writing on unstamped paper, set forth the circumstances of the case and apply for relief against the order of the judge of the lower court.

Art. 51. The chamber, after considering the application, shall forthwith secure the defendant in such place as it may deem appropriate, according to the circumstances, and shall call for the production of the relevant documents, requiring the judge to transmit them without delay. When the judge receives the order to transmit the documents, his jurisdiction in the case shall *ipso facto* be suspended.

Art. 52. Within six days after the case is brought before it, the chamber, having regard to the evidence extracted by it, shall, without further procedure, give a ruling confirming, amending or rescinding the order of imprisonment, and shall return the documents to their court of origin together with a statement certifying the chamber's decision.

No appeal, either ordinary or extraordinary, shall lie from the ruling of the court.

If the decision confirms or amends the order of imprisonment, the court shall place the defendant at the disposal of the judge who tried the case; and if the order is rescinded it shall order the immediate release of the defendant.

Chapter IV

GENERAL PROVISIONS

Art. 53. The time limits prescribed in this Act may not be extended.

Art. 54. Except in the case referred to in article 1 (2), injunction proceedings may be instituted under this Act even though the wrongful action giving rise to the proceedings has not actually been committed, so long as such action is imminent.

Art. 55. Compliance with an order made in injunction proceedings under this Act shall not constitute a valid defence to proceedings instituted against the person or persons responsible for the offences (*delitos*) or gross negligence (*faltas*) which they may have committed, nor to any claims for damages which may properly be brought.

Art. 56. No legislation, legislative decree, decree, regulation, order, provision or measure which has been declared unconstitutional may in any circumstances be applied; and any person responsible for applying such an instrument shall be liable to disqualification from holding office for such period as the law may specify.

. . .

NORWAY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

While new legislation relating to human rights was not enacted in Norway during 1951, a great number of existing laws relating to social security were amended to provide for the rise in the cost of living which has taken place since their adoption. The following laws were thus amended: on 2 March 1951, the Old Age Pensions Act of 16 July 1936; on 29 June 1951, the Health Insurance Act of 6 June 1930, the Unemployment Insurance Act of 24 June 1938, the Industrial Workers Accident Insurance Act of 24 June 1931, the Seamen's Accident Insurance Act of 24 June 1931, the Fishermen's Accident Insurance Act of 10 December 1920, and the Children's Allowance Act of 24 October 1946;[2] and on 14 December 1951, the temporary Act of 16 July 1936 concerning aid to blind and disabled persons.[3]

The Seamen's Pension Rights Act of 3 December 1948[4] was amended to include as members persons with permanent residence in Norway. Previously, Norwegian citizenship was a prerequisite for membership.

In 1951 Norway made no international agreements containing provisions concerning human rights, apart from those concluded under the auspices of the United Nations and the Council of Europe.

[1] Information received through the courtesy of the Royal Justice and Police Department, Oslo.

[2] The Amendment Acts of 29 June 1951 are published in *Norsk Lovtidend*, part I, No. 27, of 26 July 1951.

[3] Published *ibid.*, part I, No. 48, of 28 December 1951.

[4] See *Yearbook on Human Rights for 1948*, p. 167.

PAKISTAN

GOVERNMENT OF INDIA ACT AS MODIFIED AND ADAPTED BY THE PAKISTAN (PROVISIONAL CONSTITUTION) ORDER, 1947

AMENDMENTS OF 1951

Introductory Note.[1] The work of constitution making was not completed in 1951; so the Government of India Act, 1935, as modified and adapted by the Pakistan (Provisional Constitution) Order, 1947,[2] remained in force during that year. However, the introduction of adult franchise and increased representation in the provincial legislatures necessitated the delimitation of constituencies which was carried out under the provisions of the Delimitation of Constituencies (Adult Franchise) Act, 1951.[3] The fifth and sixth schedules of the Government of India Act, 1935, as adapted, deal with qualification for membership, allocation of seats in the provincial legislatures and franchise. The amendment of these schedules and that of the table of seats appended to the fifth schedule give effect to adult franchise, increased allocation of seats, with reservation of seats for women, etc., in the provinces of the North-west Frontier Province and Sind. The provisions relating to the province of the Punjab have been amended in 1950;[4] those relating to the province of East Bengal have not been amended in 1951.

A person who has attained the age of twenty-one years is entitled, irrespective of religion, race, caste or sex, to vote in the constituency in which he or she is included in the electoral rolls. A voter is entitled in any province to vote at a general election in one territorial constituency, but a woman voter is entitled, provided she satisfies the requisite qualifications, to vote in a constituency specially formed for the purpose of electing women members as well as in a territorial constituency in which she is included in the electoral rolls.

The relevant text of the schedules and the table of seats appended to the fifth schedule as amended in 1951, is given below:

FIFTH SCHEDULE

COMPOSITION OF PROVINCIAL LEGISLATURES

General Qualification for Membership[5]

1. A person shall not be qualified to be chosen to fill a seat in a provincial legislature unless he:

(*a*) Is a British subject[6] or the ruler or a subject of an Indian State which has acceded to the Federation or, if it is so prescribed with respect to any province, the ruler or a subject of any prescribed Indian State; and

(*b*) Is not less than twenty-five years of age; and

(*c*) Possesses such, if any, of the other qualifications specified in, or prescribed under, this schedule as may be appropriate in his case.

2. Upon the expiration of the term for which he is chosen to serve as a member of a provincial legislature, a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term.

Legislative Assemblies

3. The allocation of seats in provincial legislative assemblies shall be as shown in the relevant table of seats appended to this schedule.

4 (*as substituted in 1951*).[7] In the legislative assembly of each province specified in the first column of the table of seats,[8] there shall be the number of

[1] The information on which this note is based was received through the courtesy of the Government of Pakistan.

[2] Text of Government of India Act, 1935, as adapted and modified up to 26 April 1951, in *Unrepealed Constitutional Legislation*, published by the Ministry of Law, Government of Pakistan, Karachi, 1951.

[3] Text in the *Gazette of Pakistan*, Extraordinary, of 21 April 1951, pp. 223–225. About previous developments, see *Yearbook on Human Rights for 1948*, pp. 367–369.

[4] See *Yearbook on Human Rights for 1950*, p. 219.

[5] See *Yearbook on Human Rights for 1948*, p. 367.

[6] See Pakistan Citizenship Act, 1951, in this *Yearbook*, p. 275.

[7] Paragraphs 4–8 substituted by the Government of India (Amendment) Act, 1951, section 2 (*b*). English text of the Act in the *Gazette of Pakistan*, Extraordinary, of 28 April 1951, pp. 275–280.

[8] See the table on p. 273 of this *Yearbook*.

seats specified in the second column opposite to that province, and of those seats:

(i) The number specified in the third column shall be general seats,[1] of which the number specified in the fourth column shall be reserved for members of the scheduled castes;

(ii) The numbers specified in the next six columns shall be the numbers of seats to be filled by persons chosen to represent respectively:

(*a*) The Muhammadan community;

(*b*) The Pakistani Christian community and, in the Punjab only, the Anglo-Pakistani community;

(*c*) The interests of commerce, industry, mining and planting;

(*d*) Landholders;

(*e*) Universities; and

(*f*) Labour;

(iii) The numbers specified in the eleventh and twelfth columns shall be the numbers of seats reserved respectively for women who are not, and for women who are, Muhammadans.

5 (*as substituted in 1951*). A province, exclusive of any portion thereof which the Governor-General may by order declare unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies:

(i) For the election of persons to fill the general seats;

(ii) For the election of persons to fill the Muhammadan seats; and

(iii) For the election of persons to fill the Pakistani Christian seats, if any, or in the Punjab the Pakistani Christian and Anglo-Pakistani seats

or, if as respects any class of constituency it is so prescribed, may form one territorial constituency.

In the case of each such class of constituency as aforesaid, the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

6 (*as substituted in 1951*). The required number of general seats to be reserved for members of the scheduled castes shall be reserved by reserving for members of those castes one or more seats in each of as many of the general territorial constituencies as may be necessary, so, however, that in each such constituency there shall be at least one unreserved seat.

In a province in which any general seats are reserved for members of the scheduled castes, all members of those castes who are entitled to vote in a constituency in which any seat is so reserved shall be entitled to take part in a primary election held for the purpose of electing four candidates for each seat so reserved and no member of those castes not elected as a candidate at such an election shall be qualified to hold:

(*a*) A seat so reserved in that constituency;

(*b*) If it is so prescribed as respects that province, any seat in that constituency.

In relation to by-elections this paragraph shall have effect with such adaptations and modifications as may be prescribed.

7 (*as substituted in 1951*). In the case of the Punjab the number of Muhammadan seats to be reserved for refugees shall be such as may be prescribed.

8 (*as substituted in 1951*). The persons to fill the seats specified in columns eleven and twelve of the table of seats as seats to be filled by women shall be chosen in territorial constituencies, which shall be either:

(*a*) Constituencies formed under paragraph five of this schedule; or

(*b*) Constituencies specially formed for the purpose of electing women members.

9. The provisions of the sixth schedule to this Act shall have effect with respect to the persons who are entitled to vote at elections in the territorial constituencies mentioned in paragraphs five and eight of this schedule.

. . .

12. A person shall not be qualified to be chosen to fill a seat in the legislative assembly of a province unless:

(*a*) (*as amended in 1951*) In the case of a seat to be filled by a woman, by a Pakistani Christian, by a representative of commerce, industry, mining and planting, by a representative of universities or by a representative of labour, he possesses such qualifications as may be prescribed; and

(*b*) In the case of any other seat, he is entitled to vote in the choice of a member to fill that seat or any other seat of a similar class in the province.

. . .

[1] "General seat" means, in Sind and the North-west Frontier Province, a seat other than a Mohammedan seat, and in the Punjab a seat other than a Pakistani Christian and Anglo-Pakistani seat: Government of India (Amendment) Act, 1951, section 2 (*c*).

TABLE OF SEATS

Provincial Legislative Assemblies

Province	Total seats	General seats		Muhammadan seats	Pakistani Christian seats[a]	Seats for representatives of commerce, industry, mining and planting	Landholders' seats	University seats	Seats for representatives of labour	Seats for women	
		Total of general seats	General seats reserved for scheduled castes							General	Muhammadan
1	2	3	4	5	6	7	8	9	10	11	12
East Bengal[b] ..	171	45	19	115	1	1	3	1	3	1	1
The Punjab.....	197	1	—	185	4[a]	—	—	1	—	—	5
North-West Frontier Province	85	1	—	82	—	—	—	—	—	—	2
Sind	111[c]	10[c]	—	98	—	—	—	—	—	—	3

[a] In the Punjab, these seats shall be seats to be filled by persons chosen to represent the Pakistani Christian and Anglo-Pakistani communities.

[b] The total number, as well as the allocation, of seats in the Legislative Assembly of East Bengal had not yet been amended in 1951.

[c] The numbers further increased from 107 and 6 to 111 and 10 respectively: Constitution (Second Amendment) Act, 1951, section 7; Government of India (Amendment) Act, 1951, section 2 (*a*) (ii).

SIXTH SCHEDULE

PROVISIONS AS TO FRANCHISE

Part I

GENERAL

1. There shall be an electoral roll for every territorial constituency and no person who is not, and, except as expressly provided by this schedule, every person who is, for the time being included in the electoral roll for any such constituency shall be entitled to vote in that constituency.

2. The electoral rolls for the territorial constituencies shall be made up and from time to time in whole or in part revised by reference to such date, in this schedule referred to as "the prescribed date", as may be directed in each case by the governor.

3. No person shall be included in the electoral roll for any territorial constituency unless he has attained the age of twenty-one years and is either:

(*a*) A British subject; or

(*b*) The ruler or a subject of a Federated State; or

(*c*) If and so far as it is so prescribed with respect to any province, and subject to any prescribed conditions, the ruler or a subject of any other Indian State.

4. No person shall be included in the electoral roll for, or vote at any election in, any territorial constituency if he is of unsound mind and stands so declared by a competent court.

5 (*as substituted in 1951*).[1] No person shall be included in the electoral roll for a Muhammadan constituency or a Pakistani Christian constituency unless he is a Muhammadan or a Pakistani Christian (or, in the case of the Punjab, a Pakistani Christian or an Anglo-Pakistani) as the case may be.

6 (*as substituted in 1951*).[1] No person who is or is entitled to be included in the electoral roll for any Muhammadan constituency or Pakistani Christian constituency in any province shall be included in the electoral roll for a general constituency in that province.

7. No person shall in any province vote at a general election in more than one territorial constituency, and in each province such provisions, if any, as may be prescribed in relation to that province shall have effect for the purpose of preventing persons from being included in the electoral roll for more than one territorial constituency in the province:

Provided that, in any province in which territorial constituencies have been specially formed for the purpose of electing women members, nothing in this paragraph or in any such provisions shall prevent a person from being included in the electoral roll for, and voting at a general election in, one territorial constituency so formed and also one territorial constituency not so formed.

[1] Paragraphs 5–6 substituted by the Government of India (Amendment) Act, 1951, section 3 (*a*) (i). English text of the Act in *Gazette of Pakistan*, Extraordinary, of 28 April 1951, pp. 275–280.

[If a person votes in more than one constituency in contravention of this paragraph, his votes in each of the constituencies shall be void.]

8. No person shall be included in the electoral roll for, or vote at any election in, a territorial constituency if he is for the time being disqualified from voting under the provisions of any such Order in Council, Act of the provincial legislature or rules made by the governor as may be made or passed under this Act with respect to corrupt practices and other offences in connexion with elections, and the name of any person who becomes so disqualified shall forthwith be struck off all the electoral rolls for territorial constituencies in which it may be included.

9. No person shall vote at any election in any territorial constituency, if he is for the time being undergoing a sentence of transportation, penal servitude, or imprisonment.

. . .

13. (5A) (*as inserted in 1951*)[1] Any reference in this schedule to residence shall be construed in the following manner with reference to persons who hold public office or are employed in connexion with the affairs of a province or the Federation or are members of the defence services, and who, but for this sub-paragraph, would not be qualified to be entered on the electoral roll for any constituency—namely, any such person who, but for absence, by reason of such office, employment or membership, whether such absence is within or without Pakistan, would have been, or who immediately before the commencement of such absence was, qualified by reason of residence to be so entered shall be deemed to be resident in the constituency; and for the purposes of this sub-paragraph references to "the prescribed date" in parts VI and X shall be construed as references to the date on which such absence commenced, and references to the previous financial year in part XII shall be construed as references to the financial year preceding that in which the absence began.

(5B) (*as inserted in 1951*) Any reference in this schedule to voting in a constituency shall be construed in the case of a person who becomes entitled to vote in that constituency, under the provisions of sub-paragraph (5A) as a reference to voting in such manner as may be prescribed.

(5C) (*as inserted in 1951*) Where a person becomes entitled to vote in a constituency under the provisions of sub-paragraph (5A), his wife shall also be entitled to vote in that constituency if she is otherwise qualified to vote and if:

(*a*) She is not or is not entitled to be registered in the electoral roll for any other constituency not being a constituency specially formed for the purpose of electing a woman member, and

(*b*) Her marriage to such person has not been dissolved.

[Parts IV and VI contain special provisions as to franchise for the provinces of East Bengal and the Punjab[2] respectively.]

Part X

THE NORTH-WEST FRONTIER PROVINCE

General Requirement as to Residence

1. No person shall be qualified to be included in the electoral roll for any territorial constituency unless he is a resident in the constituency.

For the purpose of this part of this schedule, proof that a person, or in the case of a woman, her husband owns a family dwelling-house or a share in a family dwelling-house in a constituency and that that house has not during the twelve months preceding the prescribed date been let on rent either in whole or in part shall be sufficient evidence that that person is resident in the constituency.

Qualification dependent on Age[3]

2 (*as substituted in 1951*). Subject to the provisions of part I of this schedule, a person shall be qualified to be included in the electoral roll of a territorial constituency if he has attained the age of twenty-one years.[3]

[Former paragraphs 3–9 dealing with qualifications dependent on rights in property, etc., educational qualification, qualification by reason of service in His Majesty's forces, additional qualification for women, application necessary for enrolment in certain cases, interpretation, etc., were omitted by the Constituent (Amendment) Act, 1951, section 7.][4]

Part XII

SIND

General Requirement as to Residence

1. No person shall be qualified to be included in the electoral roll for a territorial constituency unless he satisfies the requirement as to residence in relation to that constituency.

For the purpose of this part of this schedule, a person shall be deemed to satisfy the requirement as to residence:

(*a*) In relation to an urban constituency, if he has for a period of not less than 180 days in the previous financial year resided in a house in the constituency or within two miles of the boundary thereof;

[1]Inserted by Constitution (Second Amendment) Act, 1951, section 8. English text in the *Gazette of Pakistan* of 21 November 1951.

[2]See *Yearbook on Human Rights for 1950*, p. 219.

[3]The former heading (which was "Qualifications dependent on Taxation") and the text of paragraph 2 substituted by the Constitution (Amendment) Act, 1951, section 7. English text of the Act in *Gazette of Pakistan*, Extraordinary, of 19 March 1951, pp. 109–112.

[4]English text of the Act in *Gazette of Pakistan*, Extraordinary, of 19 March 1951, pp. 109–112.

(*b*) In the case of a rural constituency, if he has for a period of not less than 180 days in the previous financial year resided in a house in the constituency or in a contiguous constituency of the same communal description.

A person is deemed to reside in a house if he sometimes uses it as a sleeping place, and a person is not deemed to cease to reside in a house merely because he is absent from it, or has another dwelling in which he resides, if he is at liberty to return to the house at any time and has not abandoned his intention of returning.

[1]The former heading (which was "Qualifications dependent on Taxation"), and the text of paragraph 2 substituted by the Government of India (Amendment) Act, 1951, section 3 (*c*) (i). English text of the Act in *Gazette of Pakistan*, Extraordinary, of 28 April 1951, pp. 275–280.

Qualification dependent on Age[1]

2 (*as substituted in 1951*).[1] Subject to the provisions of part I of this Schedule, a person shall be qualified to be included in the electoral roll of a territorial constituency if he has attained the age of twenty-one years.

[Former paragraphs 3–10 relating to qualifications dependent on property, educational qualification, qualification by reason of service in His Majesty's forces, application necessary for enrolment in certain cases, provisions as to joint property, etc., interpretation, etc., were omitted by the Government of India (Amendment) Act, 1951, section 3 (*c*) (ii).][2]

[2]English text of the Act in *Gazette of Pakistan*, Extraordinary, of 28 April 1951, pp. 275–280.

PAKISTAN CITIZENSHIP ACT, 1951[1]

Act No. II of 1951

AN ACT TO PROVIDE FOR PAKISTAN CITIZENSHIP

3. At the commencement of this Act every person shall be deemed to be a citizen of Pakistan:

(*a*) Who or any of whose parents or grandparents was born in the territory now included in Pakistan and who after the fourteenth day of August, 1947,[2] has not been permanently resident in any country outside Pakistan; or

(*b*) Who or any of whose parents or grandparents was born in the territories included in India on the thirty-first day of March, 1937, and has or had his domicile within the meaning of part II of the Succession Act, 1925, as in force at the commencement of this Act, in Pakistan or in the territories now included in Pakistan; or

(*c*) Who is a person naturalized as a British subject in Pakistan; and who, if before the date of the commencement of this Act he has acquired the citizenship of any foreign State, has before that date renounced the same by depositing a declaration in writing to that effect with an authority appointed or empowered to receive it:

Provided that if any person, being at the commencement of this Act ordinarily resident in a country outside Pakistan, makes to the prescribed authority a declaration in the prescribed form within one year of the commencement of this Act:

(*a*) That he is not a national or citizen of that or any other country outside Pakistan; and

(*b*) That on the faith of that declaration, and by reason of his own birth, or that of any of his parents or grandparents, he claims to be a citizen of Pakistan,

he may, if the authority is satisfied that he is not a national or citizen of such country as aforesaid and that he or any of his parents or grandparents was born in the territory now included in Pakistan, be granted a certificate in the prescribed form by the authority and shall thereupon be deemed under this section to be a citizen of Pakistan.

4. Every person born in Pakistan after the commencement of this Act shall be a citizen of Pakistan by birth:

Provided that a person shall not be such a citizen by virtue of this section if at the time of his birth:

(*a*) His father possesses such immunity from suit and legal process as is accorded to an envoy of an external sovereign Power accredited in Pakistan and is not a citizen of Pakistan; or

(*b*) His father is an enemy alien and the birth occurs in a place then under occupation by the enemy.

5. Subject to the provisions of section 3 a person born after the commencement of this Act shall be a citizen of Pakistan by descent if his father is a citizen of Pakistan at the time of his birth . . .

6. (1) The Central Government may, upon his obtaining a certificate of domicile under this Act, register as a citizen of Pakistan by migration any person who before the commencement of this Act

[1]English text in *The Gazette of Pakistan*, Extraordinary, of 13 April 1951. This Act came into force on the date of its publication.

[2]The day before the coming into existence of India and Pakistan as two independent Dominions (see *Yearbook on Human Rights for 1947*, p. 157, section 1 of the Indian Independence Act, 1947.).

migrated to the territories now included in Pakistan from any territory in the Indo-Pakistan sub-continent[1] outside those territories, with the intention of residing permanently in those territories:

Provided that the Central Government may, by general or special order, exempt any person or class of persons from obtaining a certificate of domicile required under this sub-section.

(2) Registration granted under the preceding sub-section shall include, besides the person himself, his wife, if any, unless his marriage with her has been dissolved, and any minor child of his dependent, whether wholly or partly, upon him.

7. Notwithstanding anything in sections 3, 4 and 6, a person who has after the first day of March, 1947, migrated from the territories now included in Pakistan to the territories now included in India shall not be a citizen of Pakistan under the provisions of these sections:

Provided that nothing in this section shall apply to a person who, after having so migrated to the territories now included in India, has returned to the territories now included in Pakistan under a permit for re-settlement or permanent return issued by or under the authority of any law for the time being in force.

8. The Central Government may, upon application made to it in this behalf, register as a citizen of Pakistan any person who, or whose father or whose father's father, was born in the Indo-Pakistan sub-continent and who is ordinarily resident in a country outside Pakistan at the commencement of this Act, if he has, unless exempted by the Central Government in this behalf, obtained a certificate of domicile.

Provided that a certificate of domicile shall not be required in the case of any such person who is out of Pakistan under the protection of a Pakistan passport, or in the case of any such person whose father or whose father's father is at the commencement of this Act residing in Pakistan or becomes, before the aforesaid application is made, a citizen of Pakistan.

10. (1) Any woman who by reason of her marriage to a Commonwealth citizen before the first day of January, 1949, has acquired the status of a Commonwealth citizen[2] shall, if her husband becomes a citizen of Pakistan, be a citizen of Pakistan.

(2) Subject to the provisions of sub-section (1) and sub-section (4) a woman who has been married to a citizen of Pakistan or to a person who but for his death would have been a citizen of Pakistan under section 3, 4 or 5 shall be entitled, on making application therefor to the Central Government in the prescribed manner, and, if she is an alien, on obtaining a certificate of domicile and taking the oath of allegiance in the form set out in the schedule to this Act, to be registered as a citizen of Pakistan whether or not she has completed twenty-one years of her age and is of full capacity.

(3) Subject as aforesaid, a woman who has been married to a person who, but for his death, could have been a citizen of Pakistan under the provisions of sub-section (1) of section 6 (whether he migrated as provided in that sub-section or is deemed under the proviso to section 7 to have so migrated) shall be entitled as provided in sub-section (2) subject further, if she is an alien, to her obtaining the certificate and taking the oath therein mentioned.

(4) A person who has ceased to be a citizen of Pakistan under section 14 or who has been deprived of citizenship of Pakistan under this Act shall not be entitled to be registered as a citizen thereof under this section but may be so registered with the previous consent of the Central Government.

11. (1) The Central Government may, upon application to it in this behalf made in the prescribed manner by a parent or guardian of a minor child[3] of a citizen of Pakistan, register the child as a citizen of Pakistan.

(2) The Central Government may, in such circumstances as it thinks fit, register any minor as a citizen of Pakistan.

14. (1) Subject to the provisions of this section, if any person is a citizen of Pakistan under the provisions of this Act, and is at the same time a citizen or national of any other country, he shall, unless within one year of the commencement of this Act or within six months of attaining twenty-one years of his age, whichever is later, he makes a declaration according to the laws of that other country renouncing his status as citizen or national thereof, cease to be a citizen of Pakistan.

(2) Nothing in this section shall apply to any person who is a subject of an acceding State so far as concerns his being a subject of that State.

15. Every person becoming a citizen of Pakistan under this Act shall have the status of a Commonwealth citizen.

16. (1) A citizen of Pakistan shall cease to be a citizen of Pakistan if he is deprived of that citizenship by an order under the next following sub-sections.

(2) Subject to the provisions of this section, the Central Government may by order deprive any such

[1] According to section 2, "Indo-Pakistan sub-continent" means India as defined in the Government of India Act, 1935, as originally enacted.

[2] According to section 2, "Commonwealth citizen" means a person described as such in the British Nationality Act, 1948.

[3] According to section 2, "minor" means, notwithstanding anything in the Majority Act, 1875, any person who has not completed the age of twenty-one years.

citizen of his citizenship if it is satisfied that he obtained his certificate of domicile or certificate of naturalization by means of fraud, false representation or the concealment of any material fact, or if his certificate of naturalization is revoked.

(3) Subject to the provisions of this section, the Central Government may by order deprive any person who is a citizen of Pakistan by naturalization of his citizenship of Pakistan if it is satisfied that that citizen:

(*a*) Has shown himself by any act or speech to be disloyal or disaffected to the Constitution of Pakistan; or

(*b*) Has, during a war in which Pakistan is or has been engaged, unlawfully traded or communicated with the enemy or engaged in or associated with any business that was to his knowledge carried on in such a manner as to assist the enemy in that war; or

(*c*) Has within five years of being naturalized been sentenced in any country to imprisonment for a term of not less than twelve months.

(4) The Central Government may on an application being made or on its own motion by order deprive any citizen of Pakistan of his citizenship if it is satisfied that he has been ordinarily resident in a country outside Pakistan for a continuous period of seven years and during that period has neither:

(i) Been at any time in the service of any government in Pakistan or of an international organization of which Pakistan has, at any time during that period, been a member; nor

(ii) Registered annually in the prescribed manner at a Pakistan consulate or mission or in a country where there is no Pakistan consulate or mission at a Pakistan consulate or mission in a country nearest to the country of his residence, his intention to retain Pakistan citizenship.

(5) The Central Government shall not make an order depriving a person of citizenship under this section unless it is satisfied that it is in the public interest that that person should not continue to be a citizen of Pakistan.

(6) Before making an order under this section, the Central Government shall give the person, against whom it is proposed to make the order, notice in writing informing him of the grounds on which it is proposed to make the order and calling upon him to show cause why it should not be made.

(7) If it is proposed to make the order on any of the grounds specified in sub-sections (2) and (3) of this section and the person against whom it is proposed to make the order applies in the prescribed manner for an inquiry, the Central Government shall, and in any other case may, refer the case to a committee of inquiry consisting of a chairman, being a person possessing judicial experience, appointed by the Central Government and of such other members appointed by the Central Government as it thinks proper.

20. The Central Government may upon such terms and conditions as it may by general or special order specify, register a citizen of a Commonwealth country as a citizen of Pakistan.

PANAMA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS

I. LEGISLATION

1. Act No. 24 of 19 February 1951 establishing a tribunal for minors. This Act was adopted by the National Assembly on 13 February, promulgated by the President of the Republic on 19 February and published in the *Gaceta Oficial* of 9 March 1951.

2. Decree No. 818 of 18 June 1951 regulating the censorship of public entertainments. Extracts from this decree are published in the present *Yearbook*.

3. Decree No. 857 of 4 August 1951 concerning measures for morality and public health. This decree is published in *Gaceta Oficial* of 21 September 1951.

II. RATIFICATION OF INTERNATIONAL AGREEMENTS

4. Act No. 31 of 24 February 1951. By this Act the two inter-American conventions on the granting of political and civil rights to women[1] signed at Bogotá in 1948 were approved and ratified. The Act was adopted by the National Assembly on 15 February, promulgated by the President of the Republic on 24 February and published in *Gaceta Oficial* on 21 March 1951.

5. Act No. 39 of 7 March 1951. By this Act the Charter of the Organisation of American States,[2] signed at Bogotá in 1948, was approved and ratified. The Act was adopted by the National Assembly on 15 February, promulgated by the President of the Republic on 7 March and published in *Gaceta Oficial* of 6 April 1951.

[1] See *Yearbook on Human Rights for 1948*, pp. 438–440.
[2] *Ibid.*, pp. 437–438.

DECREE No. 818 TO REGULATE THE CENSORSHIP OF PUBLIC ENTERTAINMENTS[1]

of 18 June 1951

Art. 1. The Press, Broadcasting and Public Entertainments Department of the Ministry of the Interior and Justice is empowered, with respect to entertainments, to issue, cancel or suspend licences for cinematographic or theatrical performances and other similar activities; to issue, suspend or cancel the licences of producers and managers of cinematographic or theatrical enterprises, and of performers; to authorize the showing of films exhibited in the territory of Panama; to supervise compliance with the legislative and other provisions governing these matters; to impose the relevant penalties by decision of the Ministry of the Interior and Justice.

Art. 2. For the purpose of giving better effect to the preceding article, public entertainment censorship boards are established which shall be constituted and possess the powers as specified below:

[Paragraph (*a*) determines the composition of the boards in Panama City, Colon and elsewhere.]

(*b*) Entertainments to be given in night clubs or cabarets shall be subject to censorship by three members of the board duly selected by its chairman.

In every case, the owner or operator shall make an application two days in advance, accompanied by certificates showing that the regulations governing health, good conduct, immigration and aliens have been complied with. When censorship has been completed and the act or revue intended for performance has been approved, the Press, Broadcasting and Public Entertainments Department shall issue the relevant licence, which shall be valid until the programme is changed. Any change of programme shall first be submitted for censorship, and the licence shall at all times be at the disposal of the authorities for inspection.

(*c*) Three censors selected by the chairman of the board shall censor films and theatrical entertainments. They shall be responsible for examining any film intended for exhibition, and for this purpose the interested parties shall apply to the Press, Broadcasting and Public Entertainments Department two days in advance, attaching to the application two publicity pictures and two photographs. One set of this docu-

[1] Spanish text in *Gaceta Oficial* of 30 June 1951. English translation from the Spanish text by the United Nations Secretariat.

mentary material shall be kept in the archives of the Press and Broadcasting Department; the other shall be returned to the exhibitor with a certificate stating whether the film has been approved or rejected. The Press and Broadcasting Department shall use its own judgment in deciding what films are to be viewed by the censors.

(*d*) For the purposes of the film censorship two classifications are established—viz.,

1. Films for universal exhibition, and
2. Films for restricted exhibition.

Whenever the Press and Broadcasting Department authorizes the exhibition of films in the latter classification, it shall immediately inform the national police and the national detective service so that they may take suitable action when such films are prohibited for exhibition to minors under the age of eighteen years.

(*e*) The exhibition of advance advertisements in the form of photographs, blocks, drawings, etc., on the cinematographic screen, in the entrances and on the canopies of cinemas, on hoardings set up in various parts of the town, on vehicles and in newspapers before the film has been classified and approved in accordance with the foregoing provisions is strictly prohibited.

(*f*) Trailers of films which may not be exhibited to minors may not be shown at ordinary performances, and illustrations advertising such films may not be displayed on hoardings or inserted in newspapers.

(*g*) The certificates whereby the Press, Broadcasting and Public Entertainments Department authorizes the exhibition of films shall always accompany the films and be produced to the board of censors in any part of the territory of the Republic where they are to be shown; the said certificates shall be kept at the box office for inspection by the authorities.

(*h*) The programmes of entertainemnts (other than films) to be given in theatres or cinemas shall be submitted for censorship two days in advance to the Director of the Press, Broadcasting and Public Entertainments Department, with full particulars and in writing, by the manager of the theatre.

Art. 3. The exhibition of films or performance of plays or dance acts and other forms of public entertainment referred to in this decree is strictly prohibited unless the provisions laid down herein have previously been complied with.

Art. 4. The Press, Broadcasting and Public Entertainments Department shall act as the agency of the board of censors for the purpose of enforcing this decree.

Art. 5. The censors shall be bound at all times to co-operate in enforcing this decree. If any violation thereof should come to their attention, they shall immediately notify the Press, Broadcasting and Public Entertainments Department so that it may bring the case to the notice of the competent authority.

[Articles 6, 7 and 8 deal with penalties, financing and repeal.]

PARAGUAY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS

Act of 5 July 1951 approving legislative decree No. 3642 of 31 March 1951 to protect scientific, literary and artistic works and to establish a public register of intellectual rights. Extracts from the Act are reproduced in this *Yearbook*.

Decree No. 6609 of 4 September 1951 containing the regulations to give effect to Act No. 94 on the protection of scientific, literary and artistic works and on the establishment of a public register of intellectual rights. For a French translation of the decree, see *Le Droit d'auteur*, the publication of the Office of the International Union for the Protection of Literary and Artistic Works, Berne, 15 March 1952, page 30.

Decree No. 2436 of 10 January 1951 establishing regulations for the prevention of venereal disease. Extracts from this decree are reproduced in this *Yearbook*.

Act of 10 September 1951 to ratify the Inter-American Convention on the granting of civil rights to women.[1] The instrument of ratification was deposited on 19 December 1951.

[1]The text of the Convention is reproduced, with an introductory note, in *Yearbook on Human Rights for 1948*, pp. 438–439.

PRESIDENTIAL DECREE No. 2436 ESTABLISHING REGULATIONS FOR THE PREVENTION OF VENEREAL DISEASE[1]

of 10 January 1951

PART IV

NOTIFICATION OF VENEREAL DISEASE

Art. 11. It shall be compulsory to notify the name and other particulars of any person suffering from venereal disease who refuses to submit to, abandons, or refuses to continue treatment when, in the opinion of the physician attending the case, the said person is capable of transmitting the disease.

Art. 12. Any person suffering from a venereal disease in an infectious stage and who refuses to continue treatment may be kept in hospital for the period considered necessary by the health authorities. In the case of minors, the provisions of the present regulations shall be applied with the consent of the parents or, in their absence, with the consent of the minors' court.

Art. 13. Any person suffering from syphilis, gonorrhoea, or any other venereal disease who deliberately or through negligence contributes to the propagation of the disease may be hospitalized by the health authorities for as long as the possibility of infection persists, without prejudice to any legal penalties which he may incur.

Art. 14. To ensure strict compliance with the provisions of the foregoing articles, the health authorities shall, on the basis of a report by a medical practitioner as aforesaid, summon the person who is the subject of the report, or his legal representative. If the said person does not comply with the summons within three days, the health authorities shall request the social service to assist in placing him at their disposal.

Art. 17. In the case of patients undergoing venereal disease treatment in the normal manner, the physician in attendance shall notify only the patient's card number or his initials, together with his age, nationality, sex, occupation, domicile, civil status, clinical diagnosis, etc., for the purposes of recording vital statistics.

PART VII

SEX EDUCATION

Art. 24. Sex education and instruction in the elements of venereal disease prevention shall be compulsorily included in the hygiene courses of all secondary schools, whether public or private. The Department of Social Hygiene shall for this purpose request the collaboration and co-operation of the Health Education Department, of the Ministry of Public Health, and of the Ministry of Education.

[1]Spanish text in *Gaceta Oficial*, No. 201, of 11 January 1951. English translation in *International Digest of Health Legislation* (published by the World Health Organization), Vol. 3, No. 4, Geneva, 1952.

ACT No. 94 APPROVING DECREE No. 3642 OF 31 MARCH 1951 TO PROTECT SCIENTIFIC, LITERARY AND ARTISTIC WORKS AND TO ESTABLISH A PUBLIC REGISTER OF INTELLECTUAL RIGHTS[1]

dated 5 July 1951

Introductory Note. Paraguay has ratified the Inter-American Convention on the rights of the author in literary, scientific and artistic works signed at Washington in 1946 of which the fundamental provisions, subject to certain changes, are included in the present Act. In its preamble, the Act refers to article 24 of the Constitution of Paraguay of 10 July 1940, which states that "every author or inventor is the owner of his own work, invention or discovery for the term that the law may decide". The preamble further declares that article 27, paragraph 2, of the Universal Declaration of Human Rights, adopted and proclaimed on 10 December 1948 by the General Assembly of the United Nations, states that "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

The preamble adds that the failure to regulate these rights by national legislation is detrimental to the protection and to the guarantees to which scientific, literary and musical works and the productions of the plastic arts are entitled.

Act No. 94 of 5 July 1951, which was preceded by the legislative decree of 31 March 1951, is intended to rectify this situation. A regulation[2] implementing the Act of 5 July 1951 was promulgated on 4 September 1951.

Art. 1. The rights of authors in literary, scientific and artistic works printed, published and registered in the Republic of Paraguay shall be recognized and protected. These intellectual rights shall be governed by the provisions of ordinary law as specified in this Act.

Art. 2. The right recognized as aforesaid comprises for the author of a literary, scientific or artistic work the exclusive right to use and authorize the use of his work, in whole or in part; to transfer the right in any manner in whole or in part; and to transmit it by will or by the operation of the laws governing intestate succession.

Art. 3. In utilizing his work the author has the right to make the following uses of it, and such other uses as may hereafter be known, in accordance with its nature:

(*a*) Publish it, either by printing or in any other form;

(*b*) Represent, recite, exhibit or perform it publicly;

(*c*) Reproduce, adapt or present it by means of cinematography;

(*d*) Adapt and authorize general or individual adaptations of it to instruments that serve to reproduce it mechanically or electrically; or perform it publicly by means of such instruments;

(*e*) Disseminate it by means of photography, telephotography, television, radio broadcasting or by any other method now known or hereafter devised which may serve for the reproduction of signs, sounds or images;

(*f*) Translate, transpose, arrange, orchestrate, dramatize, adapt or transform it in any other manner; and

(*g*) Reproduce it in any form, whether wholly or in part.

Art. 4. The following works shall be protected by this Act: all literary, scientific or artistic works suitable for publication or reproduction, including books, writings and pamphlets of all kinds, whatever the number of their pages; dramatic or dramatico-musical works; choreographic works and pantomimes the stage directions of which are fixed in writing or other form; written or recorded versions of addresses, lectures, lessons, sermons and other works of a similar nature; musical compositions with or without words; drawings, illustrations, paintings, sculptures, engravings, lithographs, photographic and cinematographic works; maps, plans, sketches or plastic works relating to geography, geology, topography, architecture or any science; and astronomical and geographical globes.

Art. 5. The rights of authors in unpublished works shall be recognized and protected. Works in manuscript form which have been registered but not published shall be entitled to the benefit of all the rights recognized by this Act.

Any scientific, literary or artistic production annotated or copied while being publicly or privately read, performed or exhibited shall not be published without the author's permission.

Art. 6. The protection granted by this Act shall not extend to the economic utilization of a scientific work through the industrial use of the ideas which such work contains.

[1] Spanish text in *Registro Oficial* 1951, pp. 432–437. English translation by the United Nations Secretariat.

[2] A French translation of this regulation is published in *Le Droit d'auteur* No. 3, of 15 March 1952.

Art. 7. All translations, adaptations, compilations, arrangements, dramatizations or other versions of literary, scientific or artistic works shall be protected as original works, without prejudice to the copyright in the original works.

Art. 8. Any person who adapts, transposes, modifies or parodies any work with the author's permission shall, in the absence of stipulations to the contrary, have the rights of co-author in the adaptation, transposition, modification or parody of the said work.

If [the version] referred to in the foregoing paragraph relate to any work in the public domain, they shall receive the same protection as original works, but such protection shall not give exclusive right to use the original work.

Art. 9. No literary, scientific or artistic work may be performed, reproduced, published or used, in whole or in part, except under the title and in the form approved by the author and with his permission.

The author may obtain compensation for any loss or prejudice he may have suffered in his economic or moral rights.

Art. 10. It shall be lawful to publish or reproduce literary, artistic or scientific works for teaching or scientific purposes, and comments, criticisms or notes referring to such works, subject to the proviso that such extracts shall not exceed 1,000 words in the case of scientific and literary works or eight bars in the case of musical works, and that in all cases only the passages indispensable for the said purposes may be so published or reproduced. The source from which the extracts are taken shall always be stated, and the passages reproduced may not be altered.

Translated extracts may also be published for the said purposes, subject to similar restrictions.

Art. 11. If the principal part of a new work consists of extracts from the works of other authors, the courts shall determine by judicial decision the proportionate interest of all persons having rights in the works from which the extracts were taken.

Art. 12. News of general interest may be freely transmitted or re-transmitted by any method, but the source from which it is taken shall be stated if the original version is published.

Articles on current events in newspapers and magazines may be reproduced by the press either orally or in written form, unless such reproduction is prohibited by a special or general reservation in the said newspapers or magazines, but in any case the source from which they are taken must be cited clearly. The identification of the author by name shall constitute such a reservation.

Art. 13. In the case of original unsigned articles, anonymous contributions, reports, sketches, engravings or general news published by a newspaper, magazine or news agency as an exclusive feature, the relevant rights shall be vested in the newspaper, periodical or news agency in question.

Art. 14. Unsigned articles published in newspapers or periodicals may be reprinted only in collections, unless otherwise agreed with the owner of the newspaper, review, periodical or news agency.

Art. 15. The authors of signed articles which are published in newspapers, reviews or other periodicals shall in principle hold all the rights in such articles and may, unless otherwise agreed with the owner of the newspaper or periodical in question, publish selected extracts therefrom or the full text thereof.

Art. 16. For the purpose of qualifying for the benefits of this Act the owner of a newspaper review or periodical shall register and deposit two complete collections every three months. This registration shall enure to the benefit of all contributors. The said contributors may apply to the registry for a certificate concerning the articles in which they have an interest.

Art. 17. Literary addresses and lectures may not be published except with the author's permission.

Legal texts may not be published except with the consent of the persons in whose interest or on whose behalf they were produced.

Any addresses delivered or read in Parliament, in the Council of State or at official meetings, and rulings made by advisers to official departments shall be part of the public domain from the time they are delivered or given; however, any compilation of such addresses or rulings shall require authorization.

Any legislative provisions, decrees (unless reserved), regulations or other provisions enacted by the public authorities, may be inserted in newspapers, periodicals and works in which such enactments should, owing to their nature or object, properly be quoted, reproduced, commented or copied; they may also be published individually or in collections by any person, provided that the authenticity of the text is respected, failing which the competent authority may require the publication to be withdrawn.

Judicial decisions may be published subject to the conditions stipulated above, provided that the good repute of the litigants or of the parties does not suffer prejudice.

Documents in the national archives may be published with the authorization of the Ministry responsible for their care and custody.

The Government and municipalities shall not be entitled to author's rights in any publications of general interest regarding their services; however, such publications may not be reproduced without their permission.

Art. 18. The person whose name or known pseudonym is given on a protected work shall be considered as the author of that work unless the contrary is proved.

The courts shall admit actions brought against infringers by the author.

[Articles 19–22 deal with the duration of the copyright. It is valid during the life of the author and fifty years after the death of the author or of the last of the co-authors. The heirs enjoy legal protection until the expiration of this period. Articles 23–27 deal with collaboration. Unless otherwise agreed, the collaborators who take part in a production enjoy equal rights among themselves. The producer of a film is treated as a collaborator with the author of the scenario and, in musical films, with the composer.]

TRANSLATION

Art. 28. A person who translates a work shall have rights in that work according to the terms of the agreement entered into with the author, provided that the agreement concerning the translation is registered.

A person who translates a work in the public domain shall have rights in his translation only and shall have no claim against any other person who prepares a fresh translation of that work.

PORTRAITS, PHOTOGRAPHS, CARICATURES AND LETTERS

Art. 29. No portrait, photograph or caricature representing a person may be used for commercial purposes without the permission of the person portrayed, photographed or caricatured.

In the case of incapacity or death of the person photographed, portrayed, or caricatured. the said permission shall be obtained from his spouse, descendants or brothers or sisters. Should such persons not exist, the portrait, photograph or caricature in question may be published freely. Similarly, portraits, photographs and caricatures may be published freely if the publication relates generally to cultural purposes or to events of public interest or events which have taken place in public.

Art. 30. The right to publish letters is vested in the person who wrote them. In case of his supervening incapacity or death, the permission of the persons mentioned in the foregoing article, in the order stated, shall be required.

Art. 31. Failing agreement between the persons whose permission is required for the publication of a portrait, photograph, caricature or letter, the case shall be settled in accordance with the procedure hereinafter indicated.

Art. 32. In the case of portraits, photographs, caricatures and letters the copyright shall be valid for fifteen years after first publication.

Upon the expiry of twenty years after the death of the person portrayed, photographed or caricatured, or of the author of the letter, publication shall be free.

[Articles 33 and 34 deal with publication and articles 35 and 36 with representation.]

INTERPRETATION

Art. 37. Interpreters, singers, speakers, performers, etc., shall be entitled to intellectual rights under the same conditions and terms as authors.

Art. 41. An interpreter may object to the dissemination of his interpretation if it is reproduced in such a way as to be capable of prejudicing his artistic interests.

Where a work is performed by an orchestra or by a choir, the conductor of the orchestra or choir shall have the right to object.

Art. 42. A work performed or presented in a theatre or in any other public hall may be broadcast or retransmitted by radiotelephony or television, no formality being required other than the consent of the producer organizing the performance, without prejudice to the rights of the author of the work performed or presented.

[Articles 43–46 deal with the transfer of rights.]

FOREIGN WORKS

Art. 47. For the purpose of securing the protection of this Act for the author of a scientific, literary or artistic work produced abroad, it shall be sufficient that the formalities laid down by the State in question have been complied with, no registration or deposit in the Republic of Paraguay being required.

Art. 48. The protection extended to a foreign author shall not be valid for a period in excess of that recognized under the legislation of the country where the work was published or registered. If that legislation grants greater protection, then the time limits laid down in this Act shall apply.

[The Special Part deals with the register, penalties and procedure and contains temporary provisions. The first article on the register declares that "In order to secure the protection of intellectual workers, there is instituted a public register of intellectual properties attached to the Ministry of Education."]

PHILIPPINES

LEGISLATION

MINIMUM WAGE ACT[1]

of 6 April 1951

SUMMARY

This Act prescribes a minimum wage for employees in privately owned enterprises, or in the government service or in government-owned corporations. Every employer is required to pay to each of his employees, except to those employed in agriculture, wages at the rate of not less than (1) 4.00 pesos a day on the effective date of the Act[2] and thereafter, if the establishment is located in Manila or its environs; and (2) 3.00 pesos a day on the effective date of the Act and for one year after said date, and thereafter 4.00 pesos a day, for employees of establishments outside of Manila or its environs. Every employer who operates a farm enterprise comprising more than twelve hectares shall pay to each of his employees who is engaged in agriculture wages at the rate of not less than (1) 1.75 pesos a day on the effective date of the Act and for one year thereafter; (2) 2.00 pesos a day one year after the effective date of the Act; and (3) one year thereafter, 2.50 pesos a day.

With effect from 1 July 1952, the rates indicated in the preceding paragraph shall be the minimum wage rates for employees in the government service. The Act is not applicable to farm tenancy or to domestic servants or to any retail or service enterprise that regularly employs not more than five employees.

The Secretary of Labour shall have the power, and it shall be his duty upon petition of six or more employees in any industry, to cause an investigation to be made of the wages being paid to the employees in such industry and their living conditions. If, after such investigation, the Secretary is of the opinion that any substantial number of such employees are receiving wages less than sufficient to maintain them in health, efficiency and general well-being, he shall appoint a wage board to fix a minimum wage for such industry. The minimum wage shall be as nearly adequate as is economically feasible to maintain the minimum standard of living necessary for the health, efficiency and general well-being of employees, account being taken, among other things, of the following factors: (1) cost of living; (2) the wages established for work of like or comparable character by collective agreements or arbitration awards; (3) the wages paid for work of like or comparable character by employers who voluntarily maintain reasonable standards; (4) fair return of the capital invested. Upon the filing of the wage board's report, the Secretary of Labour shall conduct a public hearing thereon within fifteen days. On the basis of the wage board's report and recommendations and on the basis of the public hearing, the Secretary shall within fifteen days after the termination of the hearing approve or reject, but shall not modify, the minimum wages recommended by the wage board. Any person aggrieved by an order of the Secretary of Labour issued under the Act may obtain a review of such order in the Supreme Court. Such review by the Court shall be limited to questions of law, and findings of fact by the Secretary of Labour when supported by substantial evidence shall be conclusive.

The Secretary of Labour may permit the employment of learners or apprentices at wages less than the applicable minimum fixed by the Act, but in no case lower than 75 per cent. The employment of individuals whose earning capacity is impaired by physical or mental deficiencies or injury may also be authorized at wages less than the statutory minimum, but in no case lower than 50 per cent. The employment of learners and apprentices or students or graduates of authorized nautical schools, in vessels of Philippine registry, may be permitted without compensation.

The Act requires wages to be paid in legal tender or, in cases where it is customary or necessary because of special circumstances, by bank cheque or money order. Subject to certain exceptions, the wages are to be paid directly to the employees. No employer shall limit or interfere with the freedom of any employee to dispose of his wages, nor in any manner force, compel, or oblige his employees directly or indirectly to make use of any store or services operated by such employer or any other person. No employer is allowed to make any deduction from the wages of his employees, except under authority of law, or to require his employee to make deposits from which deduction shall be made for the reimbursement of loss or damage to tools, materials or equipment supplied by the employer,

[1] The complete English text of this Act is published in: International Labour Office, *Legislative Series* 1951—Phil. 1. Summary prepared by the United Nations Secretariat.

[2] The Act came into force 120 days after its enactment.

unless prior authorization from the Secretary has been obtained. The Act requires that wages shall be paid at least once every two weeks or twice a month at intervals not exceeding sixteen days.

The Act provides that it shall be unlawful for any person to discharge or to discriminate against any employee because such employee has filed a complaint or instituted or caused to be instituted any proceeding under the Act, or has testified or is about to testify in any such proceeding, or has served or is about to serve on the wage board. It is further provided that nothing in the Act shall deprive an employee of the right to seek fair wages, shorter working hours and better working conditions or justify an employer in violating any labour law applicable to his employees or in reducing the wage now paid to any of his employees in excess of the minimum wage established under this Act. No worker or organization of workers may voluntarily or otherwise, individually or collectively, waive any rights established under the Act, and no agreement or contract to accept a lower wage or less than any other benefit required under the Act shall be valid.

For the administration and enforcement of the Act, a Wage Administration Service has been created in the Department of Labour.

JUDICIAL DECISIONS

FAILURE OF EMPLOYER TO PAY WAGES—NON-IMPRISONMENT FOR DEBT—REVISED PENAL CODE OF PHILIPPINES—CONSTITUTION OF PHILIPPINES

PEOPLE OF THE PHILIPPINES *v.* ANACLETO MERILO

Supreme Court of the Philippines[1]

28 June 1951

The facts. Attracted by an advertisement appearing in the *Manila Times* that the appellant Anacleto Merilo needed a photographer in his art studio, Francisco Amarrador applied and was hired by the appellant. Amarrador was promised a wage of eight pesos a day, payable daily. The appellant, however, instead of paying Amarrador his promised wage daily, paid him only twenty-four pesos after the latter had worked for one month and three days. The appellant was prosecuted for the crime of *estafa* (fraud) under article 315, paragraph 4 of the Revised Penal Code, in relation to sections 1 and 4 of Commonwealth Act No. 303.

Section 1 of Commonwealth Act No. 303 provides that "every employer, including the head of every government office, whether national, provincial or municipal, shall pay the salaries and wages of his employees and laborers at least once every two weeks or one-half month unless it be impossible to do so due to *force majeure* or to some other causes beyond his control, or unless he has been previously exempted by the Secretary of Labor from this requirement". Section 4 of the same Act in turn provides that "failure of the employer to pay his employee or laborer as required by section 1 of this Act, shall *prima facie* be considered a fraud committed by such employer against his employee or laborer by means of false pretenses similar to those mentioned in article 315, paragraph 4, sub-paragraph 2 (*a*) of the Revised Penal Code and shall be punished in the same manner as therein provided".

The appellant was convicted by the trial court, hence this appeal.

Held: That the judgment appealed against should be affirmed. The Court said:

"The first point raised by the appellant is that the prosecution has failed to prove deceit, an essential element of *estafa*. In answer, we have only to state that, under section 4 of Commonwealth Act No. 303, the failure of the employer to pay the salaries and wages of his employee or laborer is *prima facie* considered as fraud committed by such employer against his employee or laborer by means of false pretenses similar to those mentioned in article 315, paragraph 4, sub-paragraph 2 (*a*) of the Revised Penal Code. The appellant has not even attempted to destroy this presumption of deceit by explaining his failure to pay the stipulated wages of Amarrador.

"The appellant, however, assails the constitutionality of the provisions of Commonwealth Act No. 303, because (1) they presume the guilt of the accused, and (2) they provide imprisonment for failure to pay a debt. The first ground must be overruled. In the case of U.S. *vs.* Luling, 34 Phil. 725, 728, it was held that 'the state having the right to declare what acts are criminal, within certain well defined limitations, has a right to specify what act or acts shall constitute a crime, as well as what proof shall constitute *prima*

[1]Report: Supreme Court of the Philippines, G.R. No. L-3489. Text received through the courtesy of Mr. Salvador Lopez, Minister Plenipotentiary, Philippine Mission to the United Nations. Summary prepared by the United Nations Secretariat.

facie evidence of guilt, and then to put upon the defendant the burden of showing that such act or acts are innocent and are not committed with any criminal intent or intention'. This presumption of guilt cannot be said to be unusual or arbitrary, since the 'fact relied upon by defendant as a justification or excuse, relates to him personally or otherwise lies peculiarly within his knowledge', and it is 'only necessary for the accused for a complete destruction of the complainant's *prima facie* case to take the stand and, by a few words, bring themselves within the provisions of the law'. (U. S. *vs.* Tria, 17 Phil. 303, 308).

"The second ground cannot also be sustained. Section 1 of Act No. 2549, as amended by Acts Nos. 3085 and 3958, provides that 'the employer shall pay the salary of his laborers or employees on the fifteenth or last day of every month, or on Saturday of every week with only two days extension, and the non-payment of the salary within said period shall constitute a violation of this Act, unless satisfactorily proven that it was impossible to make such payment'. The constitutionality of this provision was questioned in the case of People *vs.* Vera Reyes, 38 O.G. 3157, but this Court rules as follows: '. . . the last part of section 1 considers as illegal the refusal of an employer to pay, when he can do so, the salaries of his employees or laborers on the fifteenth or last day of every month or on Saturday of every week, with only two days extension, and the non-payment of the salary within the periods specified is considered as a violation of the law. The same Act exempts from criminal responsibility the employer who, having failed to pay the salary, should prove satisfactorily that it was impossible to make such payment. The court held that this provision is null because it violates the provision of section 12, Article III, of the Constitution, which provides that no person shall be imprisoned for debt. We do not believe that this constitutional provision has been correctly applied in this case. A close perusal of the last part of section 1 of Act No. 2549, as amended by section 1 of Act No. 3958, will show that its language refers only to the employer who, being able to make payment, shall abstain or refuse to do so, without justification and to the prejudice of the laborer or employee. An employer, so circumstanced, is not unlike a person who defrauds another, by refusing to pay his just debt. In both cases the deceit or fraud is the essential element constituting the offense. The first case is a violation of Act No. 3958, and the second is *estafa* provided by the Revised Penal Code. In either case the offender cannot certainly invoke the 'constitutional prohibition against imprisonment for debt. Police power is the power inherent in a government to enact laws, within constitutional limits, to promote the order, safety, health, morals, and general welfare of society. (12 C. J., p. 904). In the exercise of this power the legislature has ample authority to approve the disputed portion of Act No. 3958 which punishes the employer who, being able to do so, refuses to pay the salaries of his employees and laborers within the specified period of time.' "

INDUSTRIAL RELATIONS—GARNISHMENT OF WAGES OF WORKERS—CIVIL CODE OF THE PHILIPPINES

PACIFIC CUSTOMS BROKERAGE COMPANY, INC. *v.* INTER-ISLAND DOCKMEN AND THE COURT OF INDUSTRIAL RELATIONS

Supreme Court of the Philippines[1]

24 August 1951

The facts. On 19 December 1950, the Inter-Island Dockmen and Labour Union filed a petition in the Court of Industrial Relations against the Pacific Customs Brokerage Company, Inc., praying, among other things, that this company be ordered to desist from dismissing the members of the union which is a party to a labour contract executed on 1 June 1950, the terms of which are to expire on 31 December 1950. The union also demanded that the company be ordered to turn over to the treasurer of the union all dues and fees belonging to it that were collected under this agreement and were withheld by the company, and to reinstate with back pay the workers allegedly dismissed or suspended without just cause. Under section 4 of Commonwealth Act No. 103, as amended, a preliminary conference to discuss the issues involved was held between the parties. Meanwhile, a motion was filed by the labour union praying that its employer be ordered to pay the members of the union their corresponding wages for services rendered from 23 December 1950 to 29 December 1950. These wages were allegedly withheld by it for certain damages said to have been caused by the members for staging a strike. The company objected to this motion, alleging that the Court of First Instance of Manila issued a writ of garnishment by levying upon the chattels, goods or money that the company then had in its possession

[1]Report: Supreme Court of the Philippines, G.R. No. L-4610. Text received through the courtesy of Mr. Salvador Lopez, Minister Plenipotentiary, Philippine Mission to the United Nations. Summary prepared by the United Nations Secretariat.

belonging to the union, for which reason, it is claimed, the Court of Industrial Relations had no jurisdiction to entertain the motion above mentioned. The Court of Industrial Relations ordered the petitioner to pay all wages due or demandable in favour of the labour union. The petitioner filed this petition for certiorari seeking the annulment of this order.

Held: That the petition should be dismissed. The Court of Industrial Relations committed no error in issuing the order in question. Article 1708 of the new Civil Code provides that labourers' wages shall not be subject to execution or attachment, except for debts incurred for food, shelter, clothing and medical attendance. The Court continued:

"Petitioner does not dispute that the money garnished is intended to pay the wages of the members of the labour union. There is nothing to show that such money was garnished or attached for debts incurred for food, shelter, clothing and medical attendance. The writ of garnishment issued by the court, while it purports to include all moneys and properties belonging to the employing company, cannot, in any manner, touch or affect what said company has in its possession to pay the wages of its labourers pursuant to its contract with them or their labour union without contravening the letter and spirit of said article 1708. When, therefore, the Court of First Instance of Manila issued the oft-mentioned writ of garnishment to be levied upon all moneys and properties of the employing company, its scope and effect could not have been extended to include the money intended to pay the wages of the members of the respondent labour union . . ."

DEPRIVATION OF LIBERTY—DEPORTATION—STATELESSNESS—RIGHT OF ASYLUM—LAW OF THE PHILIPPINES

BOROVSKY *v.* COMMISSIONER OF IMMIGRATION AND DIRECTOR OF PRISONS

Supreme Court of the Philippines[1]

28 September 1951

The facts. The petitioner, a stateless person, born in Shanghai, China, of Russian parentage, came to the Philippines in 1936 and has resided therein since that time. On 24 June 1946, he was arrested by order of the Commissioner of Immigration and his past activities were investigated. Following his arrest, a warrant for his deportation was issued because he was found to be an undesirable alien, a vagrant and habitual drunkard.

In 1947, the petitioner was put on board a ship which took him to Shanghai, but he was not allowed to land there because he was not a national of China. He was therefore brought back to Manila where he was imprisoned until 8 December 1947, when he was granted provisional release for a period of six months. Before the expiration of that period, the Commissioner of Immigration caused his re-arrest and he has been imprisoned ever since. He filed a petition for *habeas corpus* which was denied.

In its decision the Court observed that the applicant's detention was temporary, and held that "temporary detention is a necessary step in the process of exclusion or expulsion of undesirable aliens and that pending arrangements for his deportation, the Government has the right to hold the undesirable alien under confinement for a reasonable length of time". No period was fixed within which the immigration authorities were to carry out the contemplated deportation beyond the statement that "the meaning of 'reasonable time' depends upon the circumstances, especially the difficulties of obtaining a passport, the availability of transportation, the diplomatic arrangements with the governments concerned and the efforts displayed to send the deportee away"; but the Court warned that "under established precedents, too long a detention may justify the issuance of a writ of *habeas corpus*".

In the two years since this decision was promulgated, in spite of all efforts of the deportation authorities, no ways and means were found of removing the petitioner out of the country, and none were in sight. The petitioner then filed a second petition for *habeas corpus*.

Held: The petitioner should be released from custody, but he should be placed under the surveillance of the immigration authorities or their agents in such form and manner as may be deemed adequate to ensure that he keep peace and be available when the Government is ready to deport him. The surveillance

[1] Report: Supreme Court of the Philippines, G.R. No. L-4352. Text received through the courtesy of Mr. Salvador Lopez, Minister Plenipotentiary, Philippine Mission to the United Nations. Summary prepared by the United Nations Secretariat. A similar case—Mejoff *v.* Director of Prisons—was decided by the Supreme Court of the Philippines on 26 September 1951 in the same way. The last quoted paragraph of this summary referring to the Universal Declaration of Human Rights is contained literally also in the decision of the Supreme Court in the case *Mejoff* v. *Director of Prisons*.

shall be reasonable and the question of reasonableness shall be submitted to this Court or to the Court of First Instance of Manila for decision in case of abuse.

The Court said: "Aliens illegally staying in the Philippines have no right of asylum therein (Soewapadji *v.* Wizon, 13 September 1946, 157 F. 2d., 289, 290), even if they are 'stateless', which the petitioner claims to be. It is no less true however, as impliedly stated in this Court's decision, *supra*, and numerous American decisions, that foreign nationals, not enemy, against whom no criminal charges have been formally made or judicial order issued, may not indefinitely be kept in detention. The protection against deprivation of liberty without due process of law and except for crimes committed against the laws of the land is not limited to Philippine citizens but extends to all residents, except enemy aliens, regardless of nationality . . .

"Moreover, by its Constitution (article II, section 3) the Philippines 'adopts the generally accepted principles of international law as part of the law of Nation'. And in a resolution entitled 'Universal Declaration of Human Rights' and approved by the General Assembly of the United Nations of which the Philippines is a member, at its plenary meeting on 10 December 1948, the right to life and liberty and all other fundamental rights as applied to all human beings were proclaimed. It was there resolved that 'All human beings are born free and equal in degree and rights' (article 1); that 'Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, nationality or social origin, property, birth or other status' (article 2); that 'Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law' (article 8); that 'No one shall be subjected to arbitrary arrest, detention or exile' (article 9); etc. . . ."

DEPRIVATION OF LIBERTY—DEPORTATION—STATELESSNESS—RIGHT OF ASYLUM—LAW OF THE PHILIPPINES

CHIRSKOFF *v.* COMMISSIONER OF IMMIGRATION AND DIRECTOR OF PRISONS

Supreme Court of the Philippines[1]

26 October 1951

The facts. Chirskoff entered the Philippines on 19 June 1946 with a passport duly visaed by the United States Consul in Shanghai, for the purpose of making repairs on and taking delivery of certain vessels purchased by a commercial firm. The vessels having been repaired and dispatched to Shanghai, the petitioner remained in the country alleging that he had "suffered an economic collapse and his return to Shanghai became impracticable".

In the meantime, Ch. obtained employment in a lumber firm in Bataan and later in a similar firm in Floridablanca, Pampanga. There, he was arrested by order of the Commissioner of Immigration on 16 March 1948 and charged with aiding, helping and promoting "the final objective of the Hukbalahaps to overthrow the Government". After that arrest, the Deportation Board ordered the petitioner's deportation to Russia, not on the ground stated in the warrant of arrest but on the purported ground that he "violated condition of the temporary stay given him by failing to depart from the Philippines upon its expiration, thus rendering himself subject to deportation under Section 37 (2) (7) of the Philippine Immigration Act of 1940, as amended". No formal charges for giving aid to Hukbalahaps have ever been filed. Ch. submitted a petition for habeas corpus which was denied.

The immigration authorities were unable to carry out the deportation order, and it is alleged that because of that inability the petitioner repeatedly expressed his desire to leave the country on his own account but that his request was not heeded. The petitioner claims that he could easily have departed from the Philippines without any expense on the part of the Government, but that the Commissioner of Immigration without valid reasons withheld authority to do so. In 1951 Ch. submitted a second petition for habeas corpus.

Held: that the petitioner should be released from custody, but should be subject to surveillance by the immigration authorities to ensure that he keep peace and be available when the Government is ready to deport him. The Court stated: "Except as to the circumstances of the immigrants' entries into the Philippines, this case and the cases of Borovsky *vs.* Commissioner of Immigration[1] and Mejoff *vs.* Director of Prisons[2] referred to in the order dismissing the herein petitioner's first application, are identical. Borovsky's and Mejoff's applications had been denied because arrangements were being made to have the petitioners deported. Like Chirskoff, Borovsky and Mejoff each

[1] Report: Supreme Court of the Philippines, G.R. No. L-3802. Text received through the courtesy of Mr. Salvador Lopez, Minister Plenipotentiary, Philippine Mission to the United Nations. Summary prepared by the United Nations Secretariat.

[1] See the previous summary.

[2] See p. 287, footnote 1.

later filed a second application for *habeas corpus* docketed as G.R. No. L-4352 and G.R. No. L-4254. Both these applications have recently been granted for the reason that since the denial of the first, a period of over two years had elapsed without the applicants having been deported and the prospects of removing them were not in sight.

"In the last-mentioned cases we held that foreign nationals, not enemy, against whom no criminal charges have been formally made or judicial order issued, may not indefinitely be kept in detention; that in the 'Universal Declaration of Human Rights' approved by the General Assembly of the United Nations of which the Philippines is a member, the right to life and liberty and all other fundamental rights as applied to human beings were proclaimed; that the theory on which the court is given power to act is that the warrant of deportation, not having been able to be executed, is *functus officio* and the alien is being held without any authority of law (U. S. *vs.* Nichols, 47 Fed. Supp. 201); that the possibility that the petitioners might join or aid disloyal elements if turned out at large does not justify prolonged detention, the remedy in that case being to impose conditions in the order of release and exact bail in reasonable amount with sufficient sureties . . ."

FREEDOM OF EXPRESSION—LIBEL AGAINST THE GOVERNMENT OF THE PHILIPPINES—REVISED PENAL CODE OF THE PHILIPPINES—CONSTITUTION OF THE PHILIPPINES

OSCAR ESPUELAS *v.* PEOPLE OF THE PHILIPPINES

Supreme Court of the Philippines[1]

17 December 1951

The facts: In June 1947, the accused had his picture taken, making it to appear as if he were hanging lifeless at the end of a piece of rope suspended from the limb of a tree, when in truth and in fact, he was merely standing on a barrel. After securing copies of the photograph, he sent them to several newspapers and weeklies in the Philippines and abroad for their publication with a suicide note or letter, wherein he made to appear that it was written by a fictitious suicide, Alberto Reveniera, and addressed to the latter's supposed wife. In the suicide note or letter, it was made to appear, among other things, that Reveniera was committing suicide because he was ashamed of the Government under President Roxas which he described as dirty and infested with many Hitlers and Mussolinis, and because he had no power to execute summarily (*juez de cuchillo*) all the Roxas people who were in power.

The accused was found guilty of a violation of article 142 of the Revised Penal Code which punishes those who write, publish or circulate scurrilous libels against the Government of the Philippines or any of the duly constituted authorities thereof or which suggest or incite rebellious conspiracies or riots or which tend to stir up the people against the lawful authorities or to disturb the peace of the community. From this decision, the accused appealed.

Held: That the appeal should be dismissed. The Court stated:

"In disposing of this appeal, careful thought had to be given to the fundamental right to freedom of speech. Yet the freedom of speech secured by the Constitution 'does not confer an absolute right to speak or publish without responsibility whatever one may choose'. It is not 'unbridled licence that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom'. So statutes against sedition have always been considered not violative of such fundamental guaranty, although they should not be interpreted so as to unnecessarily curtail the citizen's freedom of expression to agitate for institutional changes.

"Not to be restrained is the privilege of any citizen to criticize his government and government officials and to submit his criticism to the 'free trade of ideas' and to plead for its acceptance in 'the competition of the market'. However, let such criticism be specific and therefore constructive, reasoned or tempered, and not a contemptuous condemnation of the entire government set-up. Such wholesale attack is nothing less than an invitation to disloyalty to the Government. In the article now under examination one will find no particular objectionable actuation of the Government. It is called dirty, it is called a dictatorship, it is called shameful, but no particular omissions or commissions are set forth. Instead, the article drips with malevolence and hate towards the constituted authorities. It tries to arouse animosity towards all public servants headed

[1]Report: Supreme Court of the Philippines, G.R. No. L-2990. Text received through the courtesy of Mr. Salvador Lopez, Minister Plenipotentiary, Philippine Mission to the United Nations. Summary prepared by the United Nations Secretariat.

by President Roxas, whose pictures this appellant would burn and would teach the younger generation to destroy.

"Analysed for meaning and weighed in its consequences, the article cannot fail to impress thinking persons that it seeks to sow the seeds of sedition and strife. The infuriating language is not a sincere effort to persuade, what with the writer's simulated suicide and false claim to martyrdom and what with its failure to particularize. When the use of irritating language centres not on persuading the readers but on creating disturbance, the *rationale* of free speech cannot apply and the speaker or writer is removed from the protection of the constitutional guaranty.

"If it be argued that the article does not discredit the entire governmental structure but only President Roxas and his men, the reply is that article 142 punishes not only all libels against the Government but also 'libels against any of the duly constituted authorities thereof'. The 'Roxas people' in the Government obviously refer at least to the President, his Cabinet and the majority of legislators to whom the adjectives 'dirty', Hitlers and Mussolinis were naturally directed. On this score alone the conviction could be upheld.

". . . The publication suggests or incites rebellious conspiracies or riots and tends to stir up the people against the constituted authorities, or to provoke violence from opposition groups who may seek to silence the writer. Which is the sum and substance of the offense under consideration.

"The essence of seditious libel may be said to be its immediate tendency to stir up general discontent to the pitch of illegal courses; that is to say to induce people to resort to illegal methods other than those provided by the Constitution, in order to repress the evils which press upon their minds."

POLAND

NATIONALITY ACT[1]

of 8 January 1951

CHAPTER I

POLISH NATIONALS

Art. 1. A Polish national cannot be at the same time a national of another State.

Art. 2. From the date of the entry into force of this Act Polish nationals shall be persons who:

1. Possess Polish nationality under existing law;

2. Have entered the People's Poland as repatriated persons;

3. Have obtained confirmation of their Polish national origin under the Act of 28 April 1946 on the Polish nationality of persons of Polish origin domiciled in the recovered territories: *Dziennik Ustaw*, No. 15, item 106); or under the Decree of 22 October 1947 on the Polish State nationality of persons of Polish national origin residing in the territory of the former Free City of Gdansk (*Dziennik Ustaw*, No. 65, item 378), or under relevant provisions of law previously in force.

Art. 3. The competent authorities may recognize as Polish nationals persons who do not fulfil the conditions laid down in the preceding article but have been domiciled in Poland at least since 9 May 1945, unless they came to Poland as aliens bound by a definite allegiance and have been treated as aliens.

Art. 4. No person shall be a Polish national who, although he had Polish nationality on 31 August 1939, resides permanently abroad and:

1. As a result of changes in the frontier of the Polish State has acquired the nationality of another State in accordance with an international convention, or

2. Is of Russian, Byelorussian, Ukrainian, Lithuanian, Latvian, or Esthonian national origin, or

3. Is of German origin, unless his spouse has Polish nationality and is domiciled in Poland.

Art. 5. 1. A marriage contracted by a Polish national to a person who does not possess Polish nationality entails no change in the nationality of the spouses.

2. A change in the nationality of one of the spouses entails no change in the nationality of the other spouse.

CHAPTER II

ACQUISITION OF POLISH NATIONALITY

Art. 6. A child shall acquire Polish nationality if:

1. His father and mother are Polish nationals, or

2. One of his parents is a Polish national and the other is unknown or of unknown or indeterminate nationality.

Art. 7. A child born or found in Poland shall acquire Polish nationality if his parents are both unknown or their nationality is unknown or indeterminate.

Art. 8. 1. A child born in Poland to parents of whom one is a Polish national and the other is a national of another State shall acquire Polish nationality unless his father and mother, by joint declaration made before a competent authority within one month from his birth, choose for him the nationality of the foreign State of which the other spouse is a national and the law of that State permits acquisition of its nationality in that manner.

2. If the parents are unable to agree, either of them may within one month from the child's birth apply to the court to settle the dispute.

3. A child who has acquired foreign nationality in the manner described in paragraphs 1 and 2 above may at the end of his thirteenth year opt for Polish nationality by a declaration made before the competent authority.

Art. 9. The provisions of the preceding article shall also apply to children born abroad to parents of whom one is a Polish national and the other a national of another State if the law of that State applies the same rules as that article to the nationality of children born in Poland to parents of different nationality.

Art. 10. 1. Polish nationality may be granted to an alien on his application.

2. The granting of Polish nationality may be made subject to the provision of evidence of release from foreign nationality.

3. Persons entering Poland as repatriated persons in the manner prescribed by the competent authorities shall acquire Polish nationality by operation of law.

[1] Polish text in the *Dziennik Ustaw* (Journal of Laws) No. 4, of 19 January 1951. English translation from the Polish text by the United Nations Secretariat. The Act came into force on the day of its promulgation.

CHAPTER III

LOSS OF POLISH NATIONALITY

Art. 11. 1. A Polish national may not acquire foreign nationality until he has obtained the permission of the Polish authorities to change his nationality.

2. Permission granted to parents to change nationality shall extend to children under their parental authority.

3. Permission to change nationality granted to one parent shall extend to children under his parental authority if the other parent is not a Polish national or, being a Polish national consents before the competent authority to the change of the children's nationality. If the other parent objects to change of the children's nationality or if there is substantial impediment to agreement between the parents, the question shall be decided by a court.

4. The permission shall not extend to children over the age of thirteen without their consent.

5. Acquisition of foreign nationality in accordance with the provisions of paragraphs 1 to 4 shall entail loss of Polish nationality.

Art. 12. 1. A Polish national residing abroad may be deprived of Polish nationality if he has:

(*a*) Failed in his duty of loyalty to the Polish State;

(*b*) Acted against the vital interests of the People's Poland;

(*c*) Left the territory of the Polish State unlawfully after 9 May 1945;

(*d*) Refused to return to Poland at the summons of the competent authority;

(*e*) Evaded compulsory military service; or

(*f*) Been sentenced abroad for an ordinary offence or is a recidivist.

2. Loss of Polish nationality may extend to children of such a person under thirteen years of age and living abroad.

CHAPTER IV

PROCEDURE

Art. 13. 1. The Council of State shall order the grant and loss of Polish nationality.

2. An order of the Council of State on loss of Polish nationality shall be made on a motion by the President of the Council of Ministers.

3. An order on loss of Polish nationality shall be noted by publication in the *Monitor Polski.*

Art. 14. The Council of Ministers shall determine by decree the competent authority in all matters concerning nationality which do not fall within the competence of the Council of State.

CHAPTER V

TRANSITIONAL AND FINAL PROVISIONS

Art. 15. 1. Orders made before 1 September 1939 under the Act of 31 March 1938 on loss of nationality (*Dziennik Ustaw*, No. 22, item 191) shall be void as against persons domiciled in Poland at the entry into force of this Act.

2. The Council of State may restore Polish nationality to persons domiciled abroad who have been deprived thereof in the manner mentioned in the preceding paragraph, and to whom it has not already been restored before the entry into force of this Act.

Art. 16. The provisions of this Act shall also apply to the nationality of children born or found in Poland before the date of the entry into force of this Act.

[Articles 17 to 19 contain further transitional and final provisions.]

ACT CONCERNING CINEMATOGRAPHY [1]

of 15 December 1951

In order to promote cinematography as an independent creative art and a mass medium of instruction, culture, art and social education, the following provisions have been enacted:

Art. 1. There shall be established a Central Cinematography Board, hereinafter called "the Board".

Art. 2. 1. The functions of the Board shall comprise matters relating to cinematography, especially the establishment of rules for the development of cinematography;

(1) Direction of the planning, technique and organization of cinematography, and the training of staff;

(2) Direction, supervision, control and co-ordination of the functions of its subordinate enterprises, establishments and other bodies engaged in cinematography;

(3) The production, marketing and public distribution of films, and the production of film and photographic paper;

(4) The production, possession, use and registration of cinematographic apparatus;

[1] Polish text in *Dziennik Ustaw* No. 66, of 29 December 1951. English translation from the Polish text by the United Nations Secretariat. According to article 19 this Act came into force on 1 January 1952.

(5) The construction and use of cinematographic installations;

(6) Polish cinematography in international territory;

(7) The promotion of artistic, literary and scientific creative work in connexion with cinematography, particularly by initiating and organizing competitions, exhibitions and publication, promotion and supervision of the work of institutions endeavouring to raise the cultural value of films, and extension of knowledge of film art and technique.

2. The Board shall perform its functions in agreement with ministries and central departments concerned.

Art. 3. The Board or an enterprise subordinate to it shall have the exclusive right to sell and rent Polish films in Poland and abroad, and to purchase and rent foreign films for Poland.

Art. 4. The production of films for public showing, the management of cinematograph theatres, and the public distribution of films by individuals, legal persons and other organizations not subordinate to the Board shall require the permission of the Board and be governed by the conditions which it prescribes.

Art. 5. The Board shall be subordinate to the President of the Council of Ministers.

Art. 6. 1. The Board shall have at its head a chairman, who shall be appointed and dismissed by the President of the Council of Ministers.

2. The vice-chairman of the Board shall be appointed and dismissed by the President of the Council of Ministers on the recommendation of the chairman of the Board.

Art. 7. The chairman of the Board shall be assisted by a programme council, a technical council and advisory bodies.

Art. 8. 1. The Council of Ministers shall determine details of the organization of the Board and shall list the enterprises, establishments and organizations subordinate to the Board.

2. The President of the Council of Ministers shall determine the organization and functions of the programme council and the technical council.

Art. 9. The income and expenditure of the Board shall constitute a separate item of the State budget.

Art. 10. 1. Individuals, legal persons, authorities, establishments or institutions not subordinate to the Board, and social and political organizations, owning, using, controlling or possessing in Polish territory:

(*a*) Film projectors, except for film under 35 mm wide;

(*b*) Cinematograph cameras for 35 mm film; or

(*c*) Unexposed or exposed film intended for distribution or public showing,

shall forthwith notify the Board thereof for registration, giving a detailed description.

2. The notice of projectors, cameras and exposed and unexposed film referred to in paragraph 1 must be given within thirty days after the date when they were acquired or taken into control, possession or use.

3. Projectors, cameras and exposed and unexposed film as mentioned in paragraph 1 shall if owned, used, controlled or possessed before the entry into force of this Act be notified within thirty days after its entry into force.

Art. 11. The President of the Council of Ministers, in agreement with the chairman of the National Economic Planning Commission, the Minister of Finance and the Minister of Communal Economy, shall determine the rules for computing the rents of buildings and halls designed chiefly for use as cinematograph theatres and acquired by persons not members of the nationalized economy who continue to use enterprises, establishments and other organizations subordinate to the Bureau.

Art. 12. 1. The occupation of servicing film projecting apparatus may be practised only by persons licensed by the Board.

2. The President of the Council of Ministers shall by order set out the qualifications, requirements and procedure for the issue of the licences referred to in paragraph 1.

Art. 13. The notice referred to in article 10 need not be given by:

(*a*) Military and public security authorities;

(*b*) Persons giving notice under article 20 of the decree of 13 November 1945 (*Dziennik Ustaw* No. 55, item 308) before this Act came into force.

[Articles 14–18 deal with penalties, administrative competence and repeals.]

ACT AMENDING THE ACT REGARDING THE EMPLOYMENT OF YOUNG PERSONS AND WOMEN[1]

dated 26 February 1951

Art. 1. The Act of 2 July 1924 regarding the employment of young persons and women (*Official Gazette of the Polish Republic*, 1924, No. 65, item 636; 1925, No. 86, item 591; 1926, No. 93, item 538; 1931, No. 101, item 773; 1945, No. 43, item 236; 1948, No. 27, item 182) shall be amended as follows:

(1) Art. 4 shall read as follows:

"Art. 4.1. It shall be unlawful to employ a young person or a woman for especially arduous work or for work injurious to health.

"The Council of Ministers, in agreement with the Central Council of Trade Unions, shall make regulations specifying the occupations in which young persons and women may not be employed and the conditions under which pregnant women may be employed."

(2) Arts. 12, 13 and 14 shall be repealed.

(3) Art. 16, paragraph 7 shall read as follows:

"7. It shall be unlawful to employ on a night shift or overtime or to transfer away from her regular place of employment, a woman in or after the fourth month of her pregnancy or a women with a child under one year of age. Night shift shall be defined by the regulations governing hours of work."

Art. 2. The Minister of Labour and Social Security, in agreement with the other competent ministers, shall give effect to this Act.

. . .

[1]Polish text in *Dziennik Ustaw* No. 12, of 1 March 1951. English translation from the Polish text by the United Nations Secretariat. The Act came into force on the day of its promulgation.

ORDER OF THE COUNCIL OF MINISTERS ON OCCUPATIONS FORBIDDEN TO WOMEN[1]

dated 28 February 1951

By virtue of article 4 of the Act of 2 February 1924 on the employment of young persons and women (*Official Gazette of the Republic of Poland*, No. 65, item 636; 1931, No. 101, item 773; 1945, No. 43, item 236; 1948, No. 27, item 182; 1951, No. 12, item 94)[2] it is hereby ordered as follows:

Art. 1. 1. It shall be unlawful to employ a woman in any of the occupations specified in the schedule of occupations forbidden to women annexed to this order.

2. The prohibition of an occupation specified in a particular category of work shall apply also to the same occupation in another category of work.

Art. 2. The Council of Ministers may suspend temporarily a restriction contained in the schedule of occupations forbidden to women where to do so is especially important in the national interest.

[The schedule of categories of heavy work in which women are not to be employed, annexed to this order, contains occupations under the following headings:

I. Load lifting and carrying; II. mining, quarrying; III. smelting and metal industry; IV. mineral industry; V. chemical industry; VI. work with explosive substances; VII. dry distillation of coal, petroleum refining and natural gas industries; VIII. textile industry; IX. paper industry; X. tanning industry; XI. foodstuffs industry; XII. printing industry; XIII. building and roadmaking; XIV. communications and transport; XV. health service; XVI. communal undertakings.]

[1]Polish text in *Dziennik Ustaw* No. 12, of 1 March 1951. English translation from the Polish text by the United Nations Secretariat. The order came into force on the day of its promulgation.

[2]See the preceding text.

DECREE CONCERNING THE EMPLOYMENT AND OCCUPATIONAL TRAINING OF YOUNG PERSONS IN UNDERTAKINGS[1]

dated 2 August 1951

Art. 1. For the purposes of this decree "young person" means a person under the age of eighteen years.

Art. 2. 1. It shall be unlawful to employ a person under the age of sixteen years.

2. The Council of Ministers, in agreement with the Central Council of Trade Unions, shall specify the terms governing form of employment, pay and the like upon which persons between the ages of fourteen and sixteen years may lawfully be admitted to work for the purpose of instruction in a trade and of subsequent employment.

Art. 3. 1. The working hours of persons referred to in article 2 may not exceed six hours a day or thirty-six hours a week.

2. It shall be unlawful to employ a young person on overtime or on a night shift.

3. The prohibition of night work shall not apply to young male persons over the age of sixteen years in the cases specified by the Council of Ministers in agreement with the Central Council of Trade Unions.

Art. 4. 1. It shall be unlawful to employ a young person for expecially arduous work or for work injurious to health.

2. The Council of Ministers, in agreement with the Central Council of Trade Unions, shall list the occupations forbidden for young persons between the ages of fourteen and sixteen and over the age of sixteen years.

Art. 5. The Executive Board of the State Economic Planning Commission, in agreement with the Central Council of Trade Unions, shall lay down rules for the standardization of young persons' work as a basis for their rates of pay.

Art. 6. 1. Before a young person is admitted to employment he shall undergo a medical examination for the purpose of ascertaining whether he may be employed in a particular occupation.

2. Employed young persons shall undergo medical examination at intervals not exceeding six months.

Art. 7. 1. Observance of the provisions of law relating to the employment and occupational training of young persons shall be supervised by special youth labour inspectors.

2. The Council of Ministers, in agreement with the Central Council of Trade Unions, shall specify the functions and organization of the special youth labour inspection service.

Art. 8. 1. Undertakings shall organize and conduct individual, group and brigade training for employed young persons which shall comprise a practical section and its necessary complement of theoretical occupational instruction.

2. The occupational training referred to in paragraph 1 shall be concluded by an examination of adequate qualifying standard for the particular occupation, to be conducted by the examination board of the undertaking.

3. The method of conducting training in undertakings, rules for recruitment, and regulations for examinations boards of undertakings shall be laid down by the competent ministries in agreement with the director of the Central Occupational Training Office and with the consent of the Executive Board of the State Economic Planning Commission.

Art. 9. The present provisions of law relating to young workers who on the day of the entry into force of this decree are students in the second grade of a primary occupational school or in the third grade of a State industrial school or intermediate occupational school shall continue in force until 31 August 1952.

. . .

[1] Polish text of this Decree in *Dziennik Ustaw* No. 41, of 8 August 1951. English translation from the Polish text by the United Nations Secretariat.

PORTUGAL

POLITICAL CONSTITUTION OF THE PORTUGUESE REPUBLIC[1]

of 19 March 1933 as amended up to 11 June 1951

PART I.—THE FUNDAMENTAL GUARANTEES

TITLE I.—THE PORTUGUESE NATION

Art. 5. The Portuguese State is a unitary and corporate Republic founded upon the equality of its citizens before the law, the free access of all classes to the benefits of civilization, and the participation of all the constituent elements of the nation in its administrative life and in the making of its laws.

Equality before the law includes the right to public employment in conformity with capability or services rendered, and does not admit any privilege of birth, titular or other nobility, sex or social position, subject, however, as far as women are concerned, to differences due to their nature and the welfare of the family, and in regard to the obligations and privileges of citizens, to differences imposed by differences of circumstances or natural conditions.

Art. 6. It is the duty of the State:

1. To promote the unity of the nation and establish its juridical order by determining and compelling respect for the rights and guarantees derived from morality, justice or law, for the benefit of individuals, families, local autonomous bodies and other public or private corporations.

2. To co-ordinate, instigate, and direct all social activities, and to promote due harmony of interests, subject to those of a private nature being lawfully subordinated to the general interests.

3. (*as amended in 1951*) To endeavour to improve the circumstances of the least favoured classes of society *through efforts to assure them of a standard of living compatible with human dignity.*[2]

4. (*as added in 1951*) To protect public health.

TITLE II.—THE CITIZENS

Art. 7. The civil law shall determine the manner in which Portuguese citizenship is acquired and forfeited. A citizen shall enjoy the rights and guarantees laid down by the Constitution, but naturalized citizens shall be subject to the restrictions prescribed by law.

Foreigners resident in Portugal shall enjoy the same rights and guarantees, unless the law determines otherwise. This shall not apply to political and public rights which correspond to a duty towards the State, although, as regards public rights, reciprocity of advantages granted to Portuguese nationals by other States shall be observed.

Art. 8. (*as amended in 1951*) The following constitute the personal rights, *liberties*[3] and guarantees of Portuguese citizens:

1. The right to life and integrity of the person;

(*a*) (*as added in 1951*) The right to work in conformity with the terms of the law;

2. The right to good name and reputation;

3. Liberty and inviolability of belief and religious practice, on the ground of which no one may be persecuted, deprived of a right or exempted from any obligation or civic duty. No person shall be compelled to answer questions concerning the religion he professes except in a legally conducted census;

4. The free expression of thought in any form;

5. The freedom of teaching;

6. Inviolability of domicile and secrecy of correspondence on conditions determined by law;

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[1] Portuguese text of the amendments of 1951 in *Diário do Governo*, Part I, No. 117, of 11 June 1951, received through the courtesy of Mr. Augusto Potier, Counsellor of the Portuguese Embassy, Washington, D.C. English translation of these amendments by the United Nations Secretariat; English text of the other parts of the Constitution based on the translation in *Political Constitution of the Portuguese Republic* (second edition), Lisbon, 1948. The present text supersedes that published in *Yearbook on Human Rights for 1946*, pp. 238–242.

[2] *Former text:* ". . . prevent their standard of living from falling below an adequate human minimum".

[3] The word *liberties* added in 1951.

7. Freedom of choice of profession, or nature of work, industry or commerce, subject to the legal restrictions required for the public welfare and the exceptions for monopolies which only the State and administrative bodies can grant according to the provisions of the law, for reasons of recognized public utility;

8. No one shall be deprived of personal liberty or arrested without a written warrant issued by a judge and stating the grounds, except in the cases referred to in paragraphs 3 and 4;

9. No one shall be convicted of an offence unless a law, the date of which precedes that of the act or omission, declares such act or omission to be punishable;

10. The right of accused persons to examine witnesses and to be given the necessary guarantees for defence before and after the drawing up of the indictment;

11. No one shall be punished with imprisonment for life or with the penalty of death, except, as regards the latter, during a state of war with a foreign country, in which case the sentence has to be carried out in the theatre of war;

12. There shall be no confiscation of goods nor shall any personal punishment be inflicted except upon the delinquent himself;

13. No person shall suffer imprisonment for failure to pay costs or stamp duties;

14. Freedom of assembly and association;

15. The right of property and the right to transfer it *inter vivos* or *mortis causa*, according to the provisions laid down by the civil law;

16. There shall be no payment of taxes which have not been decreed in accordance with the Constitution;

17. The right to reparation for all actual damage in conformity with the provisions of the law, which may also prescribe pecuniary reparation for wrongs of a moral character;

18. The right to make representations or present petitions, claims or complaints to government departments or any other authorities, in defence of personal right or the general interest;

19. The right to resist any order which may infringe personal guarantees, unless they have been legally suspended, and to resist private aggression by force, when recourse to public authority is impossible;

20. Penal sentences shall be subject to review, and the right to compensation by the National Treasury for loss and damage shall be assured to the convicted person or his heirs by measures to be defined by law.

Para. 1. The enumeration of the above rights and guarantees shall not exclude any others derived from the Constitution or the laws, it being understood that citizens shall at all times exercise them without injuring the rights of third parties and without damaging the interests of society or the principles of morality.

Para. 2. Special laws shall control the exercise of the freedom of expression of opinion, education, assembly and association. As regards the first of these freedoms, the said laws shall prevent, by precautionary or restrictive measures, the perversion of public opinion in its function as a social force, and shall protect the moral integrity of citizens who, when libelled or abused in a periodical publication, shall have the right to require the said publication to publish a correction or explanation free of charge, without prejudice to any other liability or proceedings prescribed by law.

Para. 3. Imprisonment without a warrant issued by a judge and stating the reasons is authorized in cases of *flagrante delicto*, and for the following offences when either committed, prevented, or attempted: those against the safety of the State; the counterfeiting of money, and forgery of banknotes and government bonds; wilful homicide; burglary or robbery; larceny, fraud, or embezzlement, when perpetrated by an habitual criminal; fraudulent bankruptcy; arson; the manufacture, possession, or use of explosive bombs and other similar appliances.

Para. 4. Except in the cases specified in the preceding paragraph, imprisonment in a public jail, or detention in a private residence or institution for lunatics, may be effected only on a written order from the competent authorities, and shall not be continued on the accused offering proper bail or bond in regard to residence, when allowed by law.

The exceptional safeguard of *habeas corpus* may be used against an abuse of authority in the circumstances prescribed in a special law.[1]

Art. 9. (*as amended in 1951*) No person shall suffer prejudice in his post or employment as a result of his duty to perform military service or his duties in connexion with the civil defence of the territory.

Art. 11. All authorities are jointly and severally precluded from suspending the Constitution or limiting the rights therein granted, except in the cases therein provided.

TITLE III.—THE FAMILY

Art. 12. The State shall ensure the constitution and protection of the family as the source of preservation and development of the race, the primary basis of education, discipline, and social harmony, and the foundation of all political and administrative order, through family grouping and representation in the parish and the town councils.

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[1] Decree-law No. 35-043, of 20 October 1945, published in *Yearbook on Human Rights for 1946*, pp. 242-244.

Art. 13. The constitution of the family is based upon:

1. Marriage and legitimate offspring;

2. Equality of rights and duties of husband and wife in regard to the maintenance and education of their legitimate children;

3. The obligation to register the marriage and the birth of children.

Para. 1. The civil law shall determine the rules governing the persons and goods of husband and wife, parental authority and its substitution, the rights of succession in direct or collateral line, and the rights of maintenance.

Para. 2. Legitimate children shall be guaranteed the full rights necessary for the order and unity of the family, and rights corresponding to their position shall also be recognized in the case of illegitimate children who can be legally recognized and likewise children not yet born, particularly the right to maintenance which shall be provided by the persons who are found, upon investigation, to be responsible for maintenance.

Art. 14. With the object of protecting the family, it is the function of the State and of the local authorities:

1. To encourage the establishment of separate homes under healthy conditions, and the institution of the family household;

2. To protect maternity;

3. To adjust taxation to the legitimate obligations of the family to promote the adoption of a family wage;

4. To assist parents in the discharge of their duty of instructing and educating their children, and to co-operate with them by means of public institutions for education and correction, or by encouraging private establishments having the same objects.

5. To take all precautions likely to avert the corruption of morality.

Art. 15. The registration of the civil status of citizens is within the competence of the State.

Title IV.—Corporate Bodies

Art. 16. It shall be the duty of the State to legalize, unless otherwise provided by law, all corporate cultural or economic bodies, and to promote and assist their formation.

Art. 17. The principal aims of the corporate bodies to which the preceding article refers shall be scientific, literary, or artistic or physical training; relief, philanthropy or charity; and technical improvement or solidarity of interests.

The constitution and functions of these bodies shall be governed by special regulations.

Art. 18. Aliens domiciled in Portugal may be members of the corporate bodies on conditions to be determined by law; they shall, however, be forbidden to share in the exercise of the political rights granted to these bodies.

Title VI.—Public Opinion

Art. 22. Public opinion is a fundamental element of the political life and administration of the country; it shall be the duty of the State to protect it against all those influences which distort it from the truth, justice, good administration, and the common weal.

Art. 23. The press exercises a function of a public nature and hence may not refuse to insert any official notices of normal dimensions on matters of national importance sent to it by the Government.

Title VIII.—The Economic and Social Order

Art. 29. The economy of the nation shall be so organized as to provide the maximum production and wealth for the welfare of society, and shall create a collective existence from which the State shall derive power and the citizens justice.

Art. 30. The State shall regulate its economic relations with other countries according to the principle of appropriate co-operation, without prejudice to the commercial advantages to be obtained from any particular country, or the necessity for protection against external threats or attacks.

Art. 31. It shall be the right and duty of the State to co-ordinate and to control economic life for the following purposes:

1. To establish a proper balance of the population, of professions, of occupations, of capital and of labour;

2. To protect the national economic system from agricultural, industrial and commercial ventures of a parasitic nature, or those incompatible with the higher interests of human life;

3. To secure the lowest price and the highest wage consistent with the fair remuneration of the other factors of production, by means of the improvement of technical methods, services and credit;

4. Developing the settlement of the national territories, protecting emigrants and regulating emigration.

Art. 32. The State shall encourage those private economic activities which show the greatest profits in comparison with others, costs being equal, but without detriment to the social benefit conferred by small home industries and the protection due to them.

Art. 33. The State may not intervene directly in the management of private economic ventures except when it has to finance them and for the purpose of

securing a larger measure of social benefits than would otherwise be obtained.

State undertakings carried on for the purpose of profit, even if working on the basis of free competition, shall likewise be subject to the provisions laid down in the latter part of the article.

Art. 34. The State shall promote the formation and development of the national corporate economic system. Care shall be taken to prevent any tendency among its constituent bodies to indulge in unrestrained competition with each other, contrary to their own just aims and those of society, but they shall be encouraged to collaborate as members of the same community.

Art. 35. Property, capital and labour have a social function in a system of economic co-operation and common interest, and the law may determine the conditions of their use or exploitation in accordance with the common aim in view.

Art. 36. Labour, whether unskilled, skilled, or technical, may be associated in an undertaking in any form that circumstances may render advisable.

Art. 37. Only the corporate economic bodies which are authorized by the State may, in accordance with the law, conclude collective contracts of employment, and those made without their intervention shall be null and void.

Art. 38. (*as amended in 1951*) Any disputes arising out of contracts of employment[1] shall be within the competence of special tribunals.

Art. 39. In their economic relations with one another, neither capital nor labour shall be allowed to suspend operations for the purpose of asserting their respective interests.

Art. 40. (*as amended in 1951*) The holding of more than one appointment in private undertakings shall be discouraged as being contrary to public economy and policy.[2]

Art. 41. The State shall promote and encourage community concerns, and provident, co-operative, and mutual benefit institutions.

TITLE IX.—EDUCATION, INSTRUCTION AND NATIONAL CULTURE

Art. 42. Education and instruction shall be obligatory and the concern of the family and of public or private institutions in co-operation with the family.

Art. 43. The State shall officially maintain primary, complementary, and secondary schools, and institutions for higher education.

Para. 1. Elementary primary education is obligatory and may be given in the home, or in private or State schools.

Para. 2. The arts and sciences shall be encouraged and their development, teaching and dissemination favoured, provided that respect is maintained for the Constitution, the authorities and the co-ordinating activity of the State.

Para. 3. The instruction provided by the State shall aim not only at physical fitness and the improvement of intellectual faculties, but also at the development of character and professional ability and all moral and civic qualities, the former being a tradition of the country in conformity with the principles of Christian doctrine and ethics.

Para. 4. No authorization shall be required for the teaching of religion in private schools.

Art. 44. The establishment of private schools on the lines of the State schools shall be free, but subject to State inspection; schools may be subsidized by the State or authorized to grant diplomas if their curricula and the standard of their teaching stay are not inferior to those of the corresponding public institutions.

TITLE X.—RELATIONS BETWEEN THE STATE AND THE CATHOLIC CHURCH

RELIGIOUS MATTERS

Art. 45. (*as amended in 1951*) All persons shall be free to practise, in public or in private, the Catholic religion, which is the national religion of Portugal. The Catholic Church shall enjoy the status of a body corporate and shall be free to organize its activities in accordance with Canon Law and accordingly to constitute associations and organizations which shall likewise be recognized to have the status of bodies corporate. The State and the Catholic Church shall be separate, diplomatic relations between the Holy See and Portugal being maintained by means of reciprocal representation, and their relations being otherwise governed by concordats or agreements concerning ecclesiastical appointments (*padroado*) or by any other agreements which settle or may hereafter settle matters of common interest.

Art. 46. (*as amended in 1951*) The State shall likewise assure the freedom of worship and organization of the other religions practised on Portuguese territory, subject to statutory regulations governing their public form of worship, and may confer the status of bodies corporate on any association constituted according to the rules of the particular faith.

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[1] *Previous text:* "collective labour agreements".

[2] *The first paragraph of former article 40, deleted in 1951, provided:* "It is the right and duty of the State to protect morality, the wholesomeness of food and drink, and public health." See the amended paragraphs 3 and 4 of article 6.

Sole paragraph. The foregoing provision shall not apply to religious practices which are not compatible with the physical life and security of the human person or with public decency, nor shall they apply to the dissemination of teachings inconsistent with the established order of society.

Art. 47. The State may not assign to any other purpose any chapel, building, appurtenance, or object of worship belonging to a religious body.

Art. 48. Public cemeteries shall be secular in character, and ministers of any religion may freely practise their respective rites therein.

TITLE XI.—THE PUBLIC AND PRIVATE DOMAINS OF THE STATE

Art. 49. The public domain of the State shall comprise the following:

1. Mineral deposits, medicinal mineral water springs, and other natural wealth below the surface;

2. Territorial waters and the underlying sea-bed;

3. Lakes, lagoons and navigable watercourses, and waters on which floating operations can be performed, with their respective beds or channels, as well as those which shall be recognized by special decree to be of public utility as suitable for the production of electric power, national or regional, or for irrigation;

4. Dykes opened up by the State;

5. The air-space above the land, beyond such limits as the law fixes in favour of the owner of the surface;

6. Railways of public importance of any kind, public streets and roads;

7. Territorial areas reserved for military defence;

8. Any other property placed by law under the regime of the public domain.

Para. 1. The authority of the State over the property of the public domain and its use on behalf of citizens shall be regulated by law and by the international conventions concluded by Portugal, without prejudice to the prior rights of the State and the acquired rights of individuals. The latter rights, however, shall be subject to expropriation if required in the public interest, subject to payment of reasonable compensation.

Para. 2. Rocks and common lands, and materials commonly employed in buldings, shall be expressly excepted from the natural wealth specified in paragraph 1.

Para. 3. The State shall undertake the delimitation of those lands which are private property and abut on the property of the public domain.

Art. 50. Property on the mainland and in the adjacent islands which belongs to the private domain of the State shall be administered by the Ministry of Finance, unless some other Ministry is expressly directed to administer it.

Art. 51. No State property or rights which affect its prestige or the more important national interests may be alienated.

Art. 52. Artistic, historical and natural monuments, and artistic objects officially recognized as such, shall be under the protection of the State, and their alienation to foreigners is prohibited.

PART II.—THE POLITICAL ORGANIZATION OF THE STATE

TITLE II.—THE HEAD OF THE STATE

Chapter I

ELECTION OF THE PRESIDENT OF THE REPUBLIC AND HIS PREROGATIVES

. . .

Art. 73. A person may not be elected President of the Republic unless he is a Portuguese citizen over the age of thirty-five years, has at all times possessed Portuguese nationality and is in full enjoyment of his civil and political rights.

Para. 1. (*as added in 1951*) No person may stand for election unless he offers guarantees of respect for and loyalty to the fundamental principles of the social and political order as defined by the Constitution.

. . .

TITLE III.—THE NATIONAL ASSEMBLY

Chapter I

THE NATIONAL ASSEMBLY

Art. 85. The National Assembly is composed of 120 deputies, elected by the direct vote of the citizen electors, and its term of office shall be four years.

Para. 1. The necessary qualifications for deputies, and the organization of the electoral colleges and procedure, shall be governed by a special law.

. . .

Chapter II

THE MEMBERS OF THE NATIONAL ASSEMBLY

Art. 89. The members of the National Assembly shall enjoy the following immunities and privileges:

[Certain immunities and privileges are enumerated.]

Para. 1. Freedom from attack in respect of their opinions and votes does not exempt members of the National Assembly from civil and criminal liability for

libel, slander, insults, offences against public decency or open incitement to crime.

Para. 2. The National Assembly may suspend from office any deputy who expresses opinions opposed to the existence of Portugal as an independent State, or who in any way advocates the violent overthrow of the social and political order.

. . .

Chapter III

FUNCTIONS OF THE NATIONAL ASSEMBLY

Art. 91. The National Assembly shall have power to:

. . .

8. Declare a state of siege with total or partial suspension of the constitutional guarantees, in one or more places in the national territory, in the case of actual or imminent aggression by foreign forces, or when public order and safety are seriously disturbed or threatened.

. . .

TITLE V.—THE COURTS

Art. 116. The judicial functions are exercised by ordinary courts and by special tribunals.

The Supreme Court of Justice and the courts of first and second instance are the ordinary courts, and they shall have jurisdiction over such matters and in such territories as the law prescribes.

Art. 117. It shall be unlawful to establish special courts with exclusive jurisdiction to try a certain category of crimes or certain categories of crimes, unless the crimes are fiscal or social in nature or affect the safety of the State.

Art. 121. The hearings of the courts shall be public, except in special cases prescribed by law, and whenever publicity would be contrary to good order, the interests of the State or morality.

Art. 123. In cases submitted for judgment the courts may not apply laws, decrees or any other ordinances which are repugnant to the provisions of this Constitution or violate the principles herein contained.

. . .

TITLE VII.[1]—PORTUGUESE OVERSEAS POSSESSIONS

Chapter I

BASIC PRINCIPLES

Art. 133. It is an essential function of the Portuguese nation to fulfil its historic mission of colonizing the overseas territories under its sovereignty and to share the advantages of its civilization with the peoples thereof, and in addition to exert the moral influence attaching to the position of Portugal as Protector of the Church in the East (*Padroado do Oriente*).

Art. 134. The Portuguese overseas territories mentioned in article 1, paragraphs 2 to 5, shall be known generically as "provinces", and shall be organized politically and administratively in keeping with their geographical position and social development.

Art. 135. The overseas provinces, as an integral part of the Portuguese State, have a joint responsibility *inter se* and with the metropolitan country.

Art. 136. The said joint responsibility includes, in particular, the duty to make an adequate contribution to ensure the security and defence of the nation as a whole and to secure the accomplishment of the purposes of national policy stated by the sovereign bodies to be in the common interest.

Chapter II

GENERAL GUARANTEES

Art. 137. The personal rights, liberties and guarantees laid down in the Constitution shall likewise apply in the overseas provinces to nationals and aliens alike, as provided by statute; nevertheless, both nationals and aliens may be denied admission to, or ordered to be deported from, any of the said provinces in pursuance of the relevant regulations if their presence should give rise to serious internal or international difficulties. Any appeal against any such order shall lie only to the Government.

Art. 138. If necessary, and with due regard for the stage of development reached by the peoples, special regulations shall be enacted for the overseas territories to introduce, in conformity with Portuguese private or public law, legal systems in keeping with local usage and custom, provided that the latter are not incompatible with morality, the principles of humanity and the free exercise of Portuguese sovereignty.

Art. 139. The State shall guarantee freedom of conscience and the free practice of the various religions in its overseas territories, subject to the limitations required by the rights and interests of Portuguese sovereignty, the maintenance of law and order and the observance of international treaties and conventions.

Art. 140. Portuguese Catholic overseas missions, and institutions training mission staff or ecclesiastical personnel, shall have the status of bodies corporate and shall be protected and assisted by the State as educational and welfare institutions and as instruments of civilization, in accordance with the terms of the concordats and other agreements concluded with the Holy See.

[1] Title VII corresponds to parts of the former Colonial Act (published in *Diário do Governo* No. 176, 1st part, of 1 August 1935) with certain modifications.

Chapter III

SPECIAL GUARANTEES FOR INDIGENOUS INHABITANTS

Art. 141. In conformity with the principles of humanity and sovereignty, the provisions of this chapter and international conventions, the State shall guarantee by special measures, in the form of transitional rules, the protection and defence of the indigenous inhabitants in any provinces inhabited by them.

The authorities and courts shall, as prescribed by law, prevent and punish any offences against the person or property of indigenous inhabitants.

Art. 142. The State shall establish public, and encourage the establishment of private, institutions (which shall in either case be Portuguese) to further the rights or welfare of the indigenous inhabitants.

Art. 143. The ownership and possession of their lands and crops shall be guaranteed to the indigenous inhabitants as provided by law, and this principle shall be respected in all concessions granted by the State.

Art. 144. All work carried out under contract by indigenous inhabitants in the service of the State or administrative bodies shall be remunerated.

Art. 145. It shall be unlawful to make any arrangements whereby:

(1) The State binds itself to supply indigenous workers to a business undertaking;

(2) The indigenous inhabitants of any territorial district would be bound to perform services for any such undertaking in any capacity whatsoever.

Art. 146. The State may only require indigenous inhabitants to work on public schemes of general interest to the community (in which event they shall be entitled to the proceeds of their employment) in pursuance of an order of a criminal court or for the purpose of obtaining payment of tax liabilities.

Art. 147. The rules governing contracts for the employment of indigenous inhabitants shall be based on individual freedom and the right to a fair wage and to assistance; the public authorities shall not be concerned with such contracts except in a supervisory capacity.

[Chapter IV deals with the political and administrative system.]

Chapter V

ECONOMIC QUESTIONS

Art. 158. The economy of the overseas territories shall be so organized as to form part of the general economic organization of the Portuguese nation through which these territories shall participate in world economic relations.

Sole paragraph. For the purposes mentioned in this article the free movement of products shall be facilitated throughout the national territory by all possible means, including the gradual reduction or suspension of customs duties. The same principle shall apply, whenever possible, to the movement of persons and of funds.

Art. 159. The rules governing the economic affairs of the overseas provinces shall be devised so as to satisfy the need of their development and the well-being of their peoples, subject to fair reciprocity between the said provinces and neighbouring countries and to the rights and lawful interests of the Portuguese nation of which they are an integral part.

Art. 160. It shall be the function of the metropolitan country, without prejudice to the principle of decentralization referred to in article 148,[1] to safeguard, by the decisions of competent bodies, the interests which under the foregoing article, have to be taken into consideration in the rules governing the economic affairs of the overseas territories.

Art. 161. Legislation shall be enacted to specify what areas of land or other overseas property may not be granted in concession or otherwise alienated, on the ground that such areas or property are or will become public property or are necessary for the prestige of the State or serve paramount national interests.

Sole paragraph. Legislation shall likewise be enacted to regulate the use or occupancy of the said areas of land by public or private bodies, as a temporary measure, if the interests of the State so require.

Art. 162. Any concession granted by the State or by independent local bodies within the limits of their competence, shall at all times, even if foreign capital is to be employed in operating the concession, be subject to conditions which safeguard the right of nationalization and other interests of the national economy.

This matter shall be governed by special directives which shall contain provisions to the same effect.

Art. 163. The administration and operation of ports or airports overseas shall in the future be reserved to the State. Special legislation shall be enacted to deal with any exceptions permitted in connexion with certain installations or services in each port or airport.

Art. 164. Neither the State nor the independent local bodies may grant to any individual or collective undertaking overseas a concession which purports to confer:

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[1] This article provides:

"Without prejudice to the provisions of article 175, the overseas provinces shall be guaranteed administrative decentralization and financial autonomy in keeping with the Constitution, their stage of development and their own resources.

"In each of the overseas provinces political unity shall be assured through the existence of a single capital and of the provincial government."

1. The right to exercise the prerogatives of the public administration;

2. The power to establish or fix the amount of any dues or taxes, though this shall not be held to refer to the right to recover public revenue which may lawfully be assigned by auction;

3. The possession of land or the exclusive right to work mineral deposits with the power to grant subconcessions to other undertakings.

Sole paragraph. In any overseas territory where concessions of the nature described in the foregoing article are now in force, the following provisions shall have effect:

(*a*) The said concessions or any part thereof may not be extended or renewed;

(*b*) The State shall exercise its right to rescind or redeem the said concessions, in the manner laid down in the relevant legislation or contracts.

. . .

ROMANIA

DECREE No. 177 CONCERNING THE GENERAL REGULATIONS GOVERNING RELIGIOUS DENOMINATIONS[1]

of 3 August 1948

CHAPTER I

GENERAL PROVISIONS

Section I

FREEDOM OF RELIGION

Art. 1. The State guarantees freedom of conscience and freedom of religion throughout the People's Republic of Romania.

Any person may belong to any religion or embrace any religious faith the practice of which is not contrary to the Constitution, security and the public interest or morality.

Art. 2. Denominational hatred manifested in any act hindering the free practice of any recognized religion constitutes an offence punishable in accordance with the law.

Art. 3. No person may be persecuted on account of his religious faith or his lack of religious faith.

No person may be prevented from obtaining and exercising civil and political rights on the ground of his religious faith or be excused from the obligations imposed by law.

Art. 4. No person may be compelled to take part in the religious services of any denomination.

Art. 5. No person may be compelled by administrative measures of the State to contribute to the expenses of any denomination or to comply with the decisions of religious judicial bodies.

Section II

FREEDOM OF RELIGIOUS ORGANIZATION

Art. 6. Religious sects may be organized freely and may function freely, provided that their practices and rites are not contrary to the Constitution, security or the public interest and morality.

Art. 7. Religious denominations shall be organized in accordance with their own rules, in conformity with their customs, canons and traditions; they may, in accordance with those rules, organize foundations, associations, orders and congregations.

Art. 8. Recognized religious denominations may have religious judicial bodies for the discipline of the persons in their service.

Judicial disciplinary bodies shall be organized by special regulation, in accordance with the canons and statutes of the denomination concerned. The regulation shall be drawn up in each case by the legal organs of the denomination concerned and shall be approved by decree of the Presidium of the Grand National Assembly on the proposal of the Ministry of Religion.

Art. 9. The local organizations of recognized religious denominations may maintain, individually or in association with others, burial grounds for their members.

Parishes are required to establish common burial grounds or reserved areas in existing burial grounds for the interment of persons who do not belong to religious denominations possessing burial grounds.

CHAPTER II

RELATIONS BETWEEN THE STATE AND RELIGIOUS DENOMINATIONS

Art. 10. Members of all religious denominations are required to obey the laws of the land, to take the oath in the form and in the cases prescribed by law and to register births, marriages and deaths at the civil registry offices as prescribed by law.

Art. 11. Crimes and offences against the ordinary law committed by the heads or bishops of religious denominations shall be tried by the courts, from whose decision an appeal shall lie to the Supreme Court.

Art. 12. Recognized religious denominations shall be required to have a central organization to represent the denomination, regardless of the number of its members.

[1] Romanian text in *Monitorul Oficial* (Official Gazette) No. 178, of 4 August 1948. Text received through the courtesy of the Romanian Legation to the United States, Washington. English translation from the Romanian text by the United Nations Secretariat.

Art. 13. Before they can organize themselves or function, religious denominations must be recognized by decree of the Presidium of the Grand National Assembly, issued on the proposal of the Government, on the recommendation of the Minister of Religion.

Recognition may be withdrawn in the same way for good and sufficient reasons.

Art. 14. In order to obtain recognition, each religious denomination shall forward its statutes, relating to organization and operation, including the system of organization, management and administration, together with the articles of faith of the religion concerned through the Ministry of Religion, for examination and approval.

Art. 15. The Romanian Orthodox Church is independent and unitary in organization.

Art. 16. The organization of political parties on a denominational basis is prohibited.

Art. 17. The local organizations of recognized religious denominations, communities, parishes, and groups shall be required to register in a special register which shall be kept at the town hall concerned and which shall list the executive and supervisory bodies and state the number of members of the said organizations.

Art. 18. In order to be recognized as legal persons, civil associations and foundations wholly or partly constituted for religious purposes shall obtain the authorization of the Government, through the Ministry of Religion, and shall be subject to all the obligations imposed by law having regard to their religious character.

Art. 19. Inscriptions and symbols, and seals or stamps bearing the names of religious denominations, are required to have the prior approval of the Ministry of Religion.

Art. 20. The heads of religious denominations, bishops and in general all persons in the service of religious denominations are required to be Romanian citizens in full exercise of civil and political rights.

Art. 21. The heads of religious denominations, and metropolitans, archbishops, superintendents, apostolic administrators, administrative vicars and others with like functions, elected or appointed in accordance with the statutes of their respective religious denominations, shall not be recognized in their functions until after approval by the Presidium of the Grand National Assembly, given by decree, on the proposal of the Government, following the recommendation of the Ministry of Religion.

Before entering on their duties, they shall be sworn in before the Minister of Religion.

The form of the oath shall be as follows:

"As a servant of God, as a man and as a citizen,

"I swear to be loyal to the people and to defend the People's Republic of Romania against its enemies, internal and external;

"I swear that I will not allow my subordinates to undertake, or to participate in, and that I myself will not undertake, or participate in, any action likely to be prejudicial to the public interest or to the integrity of the People's Republic of Romania.

"So help me God."

The same form of oath shall be required to be taken by the leaders of the civil associations having a religious character referred to in article 18.

Other members of the clergy of the various religious denominations and heads and leaders of local communities shall, before assuming office, swear, before their hierarchical superiors, the following oath of loyalty:

"As a servant of God, as a man and as a citizen,

"I swear to be loyal to the people and to defend the People's Republic of Rumania against its enemies, internal and external;

"I swear to respect the laws of the People's Republic of Rumania and to respect State secrets.

"So help me God."

Other officials in the service of religious denominations shall swear, before the competent State authorities, the oath of loyalty provided in article 8 of Act No. 363 of 30 December 1947 concerning the constitution of the Romanian State in the People's Republic of Romania.

Art. 22. Religious denominations, organized in bishoprics, may have a number of bishops in proportion to the total number of members.

For the purpose of the establishment and organization of bishoprics (dioceses, superintendencies), an average of 750,000 members shall be reckoned for each bishopric.

The determination of the boundaries of bishoprics and the allocation of members to bishoprics shall be effected by the statutory organs of the religious denomination concerned and shall be confirmed by decree of the Presidium of the Grand National Assembly on the proposal of the Ministry of Religion.

CHAPTER III

ACTIVITIES OF RELIGIOUS DENOMINATIONS

Art. 23. The activities of recognized religious denominations shall conform with the articles of faith of their religion, the approved statute, and the laws of the land and morality.

Art. 24. Religious denominations may hold congresses or general assemblies with the approval of the Ministry of Religion, and local conferences and assemblies (diocesan assemblies) with the approval of the competent local authorities.

Art. 25. The Ministry of Religion may suspend any decision, instruction or ordinance and any order of an administrative, cultural, educational, philanthropic or institutional nature which is made or given by a church authority and which is contrary to the statutes of the religious denomination concerned, its charter of foundation or constitution, or to security and the public interest or to morality.

Pastoral letters and circulars of general interest shall be duly communicated to the Ministry of Religion.

Art. 26. Religious denominations may, in their services and their internal activities, use the mother tongue of the congregations. Correspondence with the Ministry of Religion shall be written in Romanian.

Art. 27. When references are made to the supreme authority of the State in the normal course of the various religious services and in official solemnities presented by law and regulations, only forms of words approved in advance by the Ministry of Religion shall be used. Religious denominations are also required not to use forms of words and expressions in liturgies which are contrary to law and morality.

[Chapter IV deals with the property of religious bodies; chapter V deals with relations between religious bodies.]

CHAPTER VI

RELIGIOUS INSTRUCTION

Art. 44. Religious denominations are free to organize instruction for the training of religious personnel under the supervision of the State.

The establishment of schools and the preparation of syllabuses shall be the responsibility of the competent bodies of the religious denominations concerned and shall be subject to the approval of the Minister of Religion.

Art. 45. Members of the teaching staff shall be appointed by the statutory organs of the religious denomination concerned in conformity with the statute and rules approved by the Ministry; those paid by the State shall require the prior approval of the Ministry and those paid by the religious denomination shall require confirmation within fifteen days of appointment.

The Ministry of Religion may cancel appointments on grounds of public interest or the security of the State.

[Chapter VII contains final and temporary provisions.]

DEFENCE OF THE PEACE ACT[1]

Act No. 9 of 13 December 1950

Art. 1. Any war propaganda or any act which may threaten the peace shall constitute a serious crime against the country and humanity, inasmuch as it endangers the life of men, the furtherance of human progress, the cultural and material values of humanity, and creates a serious threat to the peaceful co-operation between peoples.

Art. 2. Any propaganda inciting to war, the dissemination of tendentious or fabricated news which may foment war, or any other activities or utterances, whether by word of mouth, in writing, through the press, radio or film or any other media of propaganda, which tend to unleash a new war, shall constitute a crime threatening the peace of the peoples.

Art. 3. A crime threatening the peace of the peoples shall be punishable by a penalty of forced labour from five to twenty-five years and the confiscation of all or part of the property of the offender.

[1]Romanian text in *Buletinul Oficial* No. 117, of 16 December 1950. Text received through the courtesy of the Romanian Legation in Washington. English translation from the Romanian text by the United Nations Secretariat.

LABOUR CODE[1]

Act No. 3 of 30 May 1950

SUMMARY

The Labour Code deals with conditions of work, standards of production, working hours, paid leave and labour contracts. It rests on the broad principle of equal pay for equal work irrespective of age, sex, or nationality.

The Code provides for a normal working day of eight hours in day time and seven hours at night, for one day's rest per week, paid annual leave ranging from twelve to twenty-four days according to seniority and type of work. It prohibits employment of children under fourteen years of age. Children between fourteen

[1]Romanian text of the Act in *Buletinul Oficial* No. 50, of 8 June 1950, received through the courtesy of the Legation of Romania to the United States, Washington. Summary prepared by the United Nations Secretariat.

and sixteen years of age shall work at most six hours per day and all minors (up to eighteen years of age) enjoy a minimum of eighteen days' paid annual leave.

Overtime work shall be permissible only in exceptional circumstances and must not exceed 120 hours in any one year.

Any worker may be moved from one place of work to another according to the requirements of the service. Refusal to accept such transfer entitles the employer to discharge the worker on giving fourteen days' notice.

In emergency situations, able-bodied workers with certain exceptions (men under fifty, women under forty-five and children over sixteen years of age) shall perform duties assigned to them to meet the emergency.

The Code provides for thirty-five days pre-natal and forty-five to fifty-five days post-natal leave for women. After six months' pregnancy they are to be assigned to easy tasks without reduction in pay.

Remuneration of work depends on the fulfilment of norms of production. In the case of totally unacceptable products, non-fulfilment entails complete loss of salary when the worker is responsible for the deficiency and of up to one-third of his salary if he is not. In the case of partially defective products, the worker does not suffer any loss of salary if he is not responsible for the deficiency, and cannot lose more than one-half of the salary should he be responsible.

Labour contracts can be rescinded by either side; by the worker on justifiable grounds, by the employer in strictly determined conditions. If the worker requests that the contract should be rescinded, the employer must decide the case within fourteen days. When breaches of contract result in litigation, the competent administrative and judicial organs are required to decide on such cases within specified periods of time, assuring a prompt solution of labour disputes.

ACT No. 10 OF 29 DECEMBER 1948 CONCERNING THE ORGANIZATION OF SOCIAL SECURITY AS AMENDED BY ACT No. 3 OF 30 MAY 1950[1]

SUMMARY

Articles 16–27 of the Act deal with invalidity insurance; different grades of incapacity are established with the corresponding scale of benefits. The amount of the pension depends on the age of the worker, the category of work performed, length of service and degree of incapacity. The Act provides that benefits shall accrue whatever the cause of invalidity. If invalidity is due to an accident at work or to occupational illness, length of service is irrelevant. Should such accident or illness be due to inadequate conditions of work, the pension is increased by 15 per cent at the expense of the enterprise. The length of service required to obtain the same benefits is shorter for women than for men within the same age groups except in cases of total disability.

Old-age benefits are normally paid out to men over sixty after twenty-five years' service and to women over fifty-five after twenty years. These requirements are lowered for arduous work. The amount of the pension ranges from 50 to 80 per cent of the salary during the last year of work. Continued work after pensionable age does not invalidate pension rights. Workers who are not members of trade unions shall receive one-half of the benefits provided for in the Act.

In case of death the heirs, specified in the Act, are entitled to a pension, including natural, recognized, legitimated and adopted children.

[1]Romanian text of the Act in *Monitorul Oficial* No. 1, of 1 January 1949, received through the courtesy of the Legation of Romania to the United States, Washington. Summary prepared by the United Nations Secretariat.

ORDINANCE No. 186 CONCERNING THE GRANT OF LEAVE FOR REST[1]

of 8 March 1951

Art. 1. Leave for rest shall be granted once a year to employees who have been employed continuously for eleven months.

The schedule of leaves shall be established uniformly over the whole calendar year in accordance with a table to be drawn up by the management in agreement with the committee of the enterprise or institution.

Wage-earners shall be entitled to the next leave for a new work year eleven months after the date of termination of the preceding work year.

Young persons up to eighteen years of age, young

[1]Romanian text in *Buletinul Oficial* No. 33, of 16 March 1951, received through the courtesy of the Romanian Legation to the United States of America, Washington. English translation from the Romanian text by the United Nations Secretariat. This decision came into force with retroactive effect to 1 January 1951.

workers in enterprises and/or pupils in vocational schools, works and factory schools and people's vocational schools shall be granted an annual leave for rest of up to twenty-four working days.

Art. 2. Employees who are employed in heavy or dangerous work shall be entitled to an annual supplementary leave for rest with pay, in addition to the basic leave, of up to twelve working days.

Art. 3. The supplementary leave for rest shall be granted to employees working in one of the occupations listed in the attached schedule,[1] without regard to the branch of production.

Art. 4. The basic leave and the supplementary leave shall be granted at the same time even when the right to basic leave and the right to supplementary leave originated at different times in the year for which the leave is granted.

Art. 5. In addition to the basic leave of twelve working days and to the supplementary leave for heavy or dangerous work, employees shall also be entitled to supplementary leave for rest with pay based on unbroken seniority in employment.

[1]Not published in this *Yearbook*.

Art. 6. The length of the supplementary leave granted for unbroken seniority in employment has been established as follows:

Number of days' leave	*Salary Groups*		
	1	*2*	*3*
3	2–5 years	5–10 years	over 10 years
4	5–10 years	10–15 years	—
5	over 10 years	over 15 years	—

Art. 8. Monetary compensation may not be given in lieu of supplementary leave for rest, except where the contract of employment is cancelled before the employee has availed himself of this right.

Art. 12.

. . .

In the case of maternity, the management is required to grant employees leave for rest, at their request, in continuation of leave for pregnancy and confinement.

Art. 17. Monetary compensation in lieu of leave for rest is as a general rule prohibited. As an exception to this provision, compensation for leave for rest shall be paid in the following cases:

[An enumeration of the exceptional cases follows.]

ORDINANCE No. 350 ON WORKING TIME UNDER EIGHT HOURS IN ARDUOUS OCCUPATIONS[1]

of 18 April 1951

SUMMARY

The ordinance provides for a shortening of working hours below the eight-hour day for workers in certain occupations without reduction of pay. Workers in determined jobs in the metal and chemical industries and in the oil and coal industries are to work not more than six hours a day. Those assigned to certain jobs in the industries of construction and construction materials have to work not more than six hours a day and the working time is reduced to five, four and two hours a day under certain especially arduous conditions. Workers in certain jobs in postal, telecommunication and transportation industries are working seven hours a day and under certain especially arduous conditions from four to six hours a day. In the wood, paper and cellulose industries the working time is reduced to six hours for certain jobs, in the food industries to seven hours. The same applies to manual workers in certain jobs of the publishing industry and the press. In certain jobs of the health services, working hours are reduced to seven, six and four hours.

[1]Romanian text of the ordinance in *Buletinul Oficial* No. 51, of 3 May 1951, received through the courtesy of the Legation of Romania to the United States, Washington. Summary prepared by the United Nations Secretariat.

REGULATION No. 758 ON THE FINANCING OF HOUSING CONSTRUCTION FOR INDIVIDUALS[1]

of 20 July 1951

SUMMARY

Workers, technicians, engineers and officials may receive individual loans, each up to 300,000 lei, at an interest of $1\frac{1}{2}$ per cent for the construction of dwelling houses. During 1951, 1,500 million lei were to be made available for this purpose. The loans are not to be used for repair work or purchases of existing houses, but for new construction exclusively. They are guaranteed by the enterprise where the worker is employed. Thirty per cent of the total amount of the costs for a new dwelling built with the aid of these loans must be contributed from individual means, either in cash or in the form of work, material, etc. Houses built under this scheme are tax free for two years after construction. The regulation defines the obligations of the municipalities and of the directors of the plants in the selection of adequate sites for dwellings and the supplying whenever possible of building materials and tools at low cost. Enterprises may finance the construction of dwellings for sale to their workers. In this case the minimum down payment required from the worker amounts to between 15 and 30 per cent of the cost of the dwelling.

[1] Romanian text of the regulation in *Buletinul Oficial* No. 80, of 25 July 1951, received through the courtesy of the Legation of Romania to the United States, Washington. Summary prepared by the United Nations Secretariat.

SAAR

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

Act of 14 December 1950 to reintroduce lay judges (*Schöffen*) and jurors in the administration of criminal justice. A summary of this Act is published in the present *Yearbook*.

Act of 30 June 1951 concerning the establishment of a Chamber of Labour for the Saar. Extracts from this Act are reproduced in the present *Yearbook*.

Act of 10 July 1951 to discontinue political purge proceedings. The text of this Act is reproduced in the present *Yearbook*.

[1]This note is based on texts and information received through the courtesy of the French delegation to the United Nations.

Administrative Jurisdiction Act of 10 July 1951. A summary of this Act is published in the present *Yearbook*.

Act of 11 July 1951 concerning the Saar Miners' Association. A summary of this Act is published in the present *Yearbook*.

Act of 11 July 1951 concerning changes in sickness insurance and insurance of salaried employees. This Act is published in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 41, of 13 September 1951.

Act of 11 July 1951 concerning family allowances. A summary of this Act is published in the present *Yearbook*.

ACT TO REINTRODUCE LAY JUDGES (*SCHÖFFEN*) AND JURORS IN THE ADMINISTRATION OF CRIMINAL JUSTICE[1]

dated 14 December 1950

SUMMARY

The Act enumerates the crimes with which the Assize Court is competent to deal. Where an unlawful act is committed by a minor, the correctional division, not the Assize Court, is competent. The Assize Court is composed of three judges, including the presiding judge, and of six jurors. At least one-half of the jurors to be empanelled for a court term must be men. The judges and jurors decide jointly on the question of guilt and the penalty. A defence is mandatory in all the proceedings before the Assize Court.

The correctional division of a district court is composed of three judges and two lay judges. At least one of the lay judges must be a man. For the trial of cases involving children, a correctional children's division, whose jurisdiction covers the entire Saar, has been established at the seat of the district court. At the principal hearing of any case it is composed of three judges and two lay judges, one of whom must be a man and the other a woman. The judges and lay judges of the children's correctional division, and also the representatives of the department of public prosecutions who are concerned with cases involving children, are required to possess pedagogical qualifications and judges and lay judges decide jointly on the question of culpability and the penalty.

The section of the Act which deals with the functions and designation of lay judges and jurors specifies what persons are disqualified from acting as lay judges or jurors, what persons should not be appointed lay judges or jurors and what persons may decline to act as lay judges. The judges and lay judges are bound to secrecy with regard to the proceedings and the vote. Under the Act any juror or lay judge who in connexion with the decision wilfully violates the law in such a way as to favour or prejudice a party renders himself liable to penalties.

[1]French and German texts of the Act in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 8, of 7 February 1949, received through the courtesy of the French delegation to the United Nations. Summary by the United Nations Secretariat.

ADMINISTRATIVE JURISDICTION ACT[1]

of 10 July 1951

SUMMARY

The Act provides that administrative jurisdiction is to be exercised by independent administrative courts which are subject only to the law; these courts are: the administrative court and the higher administrative court. The Act deals with the supervision of the functions, with the composition and with the appointment of the members of these courts. The legal position of their members is governed by the legislative provisions relating to judges of the ordinary courts.

Any person who suffers a legal prejudice as a result of an order or ordinance issued by an administrative authority and dealing with the settlement of a particular case in public law, may institute administrative litigious proceedings by filing a complaint (suit of contestation): (*a*) if and in so far as the contested decision contravenes legislative provisions; (*b*) if it is based on an erroneous appraisal of the facts; or (*c*) if the facts are wrongfully misinterpreted. A person is deemed to have suffered a legal prejudice within the meaning of this provision if his personal rights are infringed or if he is required to do something which he would not otherwise be bound to do. A complaint may also be filed concerning the omission of a prescribed administrative act which the complainant believes he was entitled to demand under the legislative provisions in force. Omission is defined as the non-performance of a prescribed administrative act, if the responsible administrative authority fails to act within a time limit of three months from the receipt of the request and there are no reasonable grounds for the delay. In these circumstances, omission is equivalent to a refusal.

The Act also deals with suits to establish the existence of a right and with appeals against the orders and ordinances of lower, higher and supreme administrative authorities. These remedies and appeals operate to stay the application of the order or ordinance in question.

The general provisions regarding procedure prescribe that the provisions of the Judicative Act which deals with the publicity of the hearings, the orderly conduct of proceedings, the language to be used in the proceedings, deliberations and the vote shall be applicable by analogy to proceedings in the administrative courts. One of the procedural articles provides that the administrative court may, during an oral hearing, decide to hear a witness in private and in the absence of the interested parties and their attorneys and counsel, if there are serious grounds for thinking that the witnesses would not speak the truth in the presence of the interested parties. After such a hearing, the deposition of the witnesses must be brought to the notice of the interested parties, who (or whose representatives) are permitted to ask the witnesses any pertinent questions.

Subsequent articles deal with the formulation and content of the judgment and provide that, where an important public interest is involved, the administrative court may, upon application, amend an administrative instrument injurious to the applicant; other articles contain provisions regarding the terms and form of the judgment. A judicial appeal lies to the higher administrative court against a ruling given by the higher administrative authorities on a previous appeal. In this case, the appeal is admissible only if the contested ordinance or provision conflicts with legislative provisions or if there has been a wrongful misinterpretation of the facts. Both the interested party and the party representing the public interest may appeal against judgments of the administrative court to the higher administrative court.

[1]French and German texts of the Act in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 39, of 5 September 1951, received through the courtesy of the French delegation to the United Nations. Summary by the United Nations Secretariat.

ACT TO DISCONTINUE POLITICAL PURGE PROCEEDINGS[1]

of 10 July 1951

Art. 1. (1) No proceedings for classification in the groups of sympathizers (*Mitläufer*) and lesser offenders (*Minderbelastete*) shall be entertained after the commencement of this Act.

(2) Any decisions relating to such proceedings shall be made by the Commissioner of State attached to the higher administrative tribunal. He shall issue to the persons concerned, upon their request, a certificate concerning the discontinuance of the proceedings instituted against them.

Art. 2. Any penalties imposed on sympathizers and lesser offenders which are still in effect shall be

[1]French and German texts in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 36, of 18 August 1951. Text received through the courtesy of the French delegation to the United Nations. English translation from the French text by the United Nations Secretariat.

remitted upon the commencement of this Act. The same shall apply to decisions connected with the political purge which do not involve classification in any group. Arrears of costs shall cease to be recoverable.

Art. 3. (1) Any penalties imposed under article 17, paragraphs (*d*) and (*e*) [(*a*) and (*b*)], of the Ordinance concerning liberation from the national-socialist and militarist regime, dated 15 April 1947 (*B.O.*, p. 113), on persons officially classed in the group of guilty persons shall be remitted as of 1 July 1951.

(2) If a guilty person was last employed in the public service of the Saar or was, before the collapse of the Reich, in receipt of a pension from a fund in the Saar, his widow may receive a pension from the Government in an amount not exceeding the amount of her widow's pension, provided that the deceased did not belong to a service within the meaning of article 1 of the Act concerning the regularization of the position of civil servants and officials of the Saar, dated 31 July 1948 (*B.O.*, p. 1119), as amended by the Act of 30 June 1949 (*B.O.*, p. 738). The children of a guilty person who have lost both or one of their parents shall be eligible for an orphan's pension as from the date of the entry into force of this Act.

Art. 4. Where an official or employee is reinstated, his former connexions with national-socialism shall be taken into account in so far as these connexions afforded him special advantages. Where these circumstances are present, an official or employee who is reinstated may not be appointed to a post higher than that which he held before 1933 or, if not employed in the public service at that time, higher than one, which is in keeping with his professional capacity and training.

Art. 5. (1) Officials and employees who are members of the service but who have not yet been restored to their former posts shall, after the remission of the penalties imposed on them, be entitled to reinstatement in their former posts and to their former salary rate only if the manning table permits. When a post provided for in the manning table becomes vacant, the officials and employees concerned shall be taken into consideration, provided, however, that they fulfil the requirements prescribed for this post.

(2) In the case of any decision concerning reinstatement in their former salary group or category of the officials and employees referred to in paragraph (1) above who were demoted or whose salaries were reduced as a result of a decision connected with the political purge, article 4 shall apply by analogy.

Art. 6. Decisions relating to the political purge rendered in the *Länder* of the Federal Republic of Germany are recognized in the Saar. The Commissioner of State in charge of the political purge may, however, institute political purge proceedings if the person affected has resided in the Saar for some time and if there is a presumption of incriminating circumstances which justify his being classed in the group of guilty persons.

Art. 7. (1) Any fines paid in full or in part in pursuance of a decision relating to the political purge shall be reimbursed, even if the purge measure has been rescinded or reduced by operation of law or on appeal.

(2) Decisions relating to the political purge shall be deemed to have gone into effect upon becoming *res judicata* . . .

Art. 8. Pensioners or widows in whose case the political purge proceedings were not completed until, or until after, 1948 and who received no pension for the period preceding the entry into force of the political purge decision pronounced against them, shall only be entitled to the payment of the pensions due to them under the Civil Servants Act as from the day on which the political purge decision became *res judicata.* This provision shall not be applicable to children who have lost both or one of their parents.

Art. 9. The Minister of the Interior shall issue the necessary regulations to give effect to this Act.

ACT CONCERNING THE ESTABLISHMENT OF A CHAMBER OF LABOUR FOR THE SAAR[1]

dated 30 June 1951

ESTABLISHMENT AND HEADQUARTERS OF THE CHAMBER OF LABOUR FOR THE SAAR

Art. 1. (1) A Chamber for workers to be known as the Chamber of Labour is hereby established in the Saar, with its headquarters at Saarbruck, whose object it shall be to defend the general social and economic interests of the workers (wage-earning and salaried employees) and to encourage efforts to improve their economic and social position.

[1] French and German texts in *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 36, of 18 August 1951. Text received through the courtesy of the French delegation to the United Nations. English translation from the French text by the United Nations Secretariat.

(2) It shall not be part of the Chamber's functions to consider questions of a political nature. Similarly, the Chamber shall not be concerned with the protection of the particular economic and social interests the defence of which is the exclusive concern of professional organizations (see article 1 of the Act of 30 June 1949 relating to professional organizations of workers and employers, *Bulletin officiel*, p. 743).

Art. 2. (1) The Chamber of Labour shall be constituted as a body under public law. The Minister of Labour and Social Welfare shall be responsible for supervising the Chamber.

(2) The Chamber shall set up the machinery needed for the performance of its functions.

FUNCTIONS OF THE CHAMBER OF LABOUR

Art. 3 (1) The Chamber of Labour shall be competent to:

(*a*) Submit, in the form of reports and advisory opinions, proposals concerning the regulation of conditions of employment, the protection of labour, social insurance and the labour market, and any economic question which affects the workers and is intended to improve the social and economic position of the country;

(*b*) Express advisory opinions concerning the formation and organization of public institutions or establishments having the object of promoting industry, mining, craftsmanship, trade and transport, banking, credit and insurance business, as well as household management, agriculture and forestry;

(*c*) Advise the workers on economic and social questions of general interest;

(*d*) Co-ordinate the aims of the different workers' organizations;

(*e*) Advise the competent authorities concerning the supervision of the application of the provisions relating to employment and to industrial accidents;

(*f*) Urge the observance of the regulations relating to the prevention of occupational disease, the inspection of places of work of all kinds and the inspection of service quarters and of dwellings provided by employers;

(*g*) Co-operate in an advisory capacity, in the formulation of the conditions governing vocational training (training of apprentices and transferred workers and in-service training) and the employment of young persons and, in consultation with the competent authorities and with the bodies constituted under public law, to secure compliance with the legislative and other provisions which are in force and have been declared to be generally applicable;

(*h*) Encourage, through suitable proposals, the training of new generations of workers and appropriate measures to increase the skill of workers in employment.

(2) Before the Government submits draft legislation concerning the questions referred to in article 3 (1), the Chamber of Labour shall be given an opportunity to express its opinion. Its advisory opinions shall be communicated within a suitable time limit.

Art. 4. (1) The Chamber of Labour shall draft its rules of procedure, which shall become applicable after approval by the Ministry. The said rules shall be published in the *Bulletin officiel de la Sarre*. No amendments to these rules shall be valid unless they have been adopted by a two-thirds majority of the Chamber and approved by the competent Ministry.

(2) Every six months, the Chamber of Labour shall submit to the Government of the Saar and to the competent Ministry a report containing its observations on the organization of the labour market and conditions of employment, on the economic and social position of workers and on all institutions set up to improve their position.

COMPOSITION AND STRUCTURE OF THE CHAMBER OF LABOUR

Art. 5. (1) The Chamber of Labour shall consist of thirty members elected for a term of four years by direct and secret ballot.

(2) Candidates may be nominated only by recognized workers' organizations, qualified to conclude collective agreements within the meaning of the Act of 30 June 1949 relating to professional organizations of workers and employers (*Bulletin officiel*, p. 743).

(3) If several lists of candidates are presented, the election shall proceed according to the rules of proportional representation.

Art. 6. The members of the Chamber of Labour shall hold office in an honorary capacity.

Art. 7. (1) At least once every two months, a meeting of the Chamber of Labour shall be convened by its executive committee. It shall be summoned in extraordinary meeting whenever one-third of the members so request.

(2) The Minister shall be invited to attend meetings and shall be entitled to a hearing.

(3) The agenda shall be communicated to the members in writing before the meeting. Any question declared to be urgent by a decision of the Chamber may be discussed without prior notification.

Art. 8. Decisions taken by the Chamber shall be valid if adopted at a meeting which is properly convened and at which at least half the members are present. The decisions of the Chamber shall be adopted by a simple majority, except as otherwise provided in this Act.

Art. 9. (1) The Chamber may appoint committees to make preliminary studies of problems and to report back to the Chamber.

(2) The Chamber may entrust specific tasks to special committees.

(3) The committees shall be constituted according to the rules of proportional representation.

Art. 10. (1) The executive committee of the Chamber, elected by and from among the members of the plenary assembly, shall consist of a chairman, two vice-chairmen and two assessors. For the election of the chairman a two-thirds majority shall be required.

(2) The other members of the executive committee shall be elected by a simple majority; however, if several lists of candidates are presented, the election shall proceed according to the rules of proportional representation. In the latter case, for the purpose of determining on what different lists the members of the committee shall be placed, the chairman already elected shall be placed on the list from which he was elected a member of the Chamber. Re-election shall be permissible.

Art. 12. (1) The executive committee shall be responsible for the observance of the legislative provisions, for the performance of the functions of the Chamber and for the application of its decisions . . .

ELECTORAL PROVISIONS

Art. 15. (1) Every worker under a contract of employment in an undertaking located in the Saar, who has completed his eighteenth year and has not forfeited his electoral right in general, shall be entitled to participate in the election. Workers who have been unemployed continuously for one year at the date of the announcement of the election may not take part.

(2) For the purposes of this Act, the term "worker" shall not include members of the board of directors and other legal representatives of bodies corporate or of bodies constituted under public or private law; directors and officers largely responsible for the management of an undertaking; managers and heads of undertakings who have the power to engage or dismiss others employed in the undertaking or who hold a power of attorney or general powers; relatives of the employer in the first and second degree; administrative heads; senior officials; trustees; persons who work primarily not for the sake of earning a salary, but either wholly or principally for the purpose of recuperation, rehabilitation, moral regeneration or education, or whose object in working is wholly or principally of a charitable, religious, scientific or artistic nature.

(3) Paragraph (2) shall not apply to the members of executive committees, legal representatives and senior officials of workers' organizations.

Art. 16. Every citizen of the Saar who qualifies as an elector under the terms of article 15, has completed his twenty-fourth year at the time of the announcement of the election, and has been gainfully employed in the Saar for not less than two years, shall be eligible as a member of the Chamber.

Art. 18. Regulations governing the election shall be promulgated by an order of the Minister of Labour and Social Welfare.

GENERAL PROVISIONS

Art. 19. (1) The Chamber of Labour shall, within the limits of its competence, furnish all information required by the authorities and assist the latter in the performance of their functions.

(2) The Chamber may, through the Statistical Office of the Saar, and in conformity with the principles laid down by the Act of 25 June 1949, which regulates the Saar Statistical Service (*Bulletin officiel*, p. 865), request information from undertakings and administrations, particularly statistics relating to industrial operations, in so far as this information is necessary for the performance of its functions and the request does not conflict with the clear interests of the undertaking.

(3) In cases of dispute, the Government of the Saar shall give a ruling.

Art. 21. (1) So as to be able to perform its functions, the Chamber of Labour shall levy a contribution from all workers as defined in article 1 interpreted in conjunction with article 15, with the exception of apprentices, transferred workers and trainees. Employers shall be bound to deduct the amount of these contributions from workers' wages and to remit them.

(2) The amount of the contributions shall be fixed by the Chamber of Labour with the approval of the Ministry.

(3) The procedure for the levying of contributions shall be regulated by the Minister of Labour and Social Welfare in consultation with the Minister of Finance and Forests.

. . .

TRANSITIONAL PROVISIONS

Art. 24. (1) Pending the constitution of a Chamber of Labour by means of general elections, the Minister of Labour and Social Welfare shall establish a committee responsible for undertaking forthwith the technical organization of the Chamber—in particular, preparing a provisional budget and temporarily performing the functions vested in the Chamber by this Act.

(2) The members of this committee shall be appointed upon the nomination of the most widely representative workers' trade unions (organizations within the meaning of article 6 of the Act of 30 June 1949 concerning professional organizations of workers and employers, *Bulletin officiel*, p. 743).

(3) These transitional provisions shall cease to have effect not later than 31 December 1951.

ACT CONCERNING THE SAAR MINERS' ASSOCIATION[1]

of 11 July 1951

SUMMARY

The insurance provided for in this Act applies to the paid personnel of mining companies in the Saar and to certain other categories of workers—in particular the employees of the Saar Miners' Association (*Saarknappschaft*) and the employees of the trade unions in which the workers of mining enterprises are organized. The insurance includes miners' sickness and miners' pension insurance, insurance against industrial accidents in the mines and sickness insurance for pensioners of the Miners' Association.

The Saar Miners' Association, an organization under public law, is the agency in charge of the insurance. It adopts its own articles of association, which must, *inter alia*, provide for measures concerning supplementary benefits under the miners' sickness insurance and the sickness insurance for pensioners of the Miners' Association and concerning the utilization of the funds paid to it under the Convention between France and the Saar of 3 March 1950 respecting the operation of mines in the Saar.

The Act defines the obligations under the miners' sickness and miners' pension insurance schemes. The latter scheme comprises the following regular benefits: Miners' Association disability pension, Miners' Association general disability pension, special allowance (*Knappschaftssold*), survivors' pension, therapeutic treatment, reimbursement of contributions to insured persons of the female sex in the event of marriage, payment of a lump sum to widows in the event of re-marriage. The special allowance is granted to insured persons over fifty years of age who have paid contributions for not less than 300 months, including contributions in respect of not less than 180 months of employment underground.

[1]French and German texts in the *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 40, of 7 September 1951, received through the courtesy of the French delegation to the United Nations. The Act came into force with retrospective effect to 1 June 1951. Summary by the United Nations Secretariat.

The Saar Miners' Association carries out the accident insurance scheme in accordance with the provisions of the Social Insurance Code. The provisions of this code also apply to the Saar Miners' Association as an agency in charge of sickness insurance. The rate of the contributions payable to the miners' pension insurance scheme is 23 per cent of the wages on the basis of which the contributions are computed, 9 per cent being paid by the worker and 14 per cent by the employer. In order to cover the cost of the operation of the pension scheme, the Saar Government grants a yearly subsidy amounting to 52 per cent of the pension benefits plus any funds which may be necessary, in addition to the contributions, to guarantee the benefits.

The organs of the Saar Miners' Association are the executive board and the general assembly. The general assembly is composed of the "veterans" among the wage-earning and salaried employees and of representatives of the employers. The number of votes of the employers' representatives equals one-third of the total number of votes. The executive board is composed of eight representatives of the insured persons and four representatives of the employers. The members of the executive board are elected by the general assembly from lists drawn up by the professional organizations of employees and employers in accordance with the rules of proportional representation. Insured persons and employers vote separately. Only persons who are over twenty-four years of age and who fulfil the conditions stipulated in the articles of association may be elected to the executive board and the general assembly. Insured persons and beneficiaries who are over eighteen years of age and who enjoy civil and civic rights elect, by direct and secret ballot, and in keeping with the rules of majority voting, the "veterans" from among the wage-earning and salaried employees, on the basis of the lists drawn up by the professional organizations.

ACT CONCERNING FAMILY ALLOWANCES[1]

of 11 July 1951

SUMMARY

This Act establishes the Family Allowances Fund as the agency in charge of family allowances; the fund's organs are the representative assembly and the executive board. Employers and those wage-earning and salaried employees who have the right to vote elect, respectively, fifteen delegates to the representative assembly. Five delegates from each of these groups are elected members of the executive board by the representative assembly from among its own members. All employers liable to the payment of compulsory contributions to the fund and their wage-earning and salaried employees who are subject to compulsory insurance have the right to vote in the elections of members of the representative assembly; they must have completed their eighteenth year. Employers and those wage-earning and salaried employees who have the right to vote may be elected to the organs of the fund, provided that they have completed their twenty-fourth year and are permanently resident in the Saar.

The contributions payable by employers are based on the wages of their employees who are compulsorily subject to sickness insurance, to the wage-earning or salaried employees' disability and old-age insurance or to the miners' disability and old-age insurance. The contributions are payable solely by the employers.

The family benefits granted by the fund include: (1) allowances to the wife or subsistence allowance; and (2) children's allowance. All benefits paid under the Act are tax-exempt. Article 37 reads as follows:

"(1) The children's allowance shall be paid in respect of each child who falls within one of the categories defined below:

"1. Legitimate children;

"2. Legitimated children;

"3. Adopted children;

"4. Natural children of a beneficiary of the male sex whose paternity has been established, even if they are legally considered to be the legitimate children of a woman whose husband is a prisoner of war or missing, provided that in such cases they do not receive an orphan's allowance or any other survivors' benefit;

"5. Natural children of a female beneficiary, where the person proved to be the father is not entitled to a children's allowance (pay increase in respect of children);

"6. Children of a previous marriage, where they are members of the beneficiary's household and where their own father or mother is not entitled to a children's allowance (pay increase in respect of children);

"7. Grandchildren and wards who are members of the household, where their own father or mother is not entitled to a children's allowance (pay increase in respect of children) and is unable to provide for the children's maintenance;

"8. Brothers and sisters of the beneficiary who are dependent on him for their main support and who have not attained the age of sixteen years, or who, if over this age,

"(*a*) Are pursuing their studies or are receiving vocational training,

"(*b*) Keep house instead of the wife, where the latter is incapacitated owing to illness for more than ninety days,

"(*c*) Devote themselves exclusively, as sole helpers of the mistress of the house, to housekeeping or to the bringing up of not less than four children, provided that the beneficiary is entitled to allowances in respect of the said children,

"(*d*) Are unable, owing to some physical or mental deficiency, to provide for their own maintenance. Sickness involving incapacity to work shall be deemed to be the equivalent of physical or mental deficiency if it lasts longer than twenty-six weeks . . ."

The Act also contains provisions for its application and stipulates that appeals against the decisions of the Family Allowances Fund may be brought before the Higher Insurance Office, which decides in first instance. Appeals against the decisions of the latter may be brought before the Central Insurance Office for the Saar, whose decisions are final.

[1] French and German texts of the Act in the *Bulletin officiel de la Sarre—Amtsblatt des Saarlandes* No. 41, of 13 September 1951, received through the courtesy of the French delegation to the United Nations. Summary by the United Nations Secretariat.

SALVADOR

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS

Hours of Work and Weekly Rest Act of 22 January 1951. A summary of this Act is published in the present *Yearbook.*

Act of 1 June 1951 amending the Act concerning individual contracts of employment in commercial and industrial undertakings and establishments. Decree No. 265, by which the Amendment Act was promulgated, is published in *Diario Oficial* No. 101, of 1 June 1951. The Amendment Act modifies sections 15 and 35 of the principal Act of 1949, published in: International Labour Office, *Legislative Series*, 1949—Sal. 1. The complete text of the Amendment Act is published *ibid.*,—Sal. 2.

Industrial Associations Act of 21 August 1951. A summary of this Act is published in the present *Yearbook.*

Holidays Act of 3 September 1951. This Act was promulgated by decree No. 387. It is published in *Diario Oficial* No. 165, of 6 September 1951 and came into operation on 14 September 1951. It provides that remuneration for a public holiday shall be reckoned in conformity with the rules laid down in the Hours of Work and Weekly Rest Act (see the summary below), subject to certain conditions. If a person works on a public holiday by agreement with his employer, he is entitled to the ordinary remuneration for the hours of work performed. In undertakings performing public services, those employees designated by the undertaking shall be obliged to remain at their posts to ensure that the service shall not be interrupted and shall function to the extent necessary. The complete test of the Holidays Act is published in: International Labour Office, *Legislative Series*, 1951—Sal. 4.

HOURS OF WORK AND WEEKLY REST ACT[1]

of 22 January 1951

SUMMARY

The Act provides that the ordinary effective working day shall not exceed eight hours in the case of day work or seven hours in the case of night work. Day work is work performed between 6 a.m. and 8 p.m. The ordinary effective working day for young persons under sixteen years of age shall not exceed six hours. Young persons under eighteen years of age shall not do night work. The working week shall not exceed forty-eight hours of effective work in the case of day work or thirty-nine hours in the case of night work. The working week of young persons under sixteen years of age shall not exceed thirty-six ordinary hours in any class of work. "Effective work" means the time during which the employee is at the disposal of the employer.

Every worker shall be entitled to one paid rest day for every week of work. Any worker who does not complete his working week without good reason is not entitled to this remuneration. All employees shall be entitled to their basic remuneration on the rest day. Employees who work on the day prescribed by law or by their contract as the weekly rest day shall be entitled to extra remuneration of not less than 50 per cent in respect of the hours worked. Employees who work on the rest day shall have the right to a compensatory rest day in the same working week or the next.

[1] Spanish text in *Diario Oficial* No. 22, of 1 February 1951. The Act was adopted on 22 January and signed by the President on 25 January 1951. It came into force eight days after publication in the *Diario Oficial*. An English translation of the complete text has been published in: International Labour Office, *Legislative Series*, 1951—Sal. 1. Summary prepared by the United Nations Secretariat.

INDUSTRIAL ASSOCIATIONS ACT[1]

of 21 August 1951

SUMMARY

The Act lays down among its basic provisions that all office workers in private enterprise and all manual workers over fourteen years of age, without distinction as to nationality, sex, race, creed or political ideas, shall have the right to associate freely in the defence of their common economic and social interests by forming occupational associations or unions; but in no case shall they be members of more than one such association. The Act does not apply to agricultural or domestic workers.

The Act lays down the functions of an industrial association, among which it lists the right to conclude contracts of employment and collective agreements in accordance with the law; to represent its members at their written request in the exercise of rights arising from individual contracts of employment; to see to the strict observance of labour laws, regulations, contracts and collective agreements; to establish, administer and subsidize institutions, establishments or mutual benefit societies for its members; to promote good relations between employers and employees, and in general to undertake all such activities as contribute to the realization of its essential purposes and are not contrary to the law.

The law recognizes works unions, craft unions and industrial unions as three categories of industrial association, and lays down rules on the constitution of unions, their legal personality—to be granted on recognition by the Executive, through the Department of Labour—the management of industrial associations, which shall be in the hands of the meetings and boards of management, and shall refrain from prohibited activities. They shall not undertake any activities tending to restrict liberty of employment or personal liberty, and especially any intervention as organized bodies in religious disputes or party political activities—a restriction which does not imply, however, any limitation of the rights of members as citizens. Likewise any subversive activities or activities contrary to the democratic regime established by the political Constitution are forbidden. Unions are not allowed to take any action to prevent non-members from carrying out their work or to force non-members by threats or violence or other means apart from legitimate propaganda or persuasion to join the organization, or to obstruct members by such means from leaving the association or joining another association or freely entering into individual contracts of employment which do not affect the collective contracts of employment or collective agreements already entered into. The Act also prevents any declaration or encouragement of strikes on the grounds of solidarity or any encouragement to criminal acts against persons or property.

No member of the board of management of an industrial association may be dismissed, removed or down-graded during the time of his election or his mandate, except for good reasons previously explained before the departmental labour office and inspectorate. An employer who, during the year following the formation of the association, dismisses or down-grades a number of permanent employees who are members of the association, so as to change the proportion of members and non-members of the association within the undertaking, shall be presumed to interfere with the right of his employees to organize unless he gives good reasons before the departmental labour inspector for the dismissal or down-grading. Every undertaking employing members of an association of any category shall be bound to deduct from their wages or salaries the contributions payable and to forward the contributions to the associations concerned.

[1] Spanish text in *Diario Oficial* No. 152, of 24 August 1951. The Act was promulgated by decree No. 353. It was adopted on 13 August and signed by the President on 21 August 1951. An English translation of the complete text has been published in: International Labour Office, *Legislative Series*, 1951—Sal. 3. Summary prepared by the United Nations Secretariat.

SAUDI ARABIA

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

No new developments in the field of human rights are to be recorded in the year 1951.

[1]Information received through the courtesy of Mr. Jamil M. Baroody, Alternate Representative of Saudi Arabia to the United Nations.

SWEDEN

LEGISLATION

ACT No. 680 CONCERNING FREEDOM OF RELIGION[1]

of 26 October 1951

FREEDOM OF RELIGION

Art. 1. Everyone shall be entitled to practise his religion freely so long as he does not thereby disturb the peace or cause a public nuisance.

Art. 2. Everyone shall be free to meet with and join other persons for purposes of religious fellowship.

Art. 3. Public religious services shall be subject only to such restrictions as generally apply to meetings to which the public is admitted.

Art. 4. No one shall be compelled to belong to a religious denomination. Any agreement contrary to this provision shall be null and void.

The expression "religious denomination" means, in addition to the Church of Sweden, any association exercising religious activities including the holding of services.

Art. 5. A monastery or convent may be established only with the consent of His Majesty and subject to such conditions as he prescribes.

No one may be received into a monastery or convent until he has attained twenty-one years of age.

His Majesty may revoke his consent if the activities of the monastery or convent contravene a law or regulation or a condition prescribed by His Majesty or if the monastery or convent is administered in a manner manifestly contrary to what was foreseen when the said consent was given.

MEMBERSHIP IN THE CHURCH OF SWEDEN

Art. 6. Only a Swedish national or an alien resident in Sweden may be a member of the Church of Sweden.

Art. 7. A child born in wedlock shall become a member of the Church of Sweden at birth if both his parents are members of the Church.

The foregoing provision shall also apply where one only of the parents is a member of the Church: provided that the child shall not in such case be considered to have become a member of the Church if within six weeks from the date of his birth his parents, or if they do not have joint custody the parent having custody, give notice to the pastor of the parish in which the child is to be registered that the child is not to become a member of the Church. If in a case as aforesaid the parents, before the marriage or at any time before the child's birth, have agreed in writing and in the presence of witnesses that the child is not to be a member of the Church, either parent may give such notice even though the other parent also has custody.

Art. 8. A child born out of wedlock shall become a member of the Church of Sweden at birth if his mother is a member of the Church.

A child who has not become a member of the Church as provided in paragraph 1 and by the marriage of his parents to each other is legitimated before he attains the age of twelve years shall become a member of the Church upon the marriage of his parents to each other if one parent is a member of the Church: provided that the child shall not be considered to have become a member of the Church if within six weeks from the date of the marriage his parents, or if they do not have joint custody the parent having custody, give notice to the pastor of the parish in which the child is registered that the child is not to become a member of the Church.

Art. 9. A person who acquires Swedish nationality and is not a member of the Church of Sweden shall, without being required to make special application, be deemed to have become a member of the Church if he is of the Evangelical Lutheran faith: provided that this provision shall not apply if the said person notifies the pastor of the parish in which he is registered that he does not wish to become a member of the Church.

Art. 10. If a person to whom the foregoing provisions do not apply wishes to become a member of the Church of Sweden, he shall apply to the pastor of the parish in which he is registered.

If the applicant gives evidence that he was baptized according to the rite of the Church of Sweden, he shall be received into the Church. The same provision shall apply if the applicant has received such instruction in

[1] Swedish text in *Svensk Författningssamling* No. 680. English translation from the Swedish text by the United Nations Secretariat. The Act came into force on 1 January 1952.

the doctrines of the Church as ought to be required having regard to his age and other circumstances and if he states before the pastor that his application is based on serious religious reasons.

Art. 11. If a member of the Church of Sweden no longer wishes to belong to the Church, he shall personally notify his withdrawal to the pastor of the parish in which he is registered.

Art. 12. If a person is in the custody of another and has not attained eighteen years of age, the application or notice referred to in article 9, 10 or 11 shall be made or given by the person having custody. Such application or notice in respect of a child who has attained fifteen years of age shall be made or given only if the child gives his consent. The provisions of article 10, second paragraph, respecting the statement to be made before the pastor shall not apply where an application for membership in the Church of Sweden is made on behalf of a person in the custody of another person by the person having custody.

This Act shall come into force on 1 January 1952.

A person who is a member of the Church of Sweden when this Act comes into force shall continue to be regarded as a member as long as he fulfils the requirements for membership specified in article 6 and has not in the prescribed manner given notice of his withdrawal.

If in the circumstances referred to in article 7, second paragraph, the parents have made an agreement as therein referred to and the agreement has been drawn up in writing before this Act comes into force and has before the marriage been produced to the person performing the marriage, then the provisions of the said paragraph respecting such agreement shall apply even though the agreement was not witnessed.

Such provisions of laws or regulations as refer to foreign religious denominations and their members shall, after this Act comes into force, refer to any religious denomination other than the Church of Sweden and to the member of any such denomination.

ACT No. 682 TO AMEND CHAPTER 11, ARTICLE 8, OF THE PENAL CODE[1]

dated 26 October 1951

. . .

Art. 8. Any person who publicly insults anything held sacred by the Church of Sweden or by any other religious denomination active in Sweden shall be guilty of an offence against freedom of religion and punished by a fine or by imprisonment.

. . .

[1] Swedish text in *Svensk Författningssamling* No. 682. English translation from the Swedish text by the United Nations Secretariat. The Act came into force on 1 January 1952.

JUDICIAL DECISIONS

RIGHT OF THE FAMILY—RIGHT OF THE CHILD TO PSYCHIC HEALTH—REPATRIATION OF CHILDREN CARED FOR IN SWEDEN DURING WORLD WAR II—LAW OF SWEDEN

T. *v.* E.

Supreme Court of Sweden[1]

28 February 1951

The facts. Following the deportation of the family T., a Norwegian couple, from Sweden to Norway in February 1948, the Child Care Committee in Upsala, with the approval of the governor of the province, decided to board out the deported couple's daughter to a family E., a farmer and his wife, for protective upbringing. The child, born on 8 September 1945, had been a public ward since July 1946.

On 25 August 1949, the Child Care Committee rejected the request of the child's parents for the return of their daughter. The father then appealed to the governor of the province, who asked the Committee for an explanation. Thereupon the Committee, in October 1949, reversed its previous decision and granted the father's application. The foster parents, however,

[1] Shortened summary from *Nytt Juridiskt Arkiv*, Vol. 1, 1951, No. 28.

refused to surrender the child, and the father then requested the assistance of the governor of the province for his daughter's return to her family.

On the governor's request, the child was examined by the chief physician of the psychiatric ward for children at the University Hospital in Upsala. In an opinion of 8 June 1950, the chief physician stated that the child's attitude towards her foster parents appeared to be very good and that the foster mother seemed to be attached to the girl and to be very understanding of certain peculiarities in her manners and behaviour. The girl was aware of the plan to return her to Norway and was noticeably worried about the impending change. The fact that children of this age show anxiety over being moved to completely new surroundings should not, *per se*, be a hindrance to such a transfer, since they normally possess the ability to adjust themselves to a new environment. However, because of deviations which the girl had shown from normal child behaviour, it must be assumed that a transfer would be a greater hardship for her than for other children. A mistake might, for children of this type, create long-lasting obstructions to their continued psychic development. For that reason it would be desirable, in the physician's opinion, that the girl remain in her present environment.

The governor of the province thereupon decided, on 26 June 1950, that the father's request for assistance could not be granted, since the medical examination indicated that forced transfer of the girl from her present home might cause serious injury to her psychic health.

Upon appeal by the girl's parents, the Svea Court of Appeals, in a judgment of 23 September 1950, upheld the decision of the governor of the province. The parents appealed to the Supreme Court against this judgment.

Held: The appeal should be granted. The court held that the girl's parents were entitled to receive the assistance of the proper authorities to secure their daughter's return. In the opinion of the local Norwegian Child Care Committee, nothing in the parent's behaviour afforded grounds to keep them separated from the child; nor did conditions in their home warrant the withholding of such assistance. Though the foster parents had asserted that the transfer of the child to her parent's home in Norway might seriously injure her psychic health, neither the medical statement nor other testimony supported the assumption that this risk was grave enough to justify the denial of assistance to the parents for return of the child.

RIGHT OF THE FAMILY—RIGHT OF THE CHILD TO PSYCHIC HEALTH—REPATRIATION OF CHILDREN CARED FOR IN SWEDEN DURING WORLD WAR II—LAW OF SWEDEN

V. *v.* W.

Supreme Court of Sweden

7 March 1951

The facts. In October 1941, a Swedish citizen, Mr. W., through the intermediary of the Committee for Aid to Finnish Children, accepted into his care the three-year-old daughter of a Finnish citizen. The child has lived in Sweden since that time in the care of the Swedish family as a foster child.

For certain reasons, the child was not repatriated to Finland by means of the transportation arranged by the Aid Committee after the end of the war. On 28 July 1947, W. signed a statement by which, *inter alia*, he undertook to continue caring for the child until conditions in her home facilitated her return to Finland or until other steps were taken for her future. He furthermore agreed to defray the expenses for her home journey whenever her legal guardian so desired.

In the autumn of 1948, on the refusal of W. to repatriate the child, the Committee for Aid to Finnish Children requested the assistance of the administrative authorities for her repatriation. On 28 February 1949, the Aid Committee's request was rejected on the grounds that at that time it would be injurious to the psychic health of the child to be removed from her foster parents and transferred to Finland. She was then twelve years old.

Thereupon, Mrs. V., the child's mother, instituted proceedings against W. in Södertorns Judicial District Court, asking that W. be instructed to surrender her child. She declared that she had left the child to the foster parents in Sweden because her husband had fallen in the war of 1940 and she had been living under very poor conditions, but that she was now able to care for her daughter. The defendant contended it would be injurious to the child's psychic health if she were returned to her mother. The child had reached the age of puberty and under no circumstances did she wish to return to her mother.

[1] Shortened summary from *Nytt Juridiskt Arkiv*, Vol. 1, 1951, No. 26.

The district court rejected the plaintiff's request, holding, on the basis of the testimony of the defendant and that of a licensed physician that it would be extremely dangerous to the child's psychic health to leave her foster parents and to return to her mother against her own wishes.

The Svea Court of Appeals, to which the mother of the child appealed, by a judgment of 5 October 1950 invalidated the decision of the district court and ordered W. to surrender the child to her mother. W. appealed to the Supreme Court.

Held: The appeal should be granted. The child should not be surrendered to her mother against her will. From October 1941, when she was only three years old, the child, now twelve years of age, has lived in W.'s home, where on special request, she was allowed to remain while most Finnish children who had been sheltered in Sweden during the war years were repatriated to Finland. She has enjoyed extremely good and affectionate care and is warmly attached to the W.s, whose home she considers as her own.

The child, who is very well developed for her age—according to a medical certificate she has reached the age of puberty—has firmly opposed being returned to her mother. In fact, she has shown a definite attitude of rejection in her relations with her mother which has developed into a kind of aversion to her mother. Credence must be given to W.'s assurance that he and his wife have never tried to foster this attitude in the child, but—on the contrary—have been ready to facilitate her return to her mother.

If such a child is forcibly transferred to the custody of another person, this can inflict grave psychic injury upon her. Although the right of the legal guardian to have custody of and bring up a child should be curtailed only with great caution, under certain circumstances, equal consideration must be given to an injury of this kind. In this case the harm done to the child would be exceptionally great. The foster child's relations with the W.s have covered an extended period; during all these years, except for a brief interval, the child had no contact with her mother, who, therefore, has been largely a stranger to her daugher, has shown only a casual interest in her, and is unfamiliar with the Swedish language, while the child does not know Finnish. By her behaviour towards the child during her visit to Sweden in 1948, the mother even jeopardized, to a certain extent, the possibilities for the creation of amicable relations with her daugher. That a serious danger to the child's psychic health exists if at her sensitive age she is forcibly returned to her mother is supported by statements of physicians who have examined her.

SWITZERLAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. CONFEDERATION

A. *Protection of Life and Health*

Order of the Federal Council, dated 13 June 1951, concerning the Swiss Red Cross. A summary of this order is published in this *Yearbook*.

B. *Social Welfare and Social Insurance*

Order of the Federal Council of 20 April 1951 to amend the regulations governing the application of the Federal Old-age and Survivors' Insurance Act. A summary of articles 48 and 49 of this order is published in this *Yearbook*.

Order of the Federal Council, dated 29 September 1950, granting additional subsidies to recognized sickness insurance schemes for 1950, 1951 and 1952.

Federal order of 20 November 1951 to amend articles 27 and 28 of ordinance No. I governing the application of the Federal Act concerning hours of work on the railways and other transport and communications undertakings.

Federal order of 30 March 1951 approving the convention between Switzerland and Austria respecting social insurance. The convention was concluded at Berne on 15 July 1950 and became operative on 1 September 1951. Under this convention, Swiss and Austrian nationals enjoy the benefit of reciprocity, except as otherwise provided in the convention, with respect to the rights and duties arising out of social insurance schemes (old-age, survivors' and accident insurance in Switzerland; workers' pension schemes, salaried employees' pension schemes, mine-workers' pension insurance schemes and accident insurance in Austria).

Federal order of 11 April 1951 approving the convention between Switzerland and the Federal Republic of Germany respecting social insurance. This convention was concluded at Bonn on 24 October 1950 and came into force on 1 July 1951. It applies to all legislation at present in force or to come into force subsequently in either country respecting the risk of invalidity and incapacity for carrying on work in any occupation, the risk of old age and death and the risk of accident and disease caused by the occupation. Swiss and German nationals are placed on the same footing with respect to the rights and obligations arising out of the social insurance schemes of each of the two contracting parties, unless the convention and the protocol annexed thereto provide to the contrary.

C. *Economic Protection*

Federal Act of 22 June 1951 concerning the employment service. Extracts from the Act are published in this *Yearbook*.

Federal Act of 22 June 1951 concerning unemployment insurance. A summary of the essential provisions of this Act is published in the present *Yearbook*.

Federal orders of 26 October 1950 and 22 June 1951 respectively. The order of 26 October 1950 makes fresh funds available for the continuation of Federal assistance to the hotel industry. The order of 22 June 1951 deals with measures to safeguard the existence of the Swiss watchmaking industry.

Order of the Federal Council dated 21 December 1950. This order sets up a Nationalization Compensation Board and an Appeals Board. The Compensation Board is responsible for giving effect to the international agreements under which the Confederation is to receive global sums payable by way of compensation out of which the claims of Swiss nationals who have suffered loss as a result of nationalization are to be satisfied. An appeal from this Board's rulings lies to the Appeals Board, whose decisions are final.

D. *Education*

Ordinance No. III of 14 February 1951 giving effect to the Federal Vocational Training Act.

E. *Legal Protection*

Federal Act of 5 October 1950 to amend the Swiss Penal Code. Extracts from this Act were published in the *Yearbook on Human Rights for 1950*, p. 269. The Act came into force on 5 January 1951.

Federal Act of 21 December 1950 to amend the Military Penal Code and the Federal Army Judicial Organization and Criminal Procedure Act. Extracts from the Act are published in this *Yearbook*.

Order of the Federal Council, dated 15 May 1951, to give effect to the Military Penal Code and the Federal Army Judicial Organization and Criminal Procedure Act.

[1] This note is based on texts and information received through the courtesy of the Federal Political Department of the Swiss Confederation. The Secretariat also expresses its gratitude to the cantonal authorities for their co-operation in the matter of cantonal legislation.

F. *Political Rights*

Federal Act of 5 October 1950 to amend the legislation governing the procedure to be observed in applications arising out of the people's intitiative and votes concerning the revision of the Federal Constitution.

II. CANTONS

A. *Protection of Life and Health*

Basle-Town: Act of 9 February 1950 making a cantonal grant to nursing mothers. This Act, followed by an ordinance to give effect thereto dated 31 March 1950, came into force with immediate effect.

Fribourg: Control of Tuberculosis Act of 17 May 1951. This Act was promulgated by the Council of State of the Canton of Fribourg on 29 December 1951. Its object is to bring cantonal legislation into line with the relevant federal provisions (Federal Act of 13 June 1928). The Act contains rules concerning detection, prophylaxis, protection of the health of children and adolescents, and domestic hygiene.

Solothurn: Control of Tuberculosis Act of 8 July 1951. A summary of the Act is published in this *Yearbook.*

B. *Social Welfare and Social Insurance*

Basle-Town: Ordinance of 9 February 1950 concerning sickness insurance and the public sickness insurance fund of the Canton of Basle-Town. This ordinance was approved by the Federal Council on 12 December 1950 and came into force on 1 January 1951. The Public Sickness Insurance Fund Act to which this ordinance relates is that of 11 November 1943. The ordinance specifies the benefits for the various categories of insured persons (daily allowances, hospitalization, maternity) and the rules governing contributions and collective insurance.

Fribourg: Public Relief Act of 17 July 1951. A summary of the Act is published in this *Yearbook.*

St. Gall: Ordinance of 29 June 1951 concerning old-age and survivors' benefits. This ordinance was approved by the Federal Council on 2 August 1951 and came into force with retrospective effect from 1 January 1951. It is based on article 18 of the Act of 23 February 1948 to extend to the canton the Federal Old-age and Survivors' Insurance Act.[1] The ordinance specifies what categories of persons qualify for the benefits and contains provisions on administrative organization and the resources for financing such assistance.

Vaud: Act of 12 December 1951 concerning the Pensions Fund of the Canton of Vaud. This law was enacted with retroactive effect from 1 January 1948. The Act established a general pensions fund for the purpose of insuring persons holding public cantonal appointments, and their heirs, against the financial consequences of old age, disability and death. The Act describes the resources of and the benefits paid by the fund and contains, *inter alia*, provisions relating to savings deposits and a provident fund. Insured persons may appeal to the cantonal insurance court against decisions by the governing body granting or refusing them benefits.

C. *Economic Protection*

Schwyz: Holidays Act of 19 February 1950. A summary of the Act is published in this *Yearbook.*

A number of cantons have promulgated Acts or ordinances in pursuance of the Federal Unemployment Insurance Act of 22 June 1951. The following may be mentioned:

Solothurn: Ordinance of 28 December 1951 concerning unemployment insurance.

Thurgau: Ordinance of 17 December 1951 to give effect to the Federal Unemployment Insurance Act of 22 June 1951.

Regulation of 17 December 1951 concerning the procedure to be followed in appeals relating to unemployment insurance.

Vaud: Order of 28 December 1951 containing provisional regulations concerning the application of the Federal Unemployment Insurance Act of 22 June 1951.

D. *Education*

Basle-Rural: Regulation of 11 May 1951 concerning domestic science schools in the Canton of Basle-Rural. This Act came into force on the first day of the 1951–1952 school year.

Fribourg: Secondary Education Act of 14 February 1951. This Act was promulgated by the Council of State on 7 April 1951.

Neuchâtel: Act of 29 October 1951 to amend the Occupational Training Act. The Act was promulgated by the Council of State on 19 December 1951.

E. *Political Rights*

Ticino: Act of 15 April 1951 to amend article 31 of the Constitution of 2 July 1892. This Act was promulgated by the Grand Conseil on 1 February 1951 and was adopted by a referendum held on 8 and 15 April 1951. It was published in the *Bollettino ufficiale delle leggi e degli atti esecutivi* and came into force immediately. The amendment alters the rules of procedure for referenda.

[1] See *Yearbook on Human Rights for 1948*, pp. 193–195.

Federal Legislation

FEDERAL ACT TO AMEND THE MILITARY PENAL CODE AND THE FEDERAL ARMY JUDICIAL ORGANIZATION AND CRIMINAL PROCEDURE ACT[1]

dated 21 December 1950

I. MILITARY PENAL CODE[2]

Art. 109. Any person who contravenes the provisions of international conventions on the conduct of war and for the protection of war victims shall be punished for violation of military duty in accordance with article 72, save where more severe provisions of the present code apply.

Art. 110. Any person who wrongfully uses the emblem or protection of the Red Cross, the Red Crescent, or the Red Lion and Sun for preparing or carrying out hostilities shall be punished by imprisonment. In serious cases, the penalty shall be rigorous imprisonment.

Art. 111. (1) Any person who commits a hostile act against persons under the protection of the Red Cross, the Red Crescent, or the Red Lion and Sun, and any person who, during hostilities, destroys or damages any material under the protection of the Red Cross, the Red Crescent, or the Red Lion and Sun, shall be punished by imprisonment.

(2) Disciplinary action shall be taken in the case of minor offences.

Art. 145. (1) Any person who, speaking to a third party, accuses or throws suspicion upon another person of dishonourable conduct or of any other fact liable to harm his reputation, and any person who spreads such an accusation or suspicion, shall, on a complaint being lodged by the injured party or by the body competent to order an inquiry, be liable to a term of imprisonment not exceeding six months or to a fine.

(2) Disciplinary action shall be taken in the case of minor offences.

(3) The accused shall incur no penalty if he proves that the allegations he has uttered or spread are justified by the facts, or that he had serious reason for believing in good faith that they were true.

(4) The accused shall not be allowed to offer such proof, and he shall be punishable, if the allegations have been uttered or spread without consideration for the public interest or without other adequate motive, the main purpose having been to speak ill of others, especially if the allegations concern private or family life.

(5) If the accused admits that his allegations are false and withdraws them, the judge may reduce his sentence or exempt him from any penalty whatever.

(6) If the accused does not prove the truth of his allegations, or if they are contrary to the truth or are withdrawn by the accused, the judge shall record the fact in his judgment or in some other written document.

(7) Penal proceedings for defamation of character shall be barred after the lapse of two years.

Art. 146. (1) Any person who, speaking to a third party and knowing his allegations to be false, accuses or throws suspicion upon another person of dishonourable conduct or of any other fact liable to harm his reputation, or who spreads such accusations or suspicions, although aware that they are groundless, shall, on a complaint being lodged by the injured party or by the body competent to order an inquiry, be liable to imprisonment or to a fine.

Disciplinary action shall be taken in the case of minor offences.

Art. 148 (section 1, first paragraph). (1) Any person who in any other way, by the spoken or written word, by pictorial representation, gestures or acts of violence attacks another person's good repute shall, on a complaint being lodged by the injured party or by the body competent to order a preliminary inquiry, be liable to a term of imprisonment not exceeding three months, or to a fine.

II. JUDICIAL ORGANIZATION AND CRIMINAL PROCEDURE FOR THE FEDERAL ARMY[3]

Art. 87. (1) Any person may also refuse to testify if by his testimony he would injure himself, his property or his good repute, or would render liable to criminal prosecution any person standing to him in any of the relationships listed in article 86, numbers 1 and 2.

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[1] French text in the *Feuille fédérale*, 1951, I, p. 105, received through the courtesy of the Federal Political Department of the Swiss Confederation. The Act came into force on 1 July 1951.

[2] The Act of 21 December 1950 amends and supplements the Military Penal Code of 13 June 1927/13 June 1941. Articles 2 and 3 of the Act of 1950 enumerate the persons subject to military criminal law and those who, when on active service, are also subject thereto by decision of, and to the extent determined by, the Federal Council.

[3] These provisions amend and supplement the Federal Act of 28 June 1899 on judicial organization and criminal procedure for the Federal Army, as amended on 23 December 1911, 28 October 1937, 13 June 1927 and 13 June 1941.

(2) The reason cited must be supported by evidence, and the court shall be free to decide whether the witness shall be excused.

(3) Article 86, third paragraph, applies.

Art. 107. (1) The accused shall have the right to engage as counsel for the defence a member of the Swiss armed forces or a Swiss national who is in enjoyment of his civil rights and is not in military service.

(2) Counsel for the defence may intervene during the inquiry. When the charge is a serious one, counsel may be appointed by the court, during the inquiry, for the defence of an accused person without means.

(3) Counsel for the defence may move the court to order methods of inquiry. The examining judge shall authorize counsel for the defence to examine the documents in the case and to attend the hearing of witnesses, expert examinations and local inspections, where this is not detrimental to the purpose of the inquiry.

(4) During the inquiry, the examining judge may refuse counsel for the defence the right to communicate with an accused person held in custody, or restrict his right to do so, if the purpose of the inquiry so requires.

(5) On completion of the inquiry, counsel for the defence may examine all the documents in the case without reservation. He may communicate freely with the accused.

Art. 122 ter. Where an inquiry is discontinued, compensation for injury resulting from detention in custody or other actions taken in the course of the inquiry shall be payable to the accused on his application, unless the proceedings were instituted or impeded through the fault of the accused or through his irresponsible behaviour. The Military Department shall decide, on the advice of the Chief Military Advocate, what action shall be taken on such application.

Art. 214. In criminal proceedings taken against aliens in time of war, any provision of the Geneva Convention for the protection of war victims which constitutes an exception to the present Act shall remain unaffected.

Art. 215. In the case of crimes or offences committed by aliens which do not constitute a breach of loyalty towards Switzerland, the judge shall not be bound by the minimum penalties established by law.

ORDER OF THE FEDERAL COUNCIL CONCERNING THE SWISS RED CROSS[1]

of 13 June 1951

SUMMARY

In virtue of article 2 of this order, the principal functions of the Swiss Red Cross are as follows: voluntary medical assistance, military and civil blood transfusion services, the professional advancement of male and female nurses and the supervision of their training in schools recognized by the Swiss Red Cross. Further humanitarian tasks may devolve upon the Swiss Red Cross as a result of the provisions of the Geneva Conventions and of resolutions of international Red Cross conferences, or may be entrusted to it by the Confederation. The Swiss Red Cross is subsidized by the Confederation, and the amount of the subsidy is fixed in the budget. Its statutes are subject to the approval of the Federal Council.

[1] French text in the *Feuille fédérale* 1951, II, 407, received through the courtesy of the Federal Political Department of the Swiss Confederation. Summary prepared by the United Nations Secretariat. The order was published on 28 June 1951 and came into force on 23 October 1951.

ORDER OF THE FEDERAL COUNCIL MODIFYING THE REGULATIONS FOR THE APPLICATION OF THE FEDERAL OLD-AGE AND SURVIVORS' INSURANCE ACT[1]

dated 20 April 1951

SUMMARY

The order of 20 April 1951 modified the regulations of 31 October 1947 for the application of the Federal Old-age and Survivors' Insurance Act of 20 December 1946.[2] Certain articles of this order were abrogated; others were modified and supplemented. It is worth mentioning here the provisions of the new articles 48 and 49 of the regulations concerning motherless orphans and foster children. In accordance with article 48, motherless orphans are entitled to the full orphans' allowance if as a result of the death of the mother they become the responsibility of public or private assistance or of relatives who undertake to maintain them. Under article 49, foster children are entitled to an orphans' allowance at the death of the foster parents if the latter undertook free of charge and continuously the cost of their maintenance and education.

[1] French text received through the courtesy of the Federal Political Department of the Swiss Confederation. Summary prepared by the United Nations Secretariat. The order came into force on 1 January 1951.

[2] See extracts from this Act in *Yearbook on Human Rights for 1948*, pp. 233–236.

FEDERAL ACT CONCERNING UNEMPLOYMENT INSURANCE[1]

of 22 June 1951

SUMMARY

The Federal Act of 22 June 1951 concerning unemployment insurance, which was implemented by a regulation of 17 December 1951, provides in article 2 that "the following may be approved by the Confederation as insurance carriers:

"(*a*) Public funds established by cantons, districts or communes;

"(*b*) Private funds established and managed jointly by employers and employees or by their associations;

"(*c*) Private trade-union funds established by associations of employees."

The Confederation shall supervise the execution of this Act and shall see that it is uniformly applied by the cantons and the approved funds. The power to establish public funds and to declare unemployment insurance generally compulsory shall be reserved to the cantons. For a fund to be approved, certain conditions regarding membership, amount of capital, etc., must be met. The funds shall be approved by the Federal Office of Industry, Arts and Crafts and Labour.

A person shall be regarded as suitable for insurance if he is domiciled in Switzerland, is regularly engaged in paid employment which can be adequately supervised, if his physical and mental capacities and his personal circumstances are such that he is capable of being placed in employment, and if he is between the ages of sixteen and sixty years or, if older, was already insured before his sixtieth year. Civil servants and wage and salary earners in permanent posts in administrative services and establishments of the Confederation and certain other categories of workers shall not be made liable to compulsory insurance.

The Act regulates the obligations of the insured persons and the allowances to which they are entitled. Every insured person shall be bound to pay contributions to the fund of which he is a member; employers who are members of a joint fund must pay to this fund a contribution equal to at least one-third of the contributions paid by their employees who are members of the fund. The contributions of the insured persons shall be graduated according to the amount of the insured earnings and shall not be less than twelve francs a year for each insured person; daily earnings shall not be insurable in excess of twenty-four francs. The Office of Industry, Arts and Crafts and Labour shall each year prescribe the basic contribution for each fund. The Confederation shall make annual grants to the funds according to the expenses in respect of which a grant is payable. The cantons shall pay to the funds operating in their areas grants equal to those paid by the Confederation.

An insured person shall be entitled to the allowance if he has completed the qualifying period of six months and has paid his contributions during his period of membership; if he shows that, prior to claiming benefit, he has completed, as an employed person, a minimum number of days' work to be fixed by ordinance, and if he has suffered a loss of earnings, giving entitlement

[1] French text of the Act in *Recueil des Lois fédérales* No. 50, of 22 December 1951. English summary by the United Nations Secretariat. The complete text of this Act is to be found in: International Labour Office, *Legislative Series*, 1951—Swi. 1. The Act came into force on 1 January 1952.

to benefit. The daily allowance shall be composed of a basic allowance, and in appropriate cases, a supplement. The basic allowance shall be equal to 65 per cent of the insured earnings in the case of insured persons fulfilling an obligation to maintain a spouse or children or to assist parents or other near relatives to a considerable extent, and equal to 60 per cent of the said earnings in the case of other insured persons; these rates shall be reduced by 1 per cent for each franc by which the insured earnings exceed the sum of ten francs. The total daily allowance shall not exceed 85 per cent of the insured daily earnings. No insured person shall be entitled to the allowance for more than ninety full days in any one calendar year or for more than 315 full days in any four consecutive years. In the case of severe and prolonged unemployment throughout the country, or in certain regions or branches of activity, the Federal Council may, by ordinance, extend the annual duration of benefit from ninety to 120 days and if the situation seriously deteriorates, up to 150 days.

The last parts of the Act deal with administration and determination of questions, penalties, and final and temporary provisions.

FEDERAL ACT CONCERNING THE EMPLOYMENT SERVICE[1]

of 22 June 1951

SUMMARY

For the purposes of preventing and reducing unemployment, the Confederation shall, in agreement with the cantons, adopt the necessary measures to develop the employment service. For the purpose of examining questions of principle relating to the general policy to be followed with respect to the employment market, the Federal Council shall establish an advisory board composed of cantonal delegates, scientific experts and a number of employers' representatives and an equal number of workers' representatives.

The cantons shall be responsible for carrying out the provisions of the Act, and each canton shall maintain a labour office acting as its central employment agency for the whole canton. Wherever necessary, communal or regional labour offices shall be established. The Federal Office of Industry, Arts and Crafts and Labour shall act as a central agency for the whole country; the employers' and workers' associations and welfare bodies may be called upon to collaborate in the implementation of the Act.

The labour offices shall endeavour to place persons seeking work and to fill vacant posts. The cantonal labour offices shall endeavour to balance supply and demand within the cantonal and at the inter-cantonal level. They shall advise persons seeking work and shall assist them in appropriate cases in completing their training, changing their occupation or taking up employment away from their place of domicile. The Confederation may provide grants to promote the reinstatement of persons seeking work in their occupation, their temporary or permanent transfer to occupations or regions offering employment opportunities, their training, further training, or re-training.

The public employment service shall be available free of charge to all employers and workers and shall impartially serve the interests of both employers and workers. If it is required to place workers in establishments, affected by a collective labour dispute or to place workers coming from such establishments, it shall warn the persons seeking employment or the employers of the said dispute.

The second part of the Act deals with private employment agencies conducted with a view to profit. These agencies are not allowed to operate without a licence from the competent cantonal authority. Such licence shall be granted if the head of the employment agency meets certain requirements. Employment agencies conducted with a view to profit must provide sureties to cover any claims which may arise in connexion with their activity; they are also required to report periodically on their activity to the authority which granted the licence.

The other parts of the Act deal with federal grants to the cantonal labour offices, and under certain conditions, to the labour offices in communes of over 12,000 inhabitants, and contain penal, final and temporary provisions.

[1] French text of the Act in *Recueil des Lois fédérales* No. 50, of 22 December 1951. English summary by the United Nations Secretariat. The complete text of this Act is to be found in: International Labour Office, *Legislative Series*, 1951—Swi. 2. The Act came into force on 1 January 1952.

Cantonal Legislation

CANTON OF FRIBOURG

PUBLIC RELIEF ACT[1]

of 17 July 1951

SUMMARY

This Act requires the family to provide for the maintenance of its members in case of need; public relief is granted only failing such maintenance. However, for the purposes of the Act, it is not a statutory duty to grant relief, and relief cannot be claimed in a court of law. Those with resources insufficient to support themselves and their dependants are regarded as indigent and qualify for assistance from the local board: they include the aged, needy invalids, the infirm, orphans, abandoned children and children whose parents are not able to look after them, and persons whose incomes or wages are temporarily inadequate. The Act specifies the bodies responsible for relief and contains clauses relating to the kind of relief which may be given and the preventive and repressive measures which may be taken.

[1]French text received through the courtesy of the Federal Political Department of the Swiss Confederation. Summary prepared by the United Nations Secretariat. The Act was promulgated by the Council of State of the Canton of Fribourg on 1 January 1952.

CANTON OF SCHWYZ

HOLIDAYS ACT OF 19 FEBRUARY 1950[1]

SUMMARY

This Act, followed by an enforcement order dated 14 March 1951, came into force on 1 January 1951 after approval at a referendum by 5,760 votes to 5,714. It applies to all manual and office workers occupied within the territory of the canton who are employed for not less than twenty hours a week. Manual and office workers are entitled to the following holidays: during the first three years of their employment in an undertaking, six working days a year; from the fourth to the tenth year, nine working days; from the eleventh to the fifteenth year, twelve working days; and from the sixteenth year onwards, fifteen working days. The employer is required to pay manual and office workers full wages for the working days allowed as holidays. This payment must in general be made before the holidays begin. Manual and office workers are not permitted to undertake paid work during their holidays. Voluntary agricultural work, however, is not forbidden even if there is some remuneration.

[1]German text of the Act received through the courtesy of the Federal Political Department of the Swiss Confederation. Summary prepared by the United Nations Secretariat.

CANTON OF SOLOTHURN

CONTROL OF TUBERCULOSIS ACT[1]

of 8 July 1951

SUMMARY

The Act extends the anti-tuberculosis measures taken by the canton and the communes by requiring schoolchildren to be vaccinated annually against tuberculosis, subject to the consent of the person exercising parental authority in the case of each child. Voluntary vaccination on the part of the rest of the population is likewise to be encouraged. As a prophylactic measure, periodical medical examinations may be instituted for certain occupational groups and for certain sections of the population. This examination is voluntary, unless directed to be compulsory by some federal provision enacted pursuant to article 8 of the Federal Act of 13 June 1928. Funds are provided for carrying out the vaccinations in schools and for the other protective and preventive measures.

[1]French text of the Act in the *Feuille cantonale* No. 28, of 13 July 1951 received through the courtesy of the Federal Political Department of the Swiss Confederation. Summary by the United Nations Secretariat. The Act came into force on the date of its publication.

SYRIA

BROADCASTING CODE

Act No. 68 of 17 January 1951 [1]

SUMMARY

This Act establishes a Directorate-General of Broadcasting. Article 2 provides that "the Government shall have the exclusive right to establish and operate radio broadcasting stations as required in the public interest". The main and auxiliary radio broadcasting stations existing in Syria, or to be established therein, constitute the Syrian Broadcasting Service. New broadcasting stations may be set up by order of the Prime Minister and upon the recommendation of the Broadcasting Council, which is established by this Act.

Article 6 provides that Arabic shall be the official broadcasting language; broadcasts in foreign languages may be made upon the recommendation of the Broadcasting Council and by order of the Prime Minister.

The purposes and functions of broadcasting are defined as follows:

"*Art. 9.* The functions of broadcasting shall be to contribute to the guidance of the people and to raise their cultural, social and moral standards.

"It shall perform this function by:

"(*a*) Helping to spread culture among the people;

"(*b*) Promoting national consciousness, social co-operation, and solidarity among individuals and groups;

"(*c*) Dealing with social problems and furthering spiritual and moral values;

"(*d*) Reviving the Arab literary, scientific and artistic heritage;

"(*e*) Acquainting the people with the finest achievements of the civilization of mankind;

"(*f*) Informing the public of domestic and foreign news and of world trends;

"(*g*) Making Syria and the Arab world better known abroad;

"(*h*) Strengthening relations between Syrian nationals resident in Syria and those resident abroad;

"(*i*) Encouraging intellectual and creative talents in various fields;

"(*j*) Entertaining the public.

"*Art. 11.* The Syrian Broadcasting Service may not broadcast:

"(*a*) Talks, news or any other matter likely to provoke dissension among Syrian nationals;

"(*b*) Commercial advertisements;

"(*c*) Propaganda of a partisan or personal nature."

The Broadcasting Service consists of a Broadcasting Council, composed of eleven members appointed by the Prime Minister, and a Director-General.

The functions of the Broadcasting Council and of the Director-General are defined in articles 16–18 of this Act.

[1] Arabic text of the Act in *Official Journal of the Syrian Republic* No. 30, of 18 January 1951. Summary prepared by the United Nations Secretariat.

REGULATION No. 1864 ON CENSORSHIP OF CINEMATOGRAPHIC FILMS [1]

of 12 November 1951

SUMMARY

All cinematographic films, no matter where they are produced, shall be subject to censorship prior to their display. News reels and advertisement reels are included in the definition of cinematographic films. Publicity for films prior to censorship shall be prohibited unless authorized.

The decree provides for the establishment of two committees: a supervisory committee (composed of the Secretary-General of the Ministry of National Education, the Secretary-General of the Ministry of the Interior and the Director-General of Propaganda and Information) and a censorship committee (composed of a representative of the Director-General of Propaganda and Information as chairman, and representatives of the Ministry of Education and of the Police Department as members. The supervisory committee shall lay down the general principles which

[1] Arabic text of the Regulation in *Official Journal of the Syrian Republic* No. 57, of 13 December 1951. Summary prepared by the United Nations Secretariat.

the censorship committee shall apply in censoring films, provided that the application of the principles specified in article 2 of this decree (see below) shall be mandatory. The rulings of the censorship committee may be reconsidered by the supervisory committee; the rulings of the latter, arrived at by majority vote, shall be final.

Films may be either totally or partially approved or entirely prohibited. Every film, whether prohibited or approved, shall be reconsidered after a lapse of one year, if its exhibition is to be continued. The decision to prohibit exhibition of a film shall be published in full in the *Official Journal*, and summarized in the local newspapers. It shall list the reasons for such prohibition.

Article 2 lists the following considerations which the supervisory committee should respect as its main objectives:

1. The upholding of national dignity and the support of national sentiment;
2. Respect for public order; support for ethical principles, prohibition of incitement to disorder and evil.
3. Combating the elements of lewdness and moral and social corruption;
4. Safeguarding national unity by the prevention of incitement of sectarian, racial and class antagonisms; prohibition of sacrilege;
5. Prohibition of scenes which glorify crime, gambling and debauchery, and the violation of the precepts of public morality.

ACT No. 137 DECLARING THAT EVERY CIVIL SERVANT TOTALLY OR PARTIALLY ABSENT FROM WORK TO PARTICIPATE IN A STRIKE SHALL BE DEEMED TO HAVE RESIGNED[1]

dated 8 October 1951

SUMMARY

According to Act No. 137 of 1951, the Council of Ministers shall have the right to consider every civil servant, manual or office worker who absents himself totally or partially from work to participate in a strike as having resigned. The Council of Ministers alone shall have the right to decide whether absence from work was or was not to participate in a strike and to fill the vacancies thus created, in accordance with the provisions of the Civil Servants Act. Civil servants who are deemed to have resigned in accordance with this Act shall not be re-employed either in their previous positions or in new positions, in any of the public offices of the State.

[1] Arabic text of the Act in the *Official Journal of the Syrian Republic* No. 43, of 9 October 1952. Summary prepared by the United Nations Secretariat.

LEGISLATIVE DECREE No. 8 ESTABLISHING A DEPARTMENT FOR HEARING COMPLAINTS[1]

dated 12 December 1951

SUMMARY

By legislative decree No. 8, the Chief of State established a new department composed of civil servants for the purpose of safeguarding the rights of citizens in their relations with the Government within the provisions of the existing laws and regulations. The department is empowered to consider complaints and petitions submitted by individuals and pertaining to their relations with governmental departments, public institutions having legal personality, and such institutions as work for, or are under the supervision of, the State. The department shall not have the power to consider complaints against decisions or rulings made by courts or public institutions or petitions concerning the Army. Furthermore, the department shall not consider any complaint or petition unless the individual submitting it has previously submitted the same complaint or petition in writing to the agency concerned and received a negative reply in writing or failed to receive any reply within the regular period of time.

If after considering a complaint the department is convinced that the complaint is justified, it shall inform the agency concerned of its opinion. If the agency fails to take appropriate action, the department shall approach the supervisory authorities through the office of the Prime Minister.

The department shall decide on every complaint or petition within one week and make its decision known in writing to the complainant or petitioner. If the department cannot reach a decision within that time, it shall notify the complainant accordingly and indicate when it will be in a position to reach a decision.

[1] Arabic text of the legislative decree in *Official Journal of the Syrian Republic* No. 57, of 13 December 1951. Summary prepared by the United Nations Secretariat.

NATIONALITY ACT[1]

Act No. 98 of 21 May 1951

PART 1

SYRIAN NATIONALITY

[Articles 1–3 list the groups of persons who shall be considered Syrian in law.]

PART 2

NATURALIZATION

Art. 4. 1. Syrian nationality may be granted to any alien who:

(1) Has attained majority;

(2) Submits an application in writing;

(3) Has been continuously resident in Syria for not less than five years before his application;

(4) Is of good moral character and sound constitution;

(5) Has a means of livelihood;

(6) Is able to speak, read, and write Arabic;

(7) If required to do so, changes his foreign name for an Arab name by legal process.

2. For purposes of nationality, the age of majority shall be eighteen years.

Art. 5. 1. Syrian nationality shall be conferred by decree on the recommendation of the Minister of the Interior.

2. Syrian nationality may be conferred only on an individual and may not be conferred collectively except by statute.

Art. 6. 1. The Minister of the Interior may, on application by an interested party and if the Government considers that to do so is in the national interest, request, with the consent of the Council of Ministers, the issuance of a decree granting Syrian nationality to any person of Arab origin; and the Syrian residence qualification referred to in article 4, paragraph 3, hereof shall not then be required.

2. Notwithstanding the time limit specified in article 10 hereof, a person so naturalized shall from the date of his naturalization enjoy all civil, public and political rights conferred by the law for the time being in force.

Art. 7. Notwithstanding the requirements for naturalization specified in article 4 hereof, the Council of Ministers may by decree grant Syrian nationality to any alien who has rendered distinguished services to Syria.

Art. 8. 1. The wife and major children of an alien who has acquired Syrian nationality may on application be granted that nationality, notwithstanding the requirement concerning residence.

2. A minor child of naturalized Syrian parents shall become Syrian in law, provided that in the year following his attainment of majority he may apply to renounce Syrian nationality with a view to acquiring another nationality.

Art. 9. 1. A foreign woman marrying a Syrian national may acquire Syrian nationality only by virtue of a decree issued after examination of her case and on her application.

2. Notwithstanding the provisions of paragraph 1 hereof, a foreign woman of Arab origin shall become Syrian on marriage to a Syrian national.

Art. 10. 1. An alien acquiring Syrian nationality shall exercise civil rights from the date of his naturalization, but shall exercise public and political rights only as provided by the law for the time being in force and on the expiry of five years from that date.

2. On the expiry of the said five-year period, a naturalized person may not enjoy political rights until a decree has been issued permitting him to do so.

. . .

PART 3

LOSS AND RECOVERY OF NATIONALITY

Art. 12. 1. A Syrian shall lose his nationality if he acquires a foreign nationality after applying for and obtaining a decree permitting him to do so.

2. The wife of a Syrian to whom paragraph 1 hereof applies may on application renounce her Syrian nationality if she acquires her husband's new nationality under the law relating thereto; but otherwise she shall retain her Syrian nationality.

3. A minor child shall take his father's new nationality if it is conferred upon him by the law relating thereto; provided that he may recover Syrian nationality by decree after applying to do so within one year after attaining his majority, if his usual residence is in Syria or he has returned to Syria and declared in writing his desire to reside therein.

Art. 13. 1. A Syrian woman who marries an alien shall lose her Syrian nationality if the nationality of her husband is conferred upon her by the law of his

[1] Arabic text in *Official Journal of the Syrian Republic* No. 23, of 28 May 1951. English translation from the Arabic text by the United Nations Secretariat. The Act repeals all provisions contrary to it, and in particular decree No. 2825 of 20 August 1924 and decree No. 16 of 19 January 1925.

country; but otherwise she shall retain her Syrian nationality.

2. A woman losing her Syrian nationality by marriage to an alien may on the dissolution of the marriage apply for a decree restoring her Syrian nationality if her usual residence is in Syrian territory or she has returned to Syria and declared her desire to reside therein.

3. The minor child of a woman recovering her Syrian nationality after dissolution of her marriage by the death of her husband shall in law follow the nationality of his mother.

4. The provisions of paragraph 1 hereof shall apply, subject only to reciprocity.

PART 4

DEPRIVATION OF NATIONALITY

Art. 14. Any person acquiring Syrian nationality by false declaration or fraud shall be deprived thereof by judicial order.

Art. 15. The competent court may deprive of Syrian nationality any person who:

(1) Commits an offence mentioned in articles 263, 264, 265, 266, 271, 272, 285, 291, 296, 297, 298 and 299 of the Penal Code;

(2) Accepts service in the armed forces of a foreign State without leave of the Syrian Government;

(3) Enters the service of a foreign State in any capacity, whether in Syria or abroad, and fails to comply with a request from the Syrian Government to leave that service within a specified period.

Art. 16. A Syrian deprived of Syrian nationality for one of the reasons set out in articles 14 and 15 of this Act shall be required to leave Syrian territory.

[Part 5 contains miscellaneous and final provisions.]

ACT No. 60 ESTABLISHING REFORMATORY CENTRES FOR JUVENILES[1]

of 30 December 1950

SUMMARY

Two reformatory centres for juveniles are established, each consisting of a branch for males and another for females. Each branch shall possess a special wing for juveniles committed thereto by court order pending final sentencing.

The Minister of Justice and a specially appointed supervisory committee shall determine the courses of general and vocational education provided by the centres.

[1] Arabic text of the Act in *Official Journal of the Syrian Republic* No. 2, of 11 January 1951. Summary prepared by the United Nations Secretariat.

THAILAND

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

I. CONSTITUTION

The Constitution of the Kingdom of Thailand of 23 March 1949[2] has been abolished, as a result of political events, by a proclamation of 6 November 1951. By a royal proclamation of 6 December 1951, the Constitution of 10 December 1932, as amended, was again put into force[3] with retroactive effect as from 26 November 1951, subject to amendments which may be approved at a later date. No such amendments were made during 1951.[4]

On 11 December 1951 the Provisional Government issued a policy programme of eleven points. Points 1–10 of this programme are reproduced in this *Yearbook.*

II. LEGISLATION

During the year 1951, legislation introducing special courts for children and minors and dealing with related matters was enacted. The main laws and decrees approved in this field are the following:

Act of 22 June 1951 establishing courts for children and minors, published in *Government Gazette* of 3 July 1951;

Act of 22 June 1951 concerning the procedure in cases before the courts for children and minors, published *ibid.*;

Decree of 20 October constituting a centre of correction and protection of children, published in *Government Gazette* of 23 October 1951;

Decree of 20 October 1951 specifying the activities of the centre of correction and protection of children, published *ibid.*;

Ministerial regulations of 30 November 1951 concerning rules and modes of detention and corporal punishment of children and minors, published in *Government Gazette* of 11 December 1951;

Ministerial regulation of 30 November 1951 on identification cards of officials appointed to control the behaviour of children and minors, published *ibid.*;

Ministerial regulation of 30 November on legal advice in courts for children and minors, published *ibid.*

In pursuit of the traditional policy of Thailand, agricultural settlements for the welfare and self-maintenance of the people have been established by royal decrees of 24 July (Nong-Har), published in *Government Gazette* of 14 August, and of 31 August (Changvad Sukhotai), published in *Government Gazette* of 11 September 1951.

A royal decree on the control of publicity by means of sound amplifiers has been issued on 20 June 1951 to specify the areas to be controlled. This decree was published in *Government Gazette* of 26 June 1951.

An Immigrants Act was promulgated on 25 December 1951. A summary of this Act is published in the present *Yearbook.* The Act was implemented by ministerial regulations of 25 January 1951, published in the *Government Gazette* of the same date. The regulations provide for the control of conveyances entering the kingdom, fees for certificates of residence, etc.

III. JUDICIAL DECISIONS

On 30 July 1951, the Supreme Court gave a judgment concerning the right to property. A summary of this judgment is published in the present *Yearbook.*

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[1] This note is based on texts and information prepared by the Legislative and Judicial Council and received through the courtesy of the Ministry of Foreign Affairs of Thailand.

[2] See the provisions on human rights in that Constitution in *Yearbook on Human Rights for 1949*, pp. 205–211.

[3] Text of the provisions on human rights in the Constitution of 1932 in *Yearbook on Human Rights for 1946*, p. 256.

[4] An amended Constitution was proclaimed by the King on 8 March 1952.

POLICY PROGRAMME OF THE PROVISIONAL GOVERNMENT[1]

of 11 December 1951

1. The Government will uphold all democratic ideals, the Constitution, the King and the Chakri royal dynasty.

2. The Government will give full support to the national religion, Buddhism, and to all other religions.

3. The Government will do its utmost to promote Thailand's international relations, give full support to the United Nations, uphold democracy and fight communism.

4. The Government will establish armed forces and take all measures to protect the country against possible aggression.

5. The Government will respect the rights and freedoms of the people and individuals and uphold the Universal Declaration of Human Rights of the United Nations.

6. The Government will promote medical services and public health services as far as possible.

7. The Government will promote the national economy by all possible means in order to secure the prosperity and the progress of the country and the people as a whole. This will be done by providing the people with their own land and houses; by promoting the livelihood of the people, the national, private and cottage industry; by the Government's acting as intermediary between producers and consumers; by finding markets where good prices can be obtained for local products; and by promoting internal transport and communications.

8. The Government will promote the welfare and well-being of the people. . . . As did the previous Government, the Government will endeavour to stabilize the local currency and to obtain as favourable rates of exchange as possible.

9. The Government will promote national education as the basis of true democracy.

10. The Government will respect the authority of the courts of law.

[Point 11 contains an appeal to the members of the Assembly of the People and the people as a whole to co-operate with the Government to secure the success of this programme.]

[1]English text received through the courtesy of the Ministry of Foreign Affairs, Bangkok.

LEGISLATION

IMMIGRATION ACT OF 25 DECEMBER 1950, AS IMPLEMENTED BY MINISTERIAL REGULATIONS OF 25 JANUARY 1951[1]

SUMMARY

The Immigration Act of 1950 empowers the Minister responsible for the execution of the Act to examine all persons entering or leaving the kingdom and to determine the routes and places by which aliens may enter the kingdom. The Act lists the reasons for which aliens may be excluded from entering the kingdom and specifies the conditions under which persons not considered to be immigrants are permitted to remain in the country for certain periods of time. Immigration quotas are to be fixed from year to year and are not to exceed 200 persons for each country; for this purpose each self-governing country shall be taken as one country: likewise, all the colonies of a given country shall be considered one country. Not more than 200 stateless persons may be admitted annually. The provisions concerning immigration quotas shall not apply to women who were Thai nationals by birth and who lost their Thai nationality through marriage, or to children of women who where Thai nationals by birth, whether or not such women have lost their nationality through marriage. The Act further provides for the detention of aliens in respect of whom there is reason to believe that they should have been excluded from entry into the kingdom and for deportation of aliens entering or residing in the kingdom without permission. An Immigration Commission is set up and its powers are defined.

[1]English translation of both texts received through the courtesy of the Royal Thai Government. Summary prepared by the United Nations Secretariat.

JUDICIAL DECISION

RIGHT TO PROPERTY—EXPROPRIATION—USE OF EXPROPRIATED LAND—LAW OF THAILAND—CONSTITUTION OF THAILAND, ARTICLE 29

M. R. BANDHIP PARIBATRA *v.* MINISTRY OF COMMUNICATIONS

Supreme Court of Thailand[1]

30 July 1951

The facts. Article 29 of the Constitution of Thailand provides that "the right of private property is guaranteed by the State. Expropriation of private property by the State is prohibited unless necessary for the purpose of public utility, direct defence of the country or the exploitation of national resources or other interests of the State, in which case just compensation shall be paid to the owners thereof or to other persons entitled thereto who suffer loss thereby."

Valuable land belonging to the claimant had been expropriated, in accordance with the law on expropriation, for the benefit of the Ministry of Communications (Harbour of Bangkok). During the five years from the date of its expropriation, the Ministry failed to utilize the land for the purpose of public utility. The former owner sued the Ministry of Communications for the return of the land of which she had been deprived.

Held: That the claim should be allowed; the land can be claimed back on return of the compensation money paid for it.

[1]Summary based on information received through the courtesy of the Ministry of Foreign Affairs of Thailand and prepared by the United Nations Secretariat.

The court said:

"The Act concerning the expropriation of land, B.E. 2477 (1934), Section 32, says 'excepting the land of the Railways, if, within five years reckoned from the date of promulgation of the Act concerning expropriation of immovable property, it appears that all the property or any part of it has never been used or is not being used for the purpose of public utility or in mining, which is the purpose of the expropriation, the former owner or his heir may, on repayment of the compensation money received, demand the property back . . .' This provision permits the former owner to demand the land back, and the wording of the section includes each owner of the expropriated land. When land belonging to several owners is expropriated and only a part of it is used for public utility—e.g., 100 rais belonging to 20 owners are acquired and only 1 rai or half a rai is used for the purpose of a public utility—the remaining 90 rais odd can be claimed back by the owners, as the intention of the provisions is to prevent the expropriation of land without its being utilized. The wording of this section also states clearly that unless the compensation money is repaid, the land cannot be claimed back by the owners."

ACT No. 5844 AMENDING ARTICLES 141 AND 142 OF THE PENAL CODE[1]

of 3 December 1951

Art. 141. 1. Any person who creates, directs or inspires an association which has as its aim, under whatever name, to ensure the domination of one social class over another or to suppress a social class, or to disrupt any fundamental, economic or social institution of the country, shall be liable to imprisonment for a period of from eight to fifteen years. Any person who is the head of such an association shall be liable to the death penalty.

2. Any person who directs, inspires or founds an association which, under whatever name, aims at the disruption of the political and legislative order of the country shall be liable to imprisonment for a period of from eight to fifteen years.

3. Any person who founds, attempts to found, directs or inspires an association which is contrary to the principles of the republic or of democracy, or which aims at bringing about the control of the State by a single individual or by a group of individuals, shall be liable to imprisonment for a period of from eight to fifteen years.

4. Any person who tries to found, founds, directs or inspires an association, the aim of which is to abolish on a basis of racial distinction any or all of the rights enjoyed by citizens, or which aims at destroying or weakening national sentiment, shall be liable to imprisonment for a period of from one to three years.

5. Any person who is a member of any such association as is mentioned in paragraphs 1, 2 and 3 shall be liable to imprisonment for a period of from five to twelve years; any person who is a member of any such association as is mentioned in paragraph 4 shall be liable to imprisonment for a period of from six months to two years.

6. Any person found guilty of any of the offences described above who is a member of any economic institution of the State or one in which the State participates, or of any association, workers' organization, school or university, and any person who carries on such illegal activities within the civil service, shall have his penalty increased by one-third.

7. Any person found guilty of any of the offences described above, who confesses his guilt and that of his accomplices before the opening of the final inquiry, shall have his punishment diminished; in a case where the punishment would be the death penalty, it shall be reduced to not less than ten years' imprisonment. A sentence of imprisonment may in these circumstances be reduced by one-fourth.

8. For the purposes of the preceding paragraphs, an association shall be constituted by the union of two or more persons with a common aim.

Art. 142. 1. Any person who, in whatever form, carries on propaganda with a view to ensuring the domination of one social class over another or the suppression of a social class, or with a view to disrupting one or more of the fundamental, economic and social institutions of the country, or who seeks to destroy the political and legal order of the State, shall be liable to imprisonment for a period of from five to ten years.

2. Any person who, in whatever form, carries on propaganda which is contrary to the principles of the republic or of democracy, or in favour of bringing about the control of the State by one person or by a group of persons, shall be liable to imprisonment for a period of from five to ten years.

3. Any person who, in whatever form, carries on propaganda in favour of the suppression of the rights recognized by the Constitution on the basis of racial discrimination, or whose object is the weakening or destruction of national sentiment, shall be liable to imprisonment for a period of from one to three years.

4. A person who encourages the commission of any offence mentioned in paragraphs 1 or 2 shall be liable to imprisonment for any period up to five years, and any person who encourages the commission of any offence mentioned in paragraph 3 shall be liable to imprisonment for a period of from six months to two years.

5. A person who carries on such propaganda in any State institution, in any association or among workmen, students or civil servants shall have his punishment increased by one-third.

6. When any of the offences mentioned above is committed in the form of a publication, the penalty shall be increased by half.

7. A person who gives evidence concerning the commission of any of the offences mentioned above, in which he himself took part, shall have his punishment reduced by one-fourth.

[1] Turkish text in *Resmî Gazete* (Official Gazette) No. 7979, of 11 December 1951. English text based on the translation in: Inter-parliamentary Union, *Constitutional and Parliamentary Information* (published by the Autonomous Section of Secretaries-General of Parliaments), Geneva, 1 April 1952. Permission to reproduce this translation was granted by Mr. Emile Blamont, President of the Autonomous Section of Secretaries-General of Parliaments, whose courtesy is gratefully acknowledged. The Act was adopted on 3 December and promulgated on 10 December 1951.

ACT No. 5837 CONCERNING WEEKLY REST DAYS AND HOLIDAYS WITH PAY [1]

dated 9 August 1951

Art. 1. In the establishments in which the Labour Code is in force, a worker who has regularly attended work on the days preceding the weekly rest day shall receive from the employer a half-day's remuneration for the weekly rest day.

Art. 2. For entitlement to the paid weekly rest day under article 1, the worker must have worked on six consecutive days for the daily hours laid down in the regulations on hours of work.

Provided that:

(*a*) In addition to the holidays which are treated by the law as days worked, marriage leave not exceeding three days, leave not exceeding two days on the death of a parent, spouse, brother, sister or child, and other leave days granted by the employer, shall be treated as days worked;

(*b*) If the employer, without being obliged by *vis major* or adequate business reasons, suspends work on one or more days of the week, the said days shall be reckoned as part of the six days for entitlement to the half-day's remuneration for the weekly rest day;

(*c*) In the event of *vis major* involving suspension of work for more than one week, the half-day's remuneration payable under clause III of article 15 of the Labour Code for work days lost through *vis major* shall also be payable in respect of the weekly rest day.

Art. 3. Where the workers employed in establishments in which the Labour Code is in force are released from work on the holidays mentioned in Act No. 2739 respecting the National Festival and public holidays and in the supplementing Act No. 3466, they shall be entitled to a half-day's remuneration in respect of the said days; if they are required to work on these holidays, they shall receive a day's remuneration plus 50 per cent.

Art. 4. In establishments directed and controlled by the State and in establishments working for the State in connexion with national defence, workers who under article 7 of the Weekly Rest Act have for fifteen weeks in the year not been granted the weekly rest day shall receive a supplement of 50 per cent of the daily remuneration in respect of the days worked which were weekly rest days.

Art. 5. The persons who work on the weekly rest day in virtue of articles 4, 5 and 6 of the Weekly Rest Act shall receive a half-day's remuneration for the compensatory rest day allowed during the week.

Art. 11. Any provisions in a contract of employment that are contrary to this Act shall be null and void.

Art. 12. No reduction of current wages shall be made by any employer for the purpose of offsetting part or the whole of the remuneration payable to workers under this Act in respect of the weekly rest day and public holidays.

Nothing in this Act shall affect any rights conferred by law, contract or custom which involve more favourable treatment of the worker as regards remuneration for the weekly rest day.

Art. 13. If any employer contravenes this Act by failure to pay the remuneration due for weekly rest days and holidays on the normal pay-days or by making a deduction in order to escape the above obligation, he shall be fined a sum equal to double the remuneration unpaid.

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[1] Turkish text in *Resmî Gazete* (Official Gazette) No. 7885, of 15 August 1951. The Act was adopted on 9 August and promulgated on 15 August 1951, and came into force on 1 March 1952. English translation of the entire Act in: International Labour Office, *Legislative Series*, 1951—Tur. 1.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

REPORT OF THE STATISTICAL BOARD OF THE UKRAINIAN SSR ON THE FULFILMENT OF THE STATE PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE UKRAINIAN SSR IN 1951 [1]

EXTRACTS

In 1951, 82,500 young skilled workers completed training in schools and colleges of the Ministry of Labour Reserves and started work in industry, building and transport.

In 1951, 420,000 manual and office workers in the economy of the Ukrainian SSR acquired skills or improved their qualifications with the help of individual, group or class instruction.

Pupils in the fifth to tenth classes of schools of general education in the Ukrainian SSR numbered 557,000 more than in the previous year.

By the end of 1951, the number of students attending higher and secondary educational establishments was nearly 10 per cent greater than in 1950.

Twelve per cent more schoolchildren spent holidays in pioneer camps in 1951 than in 1950.

In 1951, there were 75,000 libraries of all kinds in the Ukrainian SSR, maintained by State and public organizations, with a total of more than 120 million books.

The number of cinema installations increased by more than 500 in 1951.

The network of hospitals, maternity homes and other medical institutions, as well as of sanatoria and rest homes, was expanded in 1951.[2]

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

[2] On 18 April 1951, Mr. G. L. Sakhnovsky, Minister of Finance of the Ukrainian SSR, reported to the first session of the Supreme Soviet of the Ukrainian SSR on the State Budget of the Ukrainian SSR for 1951 and the execution of the State Budget for 1950. Concerning expenditure on social and cultural activities, he said that in 1951, expenditure on public education and cultural and educational institutions was estimated at 7,028,300,000 roubles, or 40.7 per cent of the whole budget. In the same year, 744 new secondary schools will be opened and the number of fifth- to tenth-year classes will be greatly increased. Under the 1951 budget, 3,921,800,000 roubles are allocated for schools of general education. The sum of 195,200,000 roubles will be spent on institutions for children of pre-school age. Expenditure on the training of cadres of various specialists will amount to 1,068,900,000 roubles. The budget allocates 279,600,000 roubles for the further development of scientific institutions in 1951. The sum of 351,300,000 roubles is allocated for the financing of cultural and educational institutions. By the end of the year, 6,200 libraries, 784 regional cultural centres and 15,513 village clubs, financed under the budget, will be in operation. Under the 1951 budget, 3,485,200,000 roubles are allocated for public health, thus ensuring the financing of hospitals, clinics, maternity homes, and other medical institutions for children and adults.

The State budget for 1952 and the execution of the State budget for 1951 were the subjects of another report of the Minister of Finance. The sum of 7,118,400,000 roubles is allocated under the State budget of the Ukrainian SSR for 1952 to meet the needs of educational and cultural institutions. These funds ensure the provision of seven-year education for all children and a further expansion of secondary education. In 1952, 647 new secondary schools will be opened, and the number of fifth- to tenth-year classes will be considerably increased. The number of libraries will increase from 6,219 to 7,037 and 16,500 clubs will be in operation. Allocations for public health in the 1952 budget exceed those of 1951 and amount to 3,655,800,000 roubles. Under the 1952 budget, 1,320,600,000 roubles, or 151,200,000 roubles more than in 1951, are allocated for the payment of pensions and the maintenance of social security institutions.

REGULATIONS FOR ELECTIONS TO THE SUPREME SOVIET OF THE UKRAINIAN SSR[1]

approved by the Presidium of the Supreme Soviet of the Ukrainian SSR,

12 December 1950

CHAPTER I

ELECTORAL SYSTEM

Art. 1. In accordance with article 114 of the Constitution of the Ukrainian SSR, members of the Supreme Soviet of the Ukrainian SSR are chosen by the electors on the basis of universal, direct and equal suffrage by secret ballot.

Art. 2. In accordance with article 115 of the Constitution of the Ukrainian SSR, elections of deputies are universal: all citizens of the Ukrainian SSR who have reached the age of eighteen, irrespective of race, nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, have the right to vote in the election of deputies to the Supreme Soviet of the Ukrainian SSR, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 3. Every citizen of the Ukrainian SSR who has reached the age of twenty-one, irrespective of race, nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities, may be elected a deputy of the Supreme Soviet of the Ukrainian SSR.

Art. 4. In accordance with article 116 of the Constitution of the Ukrainian SSR, elections of deputies are equal: each citizen has one vote; all citizens participate in elections to the Supreme Soviet of the Ukrainian SSR on an equal footing.

Art. 5. In accordance with article 117 of the Constitution of the Ukrainian SSR, women have the right to elect and be elected to the Supreme Soviet of the Ukrainian SSR on equal terms with men.

Art. 6. In accordance with article 118 of the Constitution of the Ukrainian SSR, citizens serving in the ranks of the armed forces of the USSR have the right to elect and be elected to the Supreme Soviet of the Ukrainian SSR on equal terms with all other citizens.

Art. 7. In accordance with article 119 of the Constitution of the Ukrainian SSR, elections of deputies are direct: the Supreme Soviet of the Ukrainian SSR is elected by the citizens by direct vote.

Art. 8. In accordance with article 120 of the Constitution of the Ukrainian SSR, voting at elections of deputies to the Supreme Soviet of the Ukrainian SSR is secret.

Art. 9. In accordance with article 17 of the Constitution of the Ukrainian SSR, citizens of all the other Union Republics have the right in the territory of the Ukrainian SSR to elect and be elected to the Supreme Soviet of the Ukrainian SSR equally with citizens of the Ukrainian SSR.

Art. 10. Persons residing in the territory of the Ukrainian SSR who are not citizens of the USSR, but citizens or subjects of foreign States, are not entitled to take part in elections or be elected to the Supreme Soviet of the Ukrainian SSR.

Art. 11. In accordance with article 122 of the Constitution of the Ukrainian SSR, candidates for election of the Supreme Soviet of the Ukrainian SSR are nominated according to electoral districts.

Art. 12. The expenses connected with the holding of elections to the Supreme Soviet of the Ukrainian SSR are borne by the State.

CHAPTER VI

PROCEDURE FOR NOMINATION OF CANDIDATES FOR ELECTION AS DEPUTIES OF THE SUPREME SOVIET OF THE UKRAINIAN SSR

Art. 49. In accordance with article 122 of the Constitution of the Ukrainian SSR, the right to nominate candidates for election as deputies to the Supreme Soviet of the Ukrainian SSR is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 50. The right to nominate candidates for election as deputies to the Supreme Soviet of the Ukrainian SSR is exercised by the central organs of the public organizations and associations of the working people, by their local republican, regional and district organs, and by general meetings of manual and office workers in undertakings and institutions, general meetings of military personnel in military

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat. See also the text of chapter IX of the Constitution of the Ukrainian SSR "The Electoral System" in *Yearbook on Human Rights for 1948*, p. 393. The text of the regulations should be read together with that of this chapter of the Constitution.

units, general meetings of peasants in collective farms and villages, and general meetings of manual and other workers on State farms.

CHAPTER VII

VOTING PROCEDURE

Art. 67. Special rooms shall be reserved or separate booths provided in the polling stations to enable electors to mark ballot papers. It is forbidden for any person whomsoever (including the members of the electoral commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

Art. 71. An elector who, owing to illiteracy or any physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER VIII

DETERMINATION OF ELECTION RESULTS

Art. 100. Any person who by duress, deceit, threats or bribery obstructs a citizen of the Ukrainian SSR in the free exercise of his right to elect or be elected to the Supreme Soviet of the Ukrainian SSR shall be liable to deprivation of liberty for a period not exceeding two years.

Art. 101. Any official of the Soviet or member of the electoral commission who forges a ballot paper or knowingly miscounts votes in an election shall be liable to deprivation of liberty for a period not exceeding three years.

REGULATIONS FOR ELECTIONS TO THE SOVIETS OF WORKING PEOPLE'S DEPUTIES OF REGIONS, AREAS, DISTRICTS, CITIES, VILLAGES AND SETTLEMENTS IN THE UKRAINIAN SSR[1]

approved by the Presidium of the Supreme Soviet of the Ukrainian SSR,

3 October 1950

CHAPTER I

ELECTORAL SYSTEM

Art. 1. In accordance with article 114 of the Constitution of the Ukrainian SSR, members of the Soviets of Working People's Deputies of regions, areas, districts, cities, villages and settlements are chosen by the electors on the basis of universal, equal and direct suffrage by secret ballot.

Art. 2. In accordance with article 115 of the Constitution of the Ukrainian SSR, elections of deputies are universal: all citizens of the Ukrainian SSR who have reached the age of eighteen, irrespective of race, nationality, sex, religion, educational or residential qualifications, social origin, property status or past activities have the right to vote in the election of deputies and to be elected to the Soviets of Working People's Deputies, with the exception of insane persons and persons who have been convicted by a court of law and whose sentences include deprivation of electoral rights.

Art. 3. In accordance with article 116 of the Constitution of the Ukrainian SSR, elections of deputies are equal: each citizen has one vote; all citizens participate in elections on an equal footing.

Art. 4. In accordance with article 117 of the Constitution of the Ukrainian SSR, women have the right to elect and be elected on equal terms with men.

Art. 5. In accordance with article 118 of the Constitution of the Ukrainian SSR, citizens serving in the ranks of the armed forces of the USSR have the right to elect and be elected on equal terms with all other citizens.

Art. 6. In accordance with article 119 of the Constitution of the Ukrainian SSR, elections of deputies are direct: the Soviets of Working People's Deputies of regions, areas, districts, cities, villages and settlements are elected by the citizens by direct vote.

Art. 7. In accordance with article 120 of the Constitution of the Ukrainian SSR, voting at elections of deputies to the Soviets of Working People's Deputies of the Ukrainian SSR is secret.

Art. 8. In accordance with article 17 of the Constitution of the Ukrainian SSR, citizens of all the other Union Republics have the right in the territory of the Ukrainian SSR to elect and be elected to the Soviets of Working People's Deputies of the Ukrainian SSR equally with citizens of the Ukrainian SSR.

Art. 9. Persons living in the territory of the Ukrainian SSR who are not citizens of the USSR, but

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat. See also p. 343, footnote 1.

citizens or subjects of foreign States, are not entitled to take part in elections or be elected to the Soviets of Working People's Deputies of the Ukrainian SSR.

Art. 10. In accordance with article 121 of the Constitution of the Ukrainian SSR, elections to the Soviets of Working People's Deputies of the Ukrainian SSR are held by electoral districts.

One deputy is elected to the respective Soviet of Working People's Deputies from each electoral district.

Art. 11. The expenses connected with the holding of elections to the Soviets of Working People's Deputies of the Ukrainian SSR are borne by the State.

CHAPTER VIII

PROCEDURE FOR THE NOMINATION OF CANDIDATES

Art. 68. In accordance with article 122 of the Constitution of the Ukrainian SSR, candidates for election are nominated according to electoral districts. The right to nominate candidates for election to the Soviets of Working People's Deputies of regions, areas, districts, cities, villages and settlements is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies.

Art. 69. The right to nominate candidates is exercised by the central organs of the public organizations and associations of the working people; by their republican, regional, area and district organs; and by general meetings of manual and office workers in undertakings and institutions, general meetings of military personnel in military units, general meetings of peasants in collective farms and villages, and general meetings of manual and other workers on State farms.

CHAPTER X

VOTING PROCEDURE

Art. 87. Special rooms shall be reserved or separate booths provided in the polling stations to enable electors to mark ballot papers. It is forbidden for any person whomsoever (including the members of the electoral commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

Art. 91. An elector who, owing to illiteracy or any physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER XII

DETERMINATION OF ELECTION RESULTS

Art. 120. Any person who, by duress, deceit, threats or bribery, obstructs a citizen of the Ukrainian SSR in the free exercise of his right to elect or be elected to the Soviets of Working People's Deputies of the Ukrainian SSR shall be liable to deprivation of liberty for a period not exceeding two years.

Art. 121. Any official who forges a ballot paper or knowingly miscounts votes in an election shall be liable to deprivation of liberty for a period not exceeding three years.

REGULATIONS FOR ELECTIONS OF PEOPLE'S COURTS OF THE UKRAINIAN SSR[1]

approved by the Presidium of the Supreme Soviet of the Ukrainian SSR, 27 October 1951

EXTRACTS

CHAPTER I

ELECTORAL SYSTEM

Art. 1. In accordance with article 89 of the Constitution of the Ukrainian SSR[2] and article 22 of the Act on the Judicial System of the USSR, the Union Republics and Autonomous Republics, people's courts are elected by the citizens of the area or district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

Art. 2. Any citizen of the Ukrainian SSR who has the right to vote and has reached the age of twenty-three by the date of the elections may be elected a people's judge or people's assessor. Persons who have been convicted may not be elected as people's judges or people's assessors.

Art. 3. In accordance with article 17 of the Constitution of the Ukrainian SSR, citizens of all the other

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

[2] See *Yearbook on Human Rights for 1947*, p. 302.

Union Republics have the right in the territory of the Ukrainian SSR to elect and to be elected as people's judges and people's assessors equally with citizens of the Ukrainian SSR.

Art. 4. In accordance with article 23 of the Act on the Judicial System of the USSR, the Union Republics and the Autonomous Republics, people's judges and people's assessors are elected by the citizens of the district or area according to electoral districts. The electoral district for the election of a people's court (a people's judge and people's assessors) covers the whole population living within the territorial jurisdiction of that people's court.

Art. 5. The expenses connected with the holding of elections to people's courts are borne by the State.

CHAPTER II

ELECTORAL ROLLS

Art. 7. The electoral rolls shall include all citizens, men and women, having the right to vote and living in the territory of the respective Soviet at the time when the electoral rolls are drawn up who have reached the age of eighteen by the date of the elections, irrespective of race, nationality, religion, educational or residential qualifications, social origin, property status or past activities.

Art. 8. The electoral rolls shall exclude persons deprived of their electoral rights by a court of law, for the whole period of such deprivation of electoral rights as laid down in the sentence, and also persons who have been adjudged insane under the procedure prescribed by law.

CHAPTER V

PROCEDURE FOR THE NOMINATION OF CANDIDATES FOR ELECTION AS PEOPLE'S JUDGES AND PEOPLE'S ASSESSORS

Art. 26. The right to nominate candidates for election as people's judges and people's assessors is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies, and also to general meetings of manual and office workers in undertakings and institutions, to general meetings of military personnel in military units, to general meetings of peasants in collective farms and villages, and to general meetings of manual and other workers on State farms.

CHAPTER VI

VOTING PROCEDURE

Art. 41. Special rooms shall be reserved or separate booths provided in the polling stations to enable electors to mark ballot papers. It is forbidden for any person whomsoever (including the representative of the executive committee and members of the polling commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

Art. 44. An elector who, owing to illiteracy or physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER VII

DETERMINATION OF ELECTION RESULTS

Art. 67. Any person who by duress, deceit, threats or bribery obstructs a citizen of the Ukrainian SSR in the exercise of his right to elect people's judges and people's assessors or to be elected as such shall be liable to deprivation of liberty for a period not exceeding two years.

Art. 68. Any official who forges a ballot paper or knowingly miscounts votes in an election to a people's court shall be liable to deprivation of liberty for a period not exceeding three years.

UNION OF SOUTH AFRICA

JURY TRIALS AMENDMENT ACT, 1951[1]

Act No. 19 of 1951

To amend the law relating to the trial of criminal cases without a jury

(Assented to 20 April 1951)

TRIAL BY JUDGE WITHOUT A JURY[2]

216. (5) When a person committed for trial is to be tried before a provincial or local division of the Supreme Court upon an indictment charging him with having committed or attempted to commit an offence:

(*a*) Under chapter I of the Riotous Assemblies and Criminal Law Amendment Act, 1914 (Act No. 27 of 1914); or

(*b*) Under section *thirty-three* of the Atomic Energy Act, 1948 (Act No. 35 of 1948); or

(*c*) Relating to illicit dealing in or illegal possession of precious metal or precious stones; or

(*d*) Relating to the supply of intoxicating liquor to natives or coloured persons; or

(*e*) Relating to insolvency; or

(*f*) In connexion with which facts relating to "prescribed material" as defined in section *one* of the Atomic Energy Act, 1948, may have to be considered; or

(*g*) In connexion with which facts may have to be considered, for the proper understanding of which an expert knowledge of book-keeping, accounts, geology, mineralogy or metallurgy may be necessary; or

(*h*) Towards or in connexion with a non-European if the accused is a European or towards or in connexion with a European, if the accused is a non-European;

the Minister may, by a notification on or attached to the notice of trial, direct that the accused be tried by a judge without a jury.

[1]English text in the *Government Gazette Extraordinary of the Union of South Africa* of 27 April 1951, p. 10. Text received through the courtesy of Dr. L. H. Wessels, Law Adviser, Department of Justice, Pretoria. The Act amends section 216 of the Criminal Procedure and Evidence Act, 1917 (Act No. 31 of 1917), as substituted by section 36 of Act No. 46 of 1935, and amended by section 4 of Act No. 37 of 1948.

[2]This is the heading of section 216 of Act No. 31 of 1917. Sub-section 5 as printed above is substituted for the former sub-section 5.

SUPPRESSION OF COMMUNISM ACT, 1950

(Act No. 44 of 1950)

AS AMENDED BY THE SUPPRESSION OF COMMUNISM (AMENDMENT) ACT, 1951[1]

(Act No. 50 of 1951)

(Assented to 18 June 1951)

1. Section *one* of the Suppression of Communism Act, 1950 (hereinafter referred to as the principal Act) is hereby amended:

(*a*) By the substitution for the definition of the word "communist" of the following definition:

"'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

[1]English text of the Suppression of Communism Amendment Act, 1951, in *Government Gazette Extraordinary* of 20 July, 1951, pp. 2–6. Text received through the courtesy of Dr. L. H. Wessels, Law Adviser, Department of Justice, Pretoria. This Act is deemed to have come into operation on 17 July 1950 (section 10 of the Act), which was the date of the publication of the principal Act in the *Government Gazette Extraordinary*. The principal Act is the Suppression of Communism Act, 1950 (Act No. 44 of 1950), which was reproduced in *Yearbook on Human Rights for 1950*, pp. 293–299.

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 that he has at any time before or after the commencement of this Act been a member or active supporter of any organization outside the Union which professed, by its name or otherwise, to be an organization for propagating the principles or promoting the spread of communism, or whose purpose or one of whose purposes was to propagate the principles or promote the spread of communism, or which engaged in activities which were calculated to further the achievement of any of the objects of communism";

[*Former text:*

"Communist" means a person who professes 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 after the date of commencement of this Act 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.]

(*b*) (*as amended by Act No. 50 of 1951*) The Communist Party of South Africa means the organization known by that name on the fifth day of May 1950, *irrespective of whether or not it has thereafter been dissolved and*[1] notwithstanding any change in the name of that organization after the said date;

(*c*) (3) (*as added by Act No. 50 of 1951*) For the purpose of the definition of "unlawful organization" a proclamation under sub-section (2) of section *two* shall not be invalid or ineffective by reason of the fact that the organization concerned had been dissolved before the taking effect of such proclamation.

[Section 2 of the principal Act, dealing with unlawful organizations, declares the Communist Party of South Africa to be an unlawful organization and empowers the Governor-General to declare an organization, under certain circumstances, to be unlawful.]

2. [Section *three* of the principal Act, as amended, follows]:

3. (1) As from the date upon which an organization becomes an unlawful organization in terms of sub-section (1) of section *two* or a proclamation under sub-section (2) of the said section:

(*a*) No person shall:

(i) Become, continue to be or perform any act as an office-bearer, officer or member of the unlawful organization; or

(ii) Carry or display anything whatsoever indicating that he is or was *at any time before or after the commencement of this Act*[1] an office-bearer, officer or member of or in any way associated with the unlawful organization; or

(iii) Contribute or solicit anything as a subscription or otherwise, to be used directly or indirectly for the benefit of the unlawful organization; or

(iv) In any way take part in any activity of the unlawful organization, or carry on in the direct or indirect interest of the unlawful organization, any activity in which it was or could have engaged at the said date;

(*b*) All property (including all rights and documents) held by the unlawful organization or held by any person for the benefit of the unlawful organization, shall vest in a person to be designated by the Minister as the liquidator of the assets of the unlawful organization; and

(*c*) The unlawful organization shall, if it is registered in any office, cease to be registered, and the officer in charge of the register shall remove its name therefrom.

(*1*)*bis.*[1] *The Communist Party of South Africa, including every branch, section or committee thereof and every local, regional or subsidiary body forming part thereof, shall become an unlawful organization in terms of sub-section* (*1*) *of section two on the date of commencement of this Act, and the designation of a liquidator in respect thereof under paragraph* (b) *of sub-section* (*1*)*, shall be valid and effective, irrespective of whether or not it has before that date been dissolved, and irrespective of whether or not it has any assets.*

(*1*)*ter.*[1] *In the case of any other unlawful organization, the designation of a liquidator under paragraph* (b) *of sub-section* (*1*) *shall not be invalid or ineffective, by reason of the fact that the unlawful organization concerned has been dissolved before the designation or before the date upon which it becomes an unlawful organization in terms of a proclamation under sub-section* (*2*) *of section two, or by reason of the fact that it has no assets.*

3. [Section *four* of the principal Act deals with powers and duties of a liquidator; its sub-section 10 as amended follows]:

(10) If directed by the Minister to do so, the liquidator shall compile a list of persons who are or have *at any time before or after the commencement of this Act*[1] been office-bearers, officers, members or active supporters of the organization which has been declared an unlawful organization . . .

4. (*a*) [Section 5 of the principal Act provides for restrictions which the Minister may impose on communists or office-bearers, officers, members or active supporters of unlawful organizations. According to Act No. 50 of 1951, the Minister may require any person whose name appears on any list in the custody of the officer referred to in section *eight*, or who has been convicted of an offence under section *eleven* or is a communist]:

[1]Words in *italics* added in 1951.

(*d*) Not to become a member of any public body specified in the notice or to hold any public office so specified or, if he is such a member or holds such an office, to resign, within a period so specified, as such member or from such office and not again to become such a member or hold such office;

(*e*) Not to become a member of either House of Parliament or a provincial council or the Legislative Assembly of the territory of South-West Africa.

[*Former text:*

(*d*) Not to become a member of either House of Parliament or a provincial council or the Legislative Assembly of the territory of South-West Africa or any public body specified in the notice or to hold any public office so specified or, if he is such a member or holds such an office, to resign within a period so specified, as such member or from such office and not again to become such a member or hold such office: Provided that the Minister shall not require any person, other than a person who professes or has on or after the fifth day of May, 1950, and before the commencement of this Act, professed to be a communist, to resign as a member of either House of Parliament or a provincial council or the Legislative Assembly of the said territory except after consideration of a report, in the case of a senator, of a committee of the Senate and, in the case of a member of the House of Assembly or a provincial council or the Legislative Assembly of the said territory, of a committee of the House of Assembly.]

(*b*) [The following paragraphs are inserted after paragraph (*e*) of the principal Act]:

Section *five*

(1) *bis* (*a*) If, in the case of a senator, a committee of the Senate or, in the case of a member of the House of Assembly, or a provincial council or the Legislative Assembly of the territory of South-West Africa, a committee of the House of Assembly reports to the Senate or the House of Assembly, as the case may be:

(i) That the name of a senator or, as the case may be, of such a member appears on a list in the custody of the officer referred to in section eight and that there are no circumstances which would justify the removal of his name from such list; or

(ii) That a senator or such a member has been convicted of an offence under section eleven or is a communist; or

(iii) That a senator or such a member is or was at any time before or after the commencement of this Act an office-bearer, officer, member or active supporter of the Communist Party of South Africa, whether or not his name appears on any such list as aforesaid, or that he has at any time before or after the commencement of this Act professed to be a communist or advocated, advised, defended or encouraged the achievement of any of the objects of communism or any act or omission which was calculated to further the achievement of any such object,

the Minister may if the said report is approved by the Senate or, as the case may be, the House of Assembly and the Senate or the House of Assembly, as the case may be, does not recommend that no action be taken, notify that senator or that member, as the case may be, and also the President of the Senate or, as the case may be, the Speaker of the House of Assembly or the Chairman of the provincial council concerned or the Legislative Assembly of the said territory, in writing that the said senator or member shall as from a date specified in the notice, cease to be a senator or such a member, and as from that date he shall for all purposes be deemed to be incapable of sitting as a senator or such a member in terms of section fifty-three of the South Africa Act, 1909, or in terms of the said section as applied to members of the provincial councils by section seventy-two of the said Act, or in terms of section seventeen of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), and his seat shall become vacant.

(*b*) No person in respect of whom a notice has been issued in terms of paragraph (*a*) shall be capable of being chosen as a senator or as a member of the House of Assembly or of a provincial council or the Legislative Assembly of the territory of South-West Africa except with the approval of the Senate or the House of Assembly, as the case may be.

5. [Section *six* of the principal Act, as Amended by Act No. 50 of 1951, provides that the Governor-General may prohibit any periodical or other publication which serves, *inter alia*, as a means for expressing views propagated by any such organization, or did so serve immediately prior to the said date; or serves, *inter alia*, as a means for expressing views or conveying information, the publication of which is calculated to further the achievement of any of the objects of communism.[1]]

6. [Section *seven* of the principal Act deals with investigation concerning suspected organizations or publications. The words "at any time before or after the commencement of this Act" have been inserted by the Amendment Act of 1951 in sub-section (2) and in paragraph (*f*) of sub-section (3) of the principal Act, in the same way as in sub-paragraph (ii) of paragraph (*a*) of sub-section (1) of section *three* (see section *two* of the Amendment Act above).]

7. [Section *eight* of the principal Act deals with custody and correction of lists of persons who are or had at any time before or after the commencement of this Act been office-bearers, officers, members or active supporters of an organization which has been declared unlawful and states in sub-section (2)]:

"(2) If any person whose name appears on any such list proves that his name should not appear on it or is incorrectly included in any category mentioned in the list, or if any office-bearer, officer, member or active supporter of any organization which has *under sub-section (2) of section two*[2] been declared an unlawful organization proves that he neither knew nor could reasonably have been expected to know that the pur-

[1]The words "*inter alia*" have been substituted for the word "mainly" which was contained in the principal Act of 1950.

[2]Words in *italics* added in 1951; see the text of that section in *Yearbook on Human Rights for 1950*, p. 302.

pose or any of the purposes of the organization were of such a nature or that it was engaging in such activities as might render it liable to be declared an unlawful organization in terms of sub-section (2) of section *two*, the said officer shall remove his name or correct the list accordingly."

[Sections 9, 10 and 11 of the principal Act deal with prohibition of certain gatherings, prohibition of certain persons from being within defined areas and penalties.]

8. [Section twelve of the principal Act as amended reads as follows]:

12. (1) If in any prosecution under this Act, or in any civil proceedings arising from the application of the provisions of this Act, in which it is alleged that any person is or was a member or active supporter of any organization, or has [*publicly*][1] advocated, advised, defended or encouraged the promotion of its purposes, or has distributed *or assisted in the distribution of or caused to be distributed*[2] any periodical or other publication or document issued by, on behalf or at the instance of that organization, he shall be presumed, until the contrary is proved, to be or to have been a member or active supporter, as the case may be, of that organization.

(2) A person shall in any prosecution for an offence under paragraph (*g*) of section *eleven* be deemed to have convened a gathering in any place if he:

(*a*) Has *himself or through another person*[3] caused written notice to be published, distributed or despatched, inviting the public, or any members of the public, to assemble at a specified time and place, *or has encouraged or assisted in the publication, distribution or despatch of such a notice.*[3]

(*b*) Has himself, or through another person, orally invited the public or any members of the public so to assemble; or

(*c*) Has taken any active part in making arrangements for the publication, distribution or despatch of such a notice, or in organizing or making preparations for such an assembly.

(3) No person shall be convicted of an offence under paragraph (*g*) of section *eleven* if he satisfies the court that he had no knowledge of the prohibition of the gathering concerned.

9. The following section is hereby inserted after section *seventeen* of the principal Act:

17 *bis*. No action for damages shall lie and no criminal action may be instituted against any person who describes as a communist a person:

(*a*) Whose name appears on a list in the custody of the officer referred to in section *eight*; or

(*b*) Who has at any time after the commencement of this Act professed to be a communist; or

(*c*) Who has in terms of the definition of that expression in section *one* been deemed by the Governor-General or the Administrator of the territory of South-West Africa to be a communist and for as long as he is so deemed; or

(*d*) In respect of whom a notice has been issued in terms of paragraph (*a*) of sub-section (1) *bis* of section *five*; or

(*e*) Who has been convicted of any of the offences referred to in paragraphs (*a*) to (*i*), both inclusive, of section *eleven*.[4]

[1] Deleted by Act No. 50 of 1951.

[2] Words in *italics* added in 1951; see the text of that section in *Yearbook on Human Rights for 1950*, p. 302.

[3] Words in *italics* added in 1951.

[4] See section 11 of the principal Act in *Yearbook on Human Rights for 1950*, p. 305.

SEPARATE REPRESENTATION OF VOTERS ACT, 1951 [1]

Act No. 46 of 1951

TO MAKE PROVISION FOR THE SEPARATE REPRESENTATION IN PARLIAMENT AND IN THE PROVINCIAL COUNCIL OF THE PROVINCE OF THE CAPE OF GOOD HOPE OF EUROPEANS AND NON-EUROPEANS IN THAT PROVINCE, AND TO THAT END TO AMEND THE LAW RELATING TO THE REGISTRATION OF EUROPEANS AND NON-EUROPEANS AS VOTERS FOR PARLIAMENT AND FOR THE SAID PROVINCIAL COUNCIL; TO AMEND THE LAW RELATING TO THE REGISTRATION OF NON-EUROPEANS AND NATIVES IN THE PROVINCE OF NATAL AS VOTERS FOR PARLIAMENT AND FOR THE PROVINCIAL COUNCIL OF NATAL; TO ESTABLISH A BOARD FOR COLOURED AFFAIRS; AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO

SEPARATE REGISTRATION OF EUROPEAN AND NON-EUROPEAN VOTERS IN THE PROVINCE OF THE CAPE OF GOOD HOPE

2. (1) As soon as possible after the date of commencement of this Act, the Minister shall cause a register (hereinafter referred to as the Cape Coloured voters' list) to be compiled.

(2) Save as hereinafter in this section provided, the Cape Coloured voters' list shall include all the names of non-Europeans, which at the aforesaid date are included in lists then valid according to the provisions of the principal Act,[2] of persons qualified to vote in the province of the Cape of Good Hope at elections of members of the House of Assembly.

(3) All non-Europeans whose names are not included in the list referred to in sub-section (2) and who are qualified in terms of section *four* of the principal Act shall, upon application in the prescribed manner, be entitled to be registered in the Cape Coloured voters' list.

(4) The removal of the name of any non-European from the Cape Coloured voters' list, on the ground that he is not qualified in terms of section *four* aforesaid, shall take place on objection duly made, in accordance with the prescribed procedure.

(5) The Minister shall cause the Cape Coloured voters' list to be divided:

(*a*) Into four parts, one for each electoral division (hereinafter called a Union electoral division), as determined under the provisions of paragraph (*a*) of sub-section (2) of section *six*, for the House of Assembly;

(*b*) Into two parts, one for each electoral division (hereinafter called a provincial electoral division), as determined under the provisions of paragraph (*b*) of sub-section (2) of section *six*, for the provincial council of the province of the Cape of Good Hope.

(6) Each part of the Cape Coloured voters' list, as determined under sub-section (5), shall contain the names of persons registered in the said list who reside in the electoral division to which that part relates.

(7) Every person who is classified as a non-European on any voters' list in existence at the date of commencement of this Act, which has been framed under the principal Act, as for an electoral division in the province of the Cape of Good Hope, shall until the contrary is proved, be deemed to be a non-European for the purposes of this Act, and every person who is thus classified as a white person shall similarly be deemed to be a white person, until the contrary is proved.

[Section 3 deals with the application of the Electoral Consolidation Act, 1946 (Act No. 46 of 1946), referred to in this Act as the "principal Act", for the purpose of the compilation and keeping of the Coloured voters' list.]

4. (1) As soon as the Cape Coloured voters' list has been framed in terms of the provisions of section *two*, every electoral officer who has been appointed under the principal Act in respect of any area of the province of the Cape of Good Hope, shall prepare a separate voters' list for white persons whose names are included in the voters' lists framed under the principal Act (hereinafter called the European voters' list), for each division in the area for which he has been appointed.

(2) (*a*) The European voters' list for each division shall be framed by removing from the list in force at the date of commencement of this Act (hereinafter called the existing voters' list) the names of all persons which are included in the Cape Coloured voters' list, and shall thereafter be maintained, in terms of the provisions of the principal Act, as a separate voters' list for white persons qualified to vote in such division, and shall not include the names of any non-Europeans.

(*b*) Subject to the provisions of sub-section (7) of section *two*, a person who in appearance obviously is a white person shall for the purposes of this sub-section be presumed to be a white person, until the contrary is proved.

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[1] English text in *Statutes of the Union of South Africa*, 1951, pp. 272–292. In March 1952, four Cape Coloured voters challenged the validity of this Act before the Appellate Division of the Supreme Court of South Africa, which declared the Act void since it had not been agreed to by two-thirds of the total number of members of both Houses of Parliament sitting together, as required by articles 35 and 152 of the South Africa Act, 1909. Thereupon, a High Court of Parliament was established by Act No. 35 of 1952, having the power to confirm, modify or annul any decision of the Appellate Division of the Supreme Court by which an Act of Parliament was declared void. On 28 August 1952, the High Court of Parliament annulled the judgment of the Appellate Division of the Supreme Court. The same voters who had challenged the validity of the Separate Representation of Voters Act challenged the High Court of Parliament Act before the Provincial Division of the Supreme Court of Cape Province, which declared this Act invalid, null, void, and of no legal force. An appeal from the Government of the Union of South Africa against this judgment was dismissed by the Appellate Division of the Supreme Court of South Africa on 13 November 1952.

[2] Electoral Consolidation Act, 1946 (Act No. 46 of 1946). See *Yearbook on Human Rights for 1948*, pp. 395–397.

(3) (*a*) As soon as, after the date of commencement of this Act, there has been a delimitation of electoral divisions in the Union in terms of section forty-one of the South Africa Act, 1909 (hereinafter called a new Union delimitation) and a general election is held for the House of Assembly, the European voters' list shall be the voters' list in the divisions concerned for the election under the provisions of the principal Act of members of the House of Assembly, representing constituencies in the province of the Cape of Good Hope, for the election of whom provision is made by the South Africa Act, 1909; and as soon as, after the said date and after a new Union delimitation, a general election of provincial councillors, for the election of whom provision is so made takes place in the province of the Cape of Good Hope, the European voters' list shall similarly be the voters' list in the divisions concerned for the election of such provincial councillors.

(*b*) For the purpose of the division of the province of the Cape of Good Hope into electoral divisions in terms of section *forty* of the South Africa Act, 1909, the words "the total number of voters" in sub-section (1) of the said section, shall after the date of commencement of this Act be deemed to refer to the total number of voters in the European voters' list.

(4) As soon as the European voters' list comes into force, in terms of sub-section (3), the provisions of the principal Act relating to the registration of non-European voters in the province of the Cape of Good Hope, shall be deemed to refer to the registration of the said voters in the Cape Coloured voters' list, and shall for that purpose continue to be in force.

[Section 5 provides for the retention of names of non-Europeans on voters' lists in the Cape Province until the next general election. Section 6 provides for the division of the province of the Cape of Good Hope into electoral divisions for the purpose of electing members of the House of Assembly and the provincial council of the Cape of Good Hope and the Board for Coloured Affairs, to represent non-Europeans.]

REPRESENTATION OF NON-EUROPEANS IN THE SENATE

7. In addition to the senators for the nomination or election of whom provision is made by the South Africa Act, 1909, the Representation of Natives Act, 1936, and the South-West Africa Affairs Amendment Act, 1949, a senator shall be nominated by the Governor-General on the ground of his thorough acquaintance, by reason of his official experience or otherwise, with the reasonable wants and wishes of the non-European population in the province of the Cape of Good Hope.

8. (1) The qualifications for nomination as a senator under this Act shall be those prescribed for nominated senators in section *twenty-six* of the South Africa Act, 1909,[1] save that, in addition, residence for five years within the province of the Cape of Good Hope, shall be a necessary requirement.

(2) The provisions of sections *fifty-one* to *fifty-six*, both inclusive, of the South Africa Act, 1909, shall apply to any senator nominated under this Act.

(3) The said senator:

(*a*) Shall have all the rights, powers, privileges and immunities which senators nominated under the South Africa Act, 1909, have, and shall be subject to all the duties and obligations to which such senators are subject;

(*b*) Shall be subject to the provisions of the Senate Act, 1926 (Act No. 54 of 1926).

[1] See *Yearbook on Human Rights for 1948*, p. 394.

REPRESENTATION OF NON-EUROPEANS IN THE HOUSE OF ASSEMBLY

9. (1) The persons whose names appear in the Cape Coloured voters' list for any Union electoral division shall be entitled to elect one member of the House of Assembly to represent such electoral division.

(2) The members of the House of Asssmbly who may be elected under this Act shall be in addition to the members of the House of Assembly for the election of whom provision is made by the South Africa Act, 1909, the Representation of Natives Act, 1936 (Act No. 12 of 1936)[2] and the South-West Africa Affairs Amendment Act, 1949 (Act No. 23 of 1949).

(3) If the number of members of the House of Assembly prescribed in paragraph (*a*) of section *thirty-two* of the South Africa Act, 1909, is at any time hereafter decreased or increased by legal enactment, the number of members to be elected under the provisions of this Act shall bear, as nearly as possible, the same ratio to the number of members of the House of Assembly so increased or decreased, as the number of members first elected under the provisions of this Act bears to the number of one hundred and fifty.

(4) If the number of members who may be elected to the House of Assembly under this Act is altered in terms of the provisions of sub-section (3), the reference in paragraph (*a*) of sub-section (5) of section *two* to four parts, and in paragraph (*a*) of sub-section (2) of section *six* to four divisions, shall respectively be deemed to be amended accordingly so as to give effect to such alteration.

10. (1) The qualifications for election as a member of the House of Assembly under this Act shall be those prescribed in section *forty-four* of the South Africa Act, 1909[2] save that, in addition, residence for two years within the province of the Cape of Good Hope shall be a necessary requirement.

(2) The provisions of sections *fifty-one* to *fifty-six* both inclusive, of the South Africa Act, 1909, shall apply to all members of the House of Assembly elected under this Act.

(3) The aforesaid members shall not have the right to vote at the election of senators under the provisions of paragraph (ii) of section *twenty-five* of the South Africa Act, 1909, but shall otherwise have all the rights, powers, privileges and immunities which members of the House of Assembly elected under the South Africa Act have, and shall be subject to all the duties and obligations to which such members are subject.

REPRESENTATION OF NON-EUROPEANS IN THE PROVINCIAL COUNCIL OF THE PROVINCE OF THE CAPE OF GOOD HOPE

11. (1) The persons whose names appear in the Cape Coloured voters' list for a provincial electoral division shall be entitled to elect one member of the provincial council of the province of the Cape of Good Hope, to represent such a division.

(2) The members of the provincial council who may be elected under this Act shall be in addition to the provincial councillors for the election of whom provision is made by the South Africa Act, 1909, and the Representation of Natives Act, 1936.

12. (1) The qualification for election under this Act as a member of the provincial council of the Cape of Good Hope shall be the qualification prescribed in sub-section (2) of section *seventy* of the South Africa Act, 1909, save that:

(i) In addition residence for two years within the province of the Cape of Good Hope shall be a necessary requirement;

[2] *Ibid.*

(ii) Any person qualified to vote for the election of a member of the provincial council in terms of the Representation of Natives Act, 1936 (Act No. 12 of 1936) shall not be qualified for election as a member of the said provincial council.

(2) The provisions of section *seventy-two* of the South Africa Act, 1909, shall *mutatis mutandis*, apply to all provincial councillors elected under this Act.

(3) The aforesaid provincial councillors shall not have the right to vote at an election of senators under paragraph (ii) of section *twenty-five* of the South Africa Act, 1909, but shall otherwise have all the rights, powers, privileges and immunities which provincial councillors elected under the South Africa Act have, and shall be subject to all the duties and obligations to which such provincial councillors are subject.

REGISTRATION OF NON-EUROPEAN VOTERS IN THE PROVINCE OF NATAL

13. (1) Any non-European or native in the province of Natal who is registered as a voter at the date of commencement of this Act, shall continue to be so registered, as long as he retains his qualifications in terms of sections five and six of the principal Act[1] and remains resident in the said province.

(2) The name of any non-European or native who ceases to be qualified to be registered in terms of sub-section (1) shall be removed from the voters' list, and shall not thereafter be restored to it.

(3) After the date of commencement of this Act no non-European or native in the province of Natal shall, notwithstanding the provisions of section *five* of the principal Act, be entitled to be registered as a voter in the said province.

(4) The preceding provisions of this section shall not affect the right of any non-European to be registered on the Cape Coloured voters' list or of any native to be registered on the Cape native voters' roll in terms of the Representation of Natives Act, 1936 (Act No. 12 of 1936).[2]

THE BOARD FOR COLOURED AFFAIRS

14. (1) A Board for Coloured Affairs (hereinafter called the Board) is hereby established, consisting of three non-European members who shall be nominated by the Governor-General and eight non-European members who are to be elected.

(2) (*a*) The three non-European members to be nominated shall represent, respectively, the provinces of Natal, the Orange Free State and the Transvaal.

(*b*) No person shall be nominated as a member unless:

(i) He qualifies *mutatis mutandis*, in terms of paragraphs (*a*), (*b*), (*c*), and (*d*) of sub-section (1) of section four of the principal Act;[3] and

(ii) Has resided for a period of two years immediately prior to the date of his appointment in the province that he is nominated to represent, and continues to reside therein.

(3) Any person who is qualified to be registered in the Cape Coloured voters' list and has in addition resided in the province of the Cape of Good Hope for a period of two years immediately prior to the date of his election, shall be qualified to be elected as a member of the Board.

(4) The following persons shall have the right to attend meetings of the Board, and to take part in its deliberations, but shall not have the right to vote, except in the case of equality of voting, when the chairman shall have the right to exercise a casting vote:

(*a*) The Commissioner for Coloured Affairs (an office to be established to fall under the direction and control of the Minister of the Interior) who shall be the Chairman of the Board;

(*b*) A representative of the Department of Social Welfare;

(*c*) A representative of the Department of Labour; and

(*d*) A representative of the Administration of the province of the Cape of Good Hope.

15. (1) The persons whose names appear in the Cape Coloured voters' list for any Union electoral division shall be entitled to elect two members of the Board as representing such electoral division.

(2) If the number of Union electoral divisions is altered as provided in sub-section (4) of section *nine*, the four Union electoral divisions existing before such alteration shall be deemed to persist as for the purpose of any election of members of the Board, unless and until any contrary provision is made by law.

16. (1) Non-European members of the Board shall hold their seat for a period of five years from the date of election or appointment as the case may be: Provided that, in the case of a candidate who is declared elected in terms of sub-section 8 of section *thirty-six* of the principal Act, his tenure of office shall continue for a period of five years from the date on which polling would have taken place, if a poll had been necessary.

(2) If the seat of any member of the Board becomes vacant before the date of expiry of his tenure of office, another person shall, if the seat becoming vacant:

(*a*) Is that of a nominated member, be appointed in his stead by the Governor-General;

(*b*) Is that of an elected member, be elected in his stead, and the person so appointed or elected shall be entitled to hold the seat until the aforesaid date of expiry.

(3) The persons mentioned in sub-section (4) of section *fourteen* shall have the right to attend the meetings of the Board *ex officio* and the representatives mentioned under paragraphs (*b*), (*c*) and (*d*) of the said sub-section shall respectively be nominated from time to time by the head of the department concerned.

17. If a member of the Board:

(*a*) Ceases to be qualified to be nominated or elected, as the case may be; or

(*b*) Fails for a whole ordinary session to attend the Board without the special leave of the Board; or

(*c*) Dies or resigns,

his office shall thereupon become vacant.

18. It shall be the function of the Board:

(*a*) To advise the Government of the Union at its request on all matters affecting the economic, social, educational and political interests of the non-European population of the Union;

(*b*) To make recommendations to the Government of the Union in regard to any projects calculated to serve the best interests of the said population;

(*c*) To act in general as an intermediary and a means of contact and consultation between the Government of the Union and the said population;

(*d*) To carry out such statutory or other administrative functions as may be assigned to the Board by the Governor-General.

[Section 19 deals with the constitution of the Board and section 20 with elections of members of the House of Assembly, of provincial councillors, and of members of the Board for Coloured Affairs.]

[1] See *Yearbook on Human Rights for 1948*, pp. 396–397.

[2] *Ibid.*, pp. 394–395.

[3] *Ibid.*, pp. 395–396.

UNION OF SOVIET SOCIALIST REPUBLICS

DEFENCE OF THE PEACE ACT[1]

of 12 March 1951

The Supreme Soviet of the Union of Soviet Socialist Republics, guided by the lofty principles of the Soviet policy of peace, which aims at consolidating peace and friendly relations among nations,

Recognizes that the conscience and sense of justice of the peoples, who in the lifetime of a single generation have gone through the calamities of two world wars, cannot tolerate the impunity with which war propaganda is being conducted by aggressive circles of certain States, and associates itself with the appeal of the Second World Peace Congress which expressed the will of the whole of progressive mankind to prohibit and condemn criminal war propaganda.

The Supreme Soviet of the Union of Soviet Socialist Republics resolves:

1. That war propaganda, in whatever form conducted, undermines the cause of peace, creates the danger of a new war, and is therefore a grave crime against humanity;

2. That persons guilty of war propaganda shall be committed for trial as major criminals.

[1]Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation in *Soviet Literature*, Moscow, 1951, p. 3.

REPORT OF THE CENTRAL STATISTICAL BOARD OF THE COUNCIL OF MINISTERS OF THE USSR ON THE FULFILMENT OF THE STATE PLAN FOR THE DEVELOPMENT OF THE NATIONAL ECONOMY OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR 1951[1]

EXTRACTS

VI

GROWTH OF CAPITAL WORKS IN THE NATIONAL ECONOMY

An extensive construction programme was carried out in 1951. The volume of State capital works amounted to 112 per cent of the 1950 volume, including, in the construction of electric power stations, 140 per cent; in the ferrous and non-ferrous metallurgical industries, 120 per cent; in the coal and oil industries, 112 per cent; in the engineering industry, 110 per cent; in the building materials industry, 135 per cent; on machine and tractor stations and State farms, 106 per cent; in transport, 103 per cent; in housing construction, 120 per cent.

The 1951 programmes for the construction of large hydro-technical works on the Volga, the Don, and the Dnieper, and for the Main Turkmen Canal were successfully fulfilled.

In 1951, the building organizations received large quantities of highly productive machines and equipment. As compared with 1950, the total number of excavators increased by nearly 40 per cent, of scrapers by more than 30 per cent, and of bulldozers by more than 80 per cent, with large increases in other types of building machinery and equipment. All-round mechanization is being more and more widely practised at building sites. The supply of building materials improved.

. . . In 1951, houses with a total floor space of 27 million square metres were built by State enterprises, institutions and local soviets, as well as by individual citizens in towns and workers' settlements with the help of government credits. In addition, some 400,000 houses were built in rural areas.

VIII

INCREASE IN THE NUMBER OF MANUAL AND OFFICE WORKERS AND GROWTH IN PRODUCTIVITY OF LABOUR

At the end of 1951, the total number of persons employed in the national economy of the USSR was 40,800,000, or 1,600,000 more than at the end of 1950,

[1]Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

the increase in industry, agriculture and forestry, construction and the transport services being 1,250,000, in educational, scientific research and medical institutions nearly 250,000, and in trade, housing and municipal services over 100,000.

In 1951, as in previous years, there was no unemployment in the USSR.

During the past year, a total of 365,000 young skilled workers completed training in vocational, railway, mining and factory schools and started work in industry, building and transport.

Seven million persons acquired skills or improved their qualifications with the help of individual or group instruction or education courses.

The productivity of labour of industrial workers was 10 per cent higher in 1951 than in 1950, the increase being 14 per cent in the engineering industry, 9 per cent in the ferrous metals industry, 6 per cent in the non-ferrous metals industry, 8 per cent in the coal industry, 9 per cent in the oil industry, and 9 per cent in the chemical industry. Productivity of labour of construction workers increased by 9.5 per cent.

IX

CULTURAL DEVELOPMENT, PUBLIC HEALTH AND TOWN IMPROVEMENT

In 1951, further progress was registered in all fields of socialist culture.

Last year the total number of persons receiving education, counting all forms of tuition, was 57 million.

The number of seven-year and secondary schools increased by nearly 5,000, and the number of pupils in the fifth to tenth classes of these schools by 2,500,000.

The number of students receiving tuition in the 887 higher educational establishments totalled 1,356,000 (including correspondence course students), or 108,000 more than in 1950. The number of students in the 3,543 technical and other special secondary schools was 1,384,000 (including correspondence course students), or 86,000 more than in 1950.

In 1951, 201,000 young specialists graduated from higher educational establishments, and 262,000 from technical schools.

The total number of graduates of higher educational establishments and technical schools engaged as specialists in the national economy was 8 per cent greater in 1951 than in 1950.

In 1951, over 24,000 post-graduate students were training for scientific work at higher educational establishments or scientific institutions.

In 1951, 2,694 scientists, engineers, agronomists, writers, artists, workers and front-rank farmers were awarded Stalin Prizes for outstanding achievements in science, invention, literature and the arts.

In 1951, there were more than 350,000 libraries of various types belonging to State or public organizations, with an aggregate total of more than 700 million volumes.

The number of cinema installations increased in 1951 by 4,000. Theatre and cinema attendance increased by 12 per cent.

In the summer of 1951 more than 5 million children and adolescents were accommodated at Young Pioneer camps, children's sanatoria or tourist camps and hotels, or spent the whole summer in the country with their kindergartens, children's homes or crèches.

The number of hospitals, maternity homes, clinics and other medical institutions, as well as of sanatoria and rest homes, was increased in 1951. The number of beds in hospitals and maternity homes increased by nearly 50,000. The number of places in sanatoria and rest homes increased by 18,000. As compared with 1950, the number of physicians increased by more than 6 per cent.

Output of medicines, surgical instruments and medical appliances increased by 36 per cent over 1950, making it possible considerably to improve the supply to medical institutions of medicines, new-type appliances, laboratory equipment and medical instruments.

In 1951, as in previous years, considerable work was carried out on the construction of municipal enterprises, the improvement of cities and workers' settlements, the installation of water supply and drainage, the extension of tramcar and trolleybus services, the installation of gas and municipal heat supply, the planting of trees and shrubs, the paving and asphalting of city streets and squares, and the laying out of parks, squares and boulevards.

X

GROWTH OF NATIONAL INCOME AND INCOME OF THE POPULATION

The national income of the USSR in 1951 was 12 per cent greater than in 1950 (in comparable prices).

In the USSR, the whole national income belongs to the workers. Last year, as in the preceding year, they received approximately three-quarters of the national income for the satisfaction of their personal material and cultural requirements, the other quarter remaining at the disposal of the State, the collective farms and the co-operative organizations to be used for the expansion of socialist production and for other national and public needs.

The increase in the national income made it possible considerably to improve the living standards of workers, peasants and intellectuals, and to ensure the further expansion of socialist production in town and country.

The rise in the material standards of the people of the USSR found expression in the growth of monetary and real wages of manual and office workers, and in

the higher incomes of the peasants, both from their commonly conducted collective-farm enterprises and from their allotments and individually owned holdings.

In addition, in 1951, as in previous years, the population received at the expense of the State allowances and grants under the social insurance system for manual and office workers, pensions from the social welfare funds, accommodation in sanatoria, rest homes and children's institutions free of charge or at reduced rates, allowances to mothers of large families and to unmarried mothers, free medical aid, free education and professional and trade instruction, students' grants and a number of other payments and privileges. Moreover, all manual and office workers—that is, about 41 million persons—received at least a fortnight's holiday with pay, and more in the case of workers in a number of professions. In 1951, these payments and privileges received by the population at the expense of the State amounted to 125,000 million roubles.

As a result of the reduction in the prices of consumer goods, the increased monetary wages and salaries, the higher incomes of the peasants in money and in kind, and the increased payments and privileges received by the population at State expense, the incomes of manual and office workers and peasants were 10 per cent higher (in comparable prices) in 1951 than in 1950.[1]

[1] The execution of the State budget for 1951 and the State budget of the USSR for 1952 were the subject of a report made by Mr. A. G. Zverev, Minister of Finance of the USSR. According to this report, in 1951, revenue produced a surplus of 9,300 million roubles over the estimated figure in the State budget for 1951 approved by the Supreme Soviet of the USSR and exceeded the 1950 total by 45,200 million roubles, or 10.7 per cent. The principal source of revenue was receipts from socialist enterprises and organizations. Revenue from the profits of State enterprises increased from 40,400 million roubles in 1950 to 47,800 million roubles in 1951, an increase of 18.5 per cent. Receipts from the turnover tax in the corresponding period increased by 4.9 per cent, from 236,100 million roubles to 247,800 million roubles. The increase in USSR budgetary revenue from socialist enterprises was accompanied by a substantial drop in wholesale prices of materials and equipment and retail prices of consumer goods. Receipts from tax payments by the population amounted to 101.9 per cent, and from State loans to 110.6 per cent, of the estimated figures. Expenditure under the 1951 State budget of the USSR was 28,000 million roubles, or 6.8 per cent, greater than in 1950. The sum of 179,400 million roubles was devoted in 1951 to financing the national economy, as against 157,600 million roubles in 1950; the corresponding figures for social and cultural activities were 118,900 million roubles and 116,700 million roubles.

Under the State budget of the USSR for 1952, revenue from taxes payable by the population is estimated at 47,400 million roubles, or 9.3 per cent of the total revenue. Total estimated expenditure under the State budget of the USSR for 1952 is 476,900 million roubles, of which 180,400 million roubles are allocated for the development of the national economy, 124,800 million roubles for social and cultural activities, 113,800 million roubles for national defence, 14,400 million roubles for the maintenance of administrative departments, and 8,900 million roubles for State lottery prizes and to cover interest on loans. Estimated expenditure is 35,600 million roubles, or 8.1 per cent, greater than in 1951.

The USSR Government attaches particular importance to the all-round education and training of workers. Having successfully solved, even before the war, the problem of providing compulsory universal elementary education, the Soviet State is now introducing universal seven-year schooling and at the same time doing everything possible to develop ten-year schooling.

In 1952, 1,416,000 students will attend higher educational establishments, or 60,000 more than in 1951. The number of students attending technical schools will increase by 57,000 to a total of 1,441,000. The 1952 plan provides for the further extension of the work of the scientific research institutions studying the problems of utilizing natural forces for the benefit of mankind, making labour less onerous and increasing its efficiency. In the current year, 60,000 million roubles are allocated for education, 22,800 million roubles for public health and physical culture, 37,500 million roubles for social insurance and social security, and 4,500 million roubles for State aid to mothers of large families and to unmarried mothers.

Mr. I. I. Fadeev, Minister of Finance of the Russian Soviet Federative Socialist Republic, reported on the provisional results of the execution of the 1951 budget and on the expenditure on social and cultural activities in the RSFSR planned for 1952. The gross output of Republic and local industries in the RSFSR amounted to 104 per cent of the year's production targets. Gross industrial output was 15 per cent higher than in 1950, labour productivity increased by 8 per cent and industrial production costs dropped by almost 4 per cent.

The total area under agricultural crops of all kinds in the Republic was 5.7 million hectares greater than in 1950. The number of livestock on collective and State farms increased. Shelter-belt planting and sowing was carried out over an area of 535,000 hectares in the steppe and wooded steppe regions. Almost 9,000 million roubles were spent in the RSFSR on urban housing construction alone. Retail sales of State and co-operative stores in 1951 were 15 per cent greater than in 1950.

The expansion of the socialist economy in 1951 contributed to the successful execution of the budget. According to preliminary data, revenue under the State budget of the RSFSR amounted to 102.8 per cent of the estimated figure. Revenue from State enterprises and economic organizations showed a surplus. Receipts from profits totalled 9,325 million roubles, or 111.1 per cent of the approved budget figure. Receipts from the turnover tax amounted to 9,141 million roubles, or 101.4 per cent of the estimated figure. Receipts from State loans also showed a large surplus, producing a total of 8,805 million roubles, or 108.4 per cent of the estimated figure. The sum of 10,871 million roubles, or 106.2 per cent of the estimated figure, was spent on financing the national economy in 1951. A total of 37,634 million roubles, or 718 million roubles more than in 1950, was spent on social and cultural activities. The cost of maintaining the organs of State administration was 73 million roubles less than had been estimated.

As a result of the successful execution of the budget, revenue exceeded expenditure by 991 million roubles in 1951. These are the preliminary results of the execution of the budget for the past year.

Under the Republic's budget for 1952, 22,089 million roubles were allocated for education. Large sums are allocated for the maintenance of elementary, seven-year and secondary schools; a total of 11,835 million roubles will be spent for this purpose in the current year. Having successfully instituted universal compulsory elementary education, the Government is now introducing universal seven-year

(Continued at foot of page 357)

DECREE OF THE PRESIDIUM OF THE SUPREME SOVIET OF THE USSR ON IMPROVING THE SYSTEM OF STATE ASSISTANCE TO MOTHERS OF LARGE FAMILIES AND TO UNMARRIED MOTHERS, AND IMPROVING WORKING AND LIVING CONDITIONS FOR WOMEN[1]

dated 19 May 1949

1. Where a guardian is appointed in the manner prescribed by law to care for and maintain the child of an unmarried mother (owing to the mother's death or illness or for other reasons), the State grant towards the child's care and maintenance to which she would have been entitled shall instead be payable to the said guardian.

4. Any person refusing to employ a woman because she is nursing a child, or reducing her wages on that account shall be prosecuted under article 133 (*a*) of the Penal Code of the RSFSR and the corresponding articles of the Penal Codes of the other Union Republics.

The Presidiums of the Supreme Soviets of the Union Republics shall be instructed to make the Penal Codes of the Union Republics accord with article 4 of this decree.

[1]Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

ORDER No. 5019 OF THE COUNCIL OF MINISTERS OF THE USSR[1]

APPROVING THE STATEMENT BY THE SECRETARIAT OF THE ALL-UNION CENTRAL COUNCIL OF TRADE UNIONS CONCERNING THE RETENTION OF THEIR FORMER RATES OF PAY BY WOMEN TRANSFERRED TO OTHER WORK OWING TO THE NECESSITY OF NURSING THEIR INFANTS

dated 22 December 1950

The Council of Ministers of the USSR decides

To approve the statement by the Secretariat of the All-Union Central Council of Trade Unions concerning the retention of their former rates of pay by women transferred to other work owing to the necessity of nursing their infants.

STATEMENT BY THE SECRETARIAT OF THE ALL-UNION CENTRAL COUNCIL OF TRADE UNIONS CONCERNING THE RETENTION OF THEIR FORMER RATES OF PAY BY WOMEN TRANFERRED TO OTHER WORK OWING TO THE NECESSITY OF NURSING THEIR INFANTS

A woman who is nursing her infant and for that reason cannot be allowed to continue her former work shall be transferred during the nursing period, if no equally remunerative work requiring the same qualifications is available, to other work in the same undertaking or institution at her average rate of pay during the previous six months (not including the period of maternity leave).

[1]Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

(Continued from page 356)

schooling and is doing everything possible to develop secondary and higher education. The sum of 2,681 million roubles is allocated for the maintenance of technical schools and universities, which will be attended by 571,000 students. In 1952, 142,000 young specialists will graduate from universities and technical schools to work in various branches of the national economy and in cultural activities.

A total of 3,410 million roubles is ear-marked for the maintenance of kindergartens and children's homes, which will accommodate 684,000 children in the current year. The increased expenditure on schools and children's institutions is accompanied by larger allocations for cultural and educational activities. A further 5,000 rural clubs and 3,500 libraries will be added this year to the Republic's network of cultural and educational institutions. The sum of 134 million roubles is allocated for the purchase of books for libraries. Other institutions playing an important part in meeting the manifold and constantly growing cultural demands of the workers will also be increased in number.

Large sums are allocated under the budget for scientific research. Budgetary provision for science in 1952 amounts to 467 million roubles. The sum of 12,127 million roubles is allocated for public health under the 1952 budget. During the current year, 22,000 new beds will be added in city and country hospitals. More accommodation will be provided in nurseries, and the number of doctors and other medical personnel will be increased.

Expenditure on social insurance and social security is estimated at 5,008 million roubles. The sum of 417,500 million roubles is ear-marked for assistance to disabled ex-service men of the Great Patriotic War.

Union Republics

RUSSIAN SOVIET FEDERATIVE SOCIALIST REPUBLIC

REGULATIONS FOR ELECTIONS OF PEOPLE'S COURTS OF THE RSFSR[1]

approved by the Presidium of the Supreme Soviet of the RSFSR, 29 October 1951

CHAPTER I

ELECTORAL SYSTEM

1. In accordance with article 113 of the Constitution of the RSFSR and article 22 of the Act on the Judicial System of the USSR, the Union Republics and Autonomous Republics, people's courts are elected by the citizens of the district on the basis of universal, direct and equal suffrage by secret ballot for a term of three years.

2. Any citizen of the RSFSR who has the right to vote and has reached the age of twenty-three by the date of the elections may be elected as a people's judge or people's assessor. Persons who have been convicted may not be elected as people's judges or people's assessors.

3. In accordance with article 18 of the Constitution of the RSFSR, citizens of all the other Union Republics have the right in the territory of the RSFSR to elect or to be elected as people's judges and people's assessors equally with citizens of the RSFSR.

4. In accordance with article 23 of the Act on the Judicial System of the USSR, Union Republics and Autonomous Republics, people's judges and people's assessors are elected by the citizens of the district according to electoral districts. The electoral district for the election of a people's court (people's judge and people's assessors) covers the whole population within the territorial jurisdiction of that people's court.

5. The expenses connected with the holding of elections to people's courts are borne by the State.

CHAPTER II

ELECTORAL ROLLS

7. The electoral rolls shall include all citizens, men and women, having the right to vote and living in the territory of the respective soviet at the time when the electoral rolls are drawn up, who have reached the age of eighteen by the date of the elections, irrespective of race, nationality, religion, educational or residential qualifications, social origin, property status or past activites.

8. The electoral roll shall exclude persons deprived of their electoral rights by a court of law, for the whole period of such deprivation of electoral rights as laid down in the sentence, and also persons who have been adjudged insane under the procedure prescribed by law.

CHAPTER V

PROCEDURE FOR THE NOMINATION OF CANDIDATES FOR ELECTION AS PEOPLE'S JUDGES AND PEOPLE'S ASSESSORS

26. The right to nominate candidates for election as people's judges and people's assessors is secured to public organizations and societies of the working people—Communist Party organizations, trade unions, co-operatives, youth organizations and cultural societies; and also to general meetings of manual and office workers in undertakings and institutions, to general meetings of military personnel in military units, to general meetings of peasants in collective farms and villages, and to general meetings of manual and other workers on State farms.

CHAPTER VI

VOTING PROCEDURE

41. Special rooms shall be reserved or separate booths provided in the polling stations to enable electors to mark ballot papers. It is forbidden for any person whomsoever (including the representative of the executive committee and members of the polling commission) other than a voter to be present in such a room or booth when ballot papers are being marked by electors.

44. An elector who, owing to illiteracy or any physical disability, cannot himself mark a ballot paper may invite any other elector to enter the place where ballot papers are being marked for the purpose of marking his ballot paper.

CHAPTER VII

DETERMINATION OF ELECTION RESULTS

67. Any person who by duress, deceit, threats or bribery obstructs a citizen of the RSFSR in the free exercise of his right to elect people's judges and people's assessors, or to be elected as such, shall be liable to deprivation of liberty for a period not exceeding two years.

68. Any official who forges a ballot paper or knowingly miscounts votes in an election to a people's court shall be liable to deprivation of liberty for a period not exceeding three years.

[1] Russian text received through the courtesy of the Permanent Delegation of the USSR to the United Nations. English translation from the Russian text by the United Nations Secretariat.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

SAFEGUARDS FOR THE DEFENCE IN ENGLISH CRIMINAL PROCEEDINGS[1]

In England all criminal proceedings are conducted in public.[2] Anyone, unless he happens to be a witness in a case[3] that is just being tried or under fourteen years of age,[4] is freely admitted to the court. The more serious (or so-called "indictable") offences are tried with a jury in courts of assize or of quarter sessions. A visitor to a court of assize, who is not familiar with the English system of administering criminal justice, will find several features which may be strange to him. He will see a silent prisoner in the dock facing a solitary and generally silent judge and a silent jury of twelve men and women. What he will hear will be, in the main, a dialogue between counsel (as the advocates are called) and the witness who happens to be standing in the witness-box to give evidence. Speeches are, of course, made at the opening and the conclusion of the case. It is not, however, the judge, but the jury, to whom they are addressed. The turn of the judge comes when counsel have all said their say. It then becomes his duty to expound to the jury first what elements in law are essential to constitute the charge which they are trying; secondly, what it is that must be proved, and by which party; and lastly, what evidence has been made available to them for this purpose. He will always tell them that unless the whole of the evidence satisfies them of the guilt of the prisoner, they must acquit him. Even if neither the prisoner himself nor his counsel (if he has one) has spoken a single word throughout the trial, except for entering the formal plea of "not guilty",[5] the same rule applies; and a jury left in any serious uncertainty is obliged to acquit.[6]

It may occur to the visitor to wonder whether, if the prosecution has to be so fully armed at the trial with conclusive evidence, there must not be methods during the preparatory stages of the proceedings of extracting the necessary material from the prisoner. In fact, however, the English system provides special protection against precisely such methods. In the first place, so soon as suspicion in the mind of a police officer investigating a crime has ripened into an intention to prefer a charge, any further interrogation of the person to be charged, thereupon becomes improper, unless he consents to it. The duty of the officer at this point is to caution him that he is not obliged to say anything unless he wishes to do so, but that whatever he does say will be taken down in writing and may be given in evidence. Failure to administer this caution will at the discretion of the judge at the trial, render inadmissible against a man who is afterwards charged with the offence in question any statement made by him, unless he volunteered it before the officer had time to caution him. Furthermore, if a statement is made under caution, no interrogation upon it is permitted, except for the purpose

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[1] This article was prepared by Mr. Walter A. L. Raeburn, Q.C.

[2] With the exception of cases involving public security (*Official Secrets Act, 1920, s. 8 (4)*, cases heard in the juvenile courts, from which the public, but not the Press, are excluded (*Children and Young Persons Act, 1933, s. 47 (2)*) and cases in which, on ground of public decency, the judge has a discretion to close the court while evidence of a particularly intimate character is being given by a child or young person (*ibid. s. 37*). In the trial of charges under the Official Secrets Acts 1911–1920, the court is only closed (if at all) during the hearing of such parts of the trial as the judge, in his discretion, deems desirable and the sentence must always be passed in public (*Official Secrets Act, 1920, s. 8 (4)*).

[3] Technically, a witness is only excluded at the request of one of the parties (*Southey v. Nash, 7 C. and P. 632*), and more particularly, of the defence (*R. v. Vaughan, 13 St. Tr. 485, 494*; *Peter Cook's Case, 13 St. Tr. 311, 348*). But in practice, witnesses are always kept outside the court until they have given their evidence, and are then required to remain in court.

[4] *Children and Young Persons Act, 1933, ss. 36, 107 (1)*.

[5] Even a formal plea is not strictly necessary. A plea of "not guilty" is entered on the order of the court where the prisoner refuses to plead ((*1827*) *7 and 8 Geo. 4, c. 28, s. 2*). At common law, terrible penalties followed upon "standing mute of malice" (*Hale's Sum. 227*); and between 1772 (*12 Geo. 3, c. 20*) and 1827, the consequences of deliberate silence were the same as those of a plea of "guilty". Today, even an ambiguous plea will be entered as a plea of "not guilty", and a full trial will follow (*R. v. Ingleson (1915) 1 K.B. 512*). In capital cases, too, it is customary to enter a plea of "not guilty", unless the prisoner himself insists on pleading "guilty".

[6] "Throughout the web of the English criminal law one golden thread is always to be seen, that it is the duty of the prosecution to prove the prisoner's guilt subject to what I have already said as to the defence of insanity and subject also to any statutory exception . . . No matter what the charge or where the trial, the principle that the prosecution must prove the guilt of the prisoner is part of the common law of England and no attempt to whittle it down can be entertained." *Woolmington v. D. P. P. (1935) A. C. 462, 481*, per Viscount Sankey, L.C.

of clearing up ambiguities in it.[1] A police officer can and does give evidence of anything that the prisoner has chosen to say of his own accord; and if the prisoner on being charged has elected to say nothing and to offer no explanation, the formula is that he "made no reply". In such event, the judge (and even prosecuting counsel) will explain to the jury that the prisoner was only acting within his rights, and that such silence must in no way be regarded as a tacit confession of guilt. Indeed, the prisoner is still further safeguarded against attempts, by some officious or unscrupulous police constable to extract a confession from him. In case he should wish to volunteer a full statement, either by way of explanation or of confession, such a statement is not in practice taken down by an officer of junior rank. It is done, as a rule, by a responsible and highly trained senior officer in London, actually by an officer of the Criminal Investigation Department (Scotland Yard), who must personally and on oath produce the statement in court at the trial, and must, in so doing, expose himself to public interrogation (cross-examination) by counsel upon the manner in which it was obtained.

Should the offence with which the prisoner is charged be so serious as to justify his arrest and retention in custody, he must be taken before a magistrates' court within twenty-four hours, if possible, and in any case at the earliest practicable moment.[2] That court, if it cannot (as is almost inevitable in a grave case) complete the hearing at once, may find it necessary nevertheless to retain the accused in custody. In such case, the period[3] of remand after which the hearing must be resumed may not exceed eight days at a time.[4] At each stage, from the time of arrest onwards, it is open to the accused to apply (if necessary, to the High Court of Justice) for his release on bail;[5] and the magistrates, if they refuse to release him, are obliged in certain cases, to inform him of this right.

There are many "indictable" offences which the magistrates are entitled (but only with the consent of the accused) to try and punish "summarily"—that is to say, on a charge that is not strictly formal and without a jury. Very often, where the prosecution are content with a summary trial, the magistrates will deal with a case on this basis. For a guilty prisoner that, too, is often an advantage, since the magistrates have very limited powers of punishment compared with the superior courts.[6] On the other hand, an accused who maintains his innocence may prefer to be tried by a jury; and in England the magistrates are obliged to inform him of his right to elect to be so tried in every case (other than for an assault) where he would be exposed to a penalty of imprisonment exceeding three months.[7] If he does so elect, the magistrates thereupon cease, for the purposes of the case before them, to function strictly as a court, and resume their historical function as an examining body.

Our visitor may again be surprised to hear that he will be freely admitted to these examination proceedings. For unlike what happens under some other systems of law with which he is probably familiar, they take place in public.[8] Not only is every witness called to establish the case examined on oath before the magistrates by the police (or sometimes, by their legal representative); not only is the accused present the whole time; but the accused, who may also be legally represented (and can, in a serious case, be granted such representation, even at this stage, at the public expense), has the right himself or by his solicitor or counsel to cross-examine those witnesses. A record is then and there made in longhand by the clerk to the justice of what the witnesses say, and this is read over aloud as each witness has concluded his evidence. Both the witness himself and the accused thus have an opportunity of correcting the deposition if the clerk has not taken it down correctly. The witness then signs it, and is "bound over" to attend and give evidence at the trial.[9]

When all the evidence offered by the prosecution has been received, it becomes the duty of the examining magistrates to consider whether, if it stood unanswered, that evidence would prove a case against the accused.

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[1] This well-established practice is now regulated by and represents the main effect of an administrative code known as the "Judges' Rules". That code was drawn up by high judicial authority. The purpose was to resolve conflicting judicial opinion on the subject and to establish a uniform practice. It originated from an inquiry addressed to the Lord Chief Justice by a chief constable who was in doubt as to the circumstances in which cautions should be administered by the police. The main rules were drawn up in 1912 and were supplemented by further rules in 1918; they explain for the guidance of police officers the conditions under which the courts would be likely to admit in evidence statements made by persons suspected of, or charged with, crime. Although it has not strictly the force of law, the code has been consistently observed for forty years, both literally and in spirit. Where an accused person as much as alleges that a statement or confession has been unfairly or improperly extracted from him, every facility is given to him at his trial to substantiate his allegation, and in addition, the police authorities undertake the fullest investigation. Where the complaint is established, the officer concerned will be punished.

[2] *Criminal Justice Administration Act, 1914, s. 22.*

[3] Or successive periods.

[4] *Indictable Offences Act, 1948, s. 21.*

[5] *Criminal Justice Administration Act, 1914, ss. 19–24*; *Criminal Justice Act, 1925, s. 45.*

[6] Before the coming into force of the *Criminal Justices Act, 1948, s. 29*, offenders with a long record of crime made the most of this advantage. Now, however, magistrates may convict summarily, and yet send a man with a bad record to be punished by a superior court.

[7] *Summary Jurisdiction Act, 1879, s. 17 (1).*

[8] There is power by statute (*Indictable Offences Act, 1848, s. 19*) to exclude the public. But it is generally thought that the effect of the *Interpretation Act, 1889, s. 13 (11)* has been to repeal the provision (see *60 J. P. N. 131*; *79 J. P. N. 159*), and in practice the hearing is almost always a public one.

[9] I.e., he must attend on pain of forfeiting a fixed sum of money.

If they think it would not, they will at once dismiss the charge. The accused is then set free, and is never likely again to be faced with a criminal charge based on the same facts; for the maxim "*nemo debet bis vexari pro una et eadem causa*"[1] receives liberal interpretation in English practice. But if the magistrates think there is a case to be answered, they must inform the accused of his rights, just as they did when he was given his choice of being tried by a jury. The charge is read and explained to him; he is told of his right to call witnesses; and he is given the option of giving evidence himself. It must again be clearly explained to him that he is under no obligation to say anything, but that if he does so, whatever he says will be taken down in writing and may be given in evidence on his trial. Hereupon, and before he says anything, he is further told he has nothing to hope from any promise and nothing to fear from any threat held out to induce him to confess his guilt.[2] Anything he says after that is duly recorded; and if he chooses to take the oath, he exposes himself to cross-examination. The usual course, particularly when he is legally represented, is for the accused (unless he pleads "guilty") to confine himself to reserving his defence. Then, if the magistrates still think there is a case to answer, he is in conclusion formally committed for trial.

The most serious charges are tried at the assizes before a judge of the high court. Other charges may be tried at quarter sessions, a court of some antiquity consisting of either a bench of justices of the peace for the county (nowadays with a professional lawyer as chairman) or the recorder of a county borough, a practising lawyer of standing, sitting on the bench alone. Unless the accused pleads "guilty", every trial takes place with a jury. Wherever, as is often the case, any of these courts are equally competent, regard is generally had to the earliest possible date that will shorten the period during which an accused man in custody must await his trial. There are, however, very many cases in which an accused man is allowed his freedom on bail pending the trial.

English lawyers are perhaps justifiably proud of the elaborate safeguards provided by this procedure against the possibility of oppression by the police or examining magistrates. Yet if the visitor should chance to be a compatriot of theirs from Scotland, versed in his own quite different criminal procedure, they must not expect to find him uncritical. Nor, strangely enough, will his objection be that English procedure weights the scales too heavily in favour of the accused. On the contrary, the Scot will complain that the accused is placed at an unfair disadvantage. In precisely that publicity which the Englishman treasures as his main guarantee against inquisitorial oppression, the Scotsman perceives the open door to oppression of another kind. A case is examined in open court before a bench of local magistrates, and the accused is committed for trial. The evidence given by the prosecution witnesses, and even the summary of his case by prosecuting counsel, may thereafter have appeared, with all its most sensational features uppermost and uncontradicted, in the local Press. It will, in all probability, have been read by each or several of the persons who will eventually constitute the jury. How, asks the critical Scottish visitor, can a fair trial then take place?

In Scotland, as soon as the police have arrested their suspect the matter passes out of their hands into those of the prosecuting officials. The police report the case to the Procurator Fiscal, a solicitor who acts under the directors of Crown Counsel (the Scottish Law Officers of the Crown and the Advocates-Depute). He considers the police report, and determines whether any, and if so what, charge should be preferred against the accused. If he decides that a serious crime should be charged, he himself interviews all the witnesses separately, behind closed doors, takes their statements, and reports the case to the Crown office. There it is considered by the Crown Counsel, who decide whether the evidence warrants proceedings being taken against the accused and if so, what charge is to be preferred against him. For this system the advantages claimed are that it avoids premature publicity and any possible prejudice from this to the accused, and that the professional filter of Procurator Fiscal and Crown Counsel through which the evidence is sifted before trial is at least as reliable, and indeed as unbiased, as any bench of lay magistrates.

That is as may be. The English view remains that evidence given in public in the presence of the accused, and subject to immediate cross-examination, is a privilege so valuable, and a liberty so well worth paying for, that it outweighs any attendant disadvantage. As for the bias induced into the minds of jurors by previous publicity given to one side only of the story, experience shows that this tends not only to be dispelled in the judicial atmosphere of the trial, but to be positively expelled by the shock of hearing the evidence on the other side when the defence is, for the first time, revealed.

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It is, however, not only in a limited part of the United Kingdom itself that the English system of trial has been found to work satisfactorily. In practice it applies also, with suitable modifications, in many of the territories for which the Colonial Office is responsible. In some of these territories, the Indian Evidence Act[3] is in force. To a great extent, this Act is a codification of the English law of evidence. But it contains some differences, more particularly as to the law relating to confessions. In certain territories where a lower general standard of literacy is common and the popular approach to the treatment of suspects is often different, it has been thought desirable to safeguard

[1] *5 Co. Rep. 61.*

[2] *Criminal Justice Act, 1925, s. 12.*

[3] *Indian Evidence Act, Act 1, 1872.*

accused persons even more carefully than in England. Consequently, confessions are excluded even in some cases where they would be admissible in England under the Judges' Rules. In most of the territories the jury system prevails (though not always the principle of the unanimous and paramount verdict), but there are some, more especially in Central Africa, where a judge sits with two or more assessors. The function of these assessors is to give their opinion on the guilt or otherwise of the accused, leaving the judge with the final responsibility for convicting or acquitting. In Cyprus, the former Ottoman system of a tribunal with three judges persists to-day. In East, West and Central Africa, apart from the courts already mentioned, there are native courts, staffed by natives, for the trial of cases in which natives alone are concerned. These courts administer native law and custom. At the same time, while they do not administer English practice and procedure, they are supervised (by a right of final appeal to the Judicial Committee of the Privy Council, sitting in London) in such a way as to ensure that their decisions do not violate British conceptions of justice. Only in Mauritius has English law and procedure no application at all. There the Code Napoleon is applied.

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Our visitor is now back in the court in which he was first discovered, listening attentively to the trial. But unless he comes from a country with a similar legal system, there is one thing for which he listens in vain. He hears counsel for the prosecution outline the facts of his case to the jury. He observes the witnesses coming into court, one by one, and submitting to close interrogation upon their personal knowledge of those facts. He sees, perhaps, documents produced and authenticated by witnesses. But never once does he hear any mention of the prisoner's past life. To him this may seem fantastic. In his view, very probably, it may be decisive to know whether the prisoner is the kind of man who would or might have committed such an offence as is charged. The English law proceeds upon the contrary assumption. The mere fact that a man has a bad character is thought to be no evidence at all that he has offended on this particular occasion. It must, therefore, on no account be disclosed to the jury. In strict consistency, it should be equally irrelevant that the prisoner is of previous good character; especially as this may mean no more than that no previous offences have ever been proved against him. Nevertheless, the prisoner is freely permitted to take advantage of a clean record, if he has one.[1] Occasionally an attempt to lay too much stress on good character will evoke from an impatient judge the comment that "we all had good characters once". So strongly, however, does the practice lean in favour of the defence that it is quite common even for prosecuting counsel to draw the jury's attention to the prisoner's previously unblemished record.

When all the evidence for the prosecution has been given, the prisoner is again offered a choice of method in defending himself. He may elect to give evidence as an ordinary witness, submitting in that case to cross-examination by prosecuting counsel. Or he may make a statement to the jury unsworn, remaining in the dock and maintaining his complete immunity from interrogation. In either case, he may call other persons to give evidence on his behalf. Or he may keep complete silence, leaving it to the prosecution to satisfy the jury as to his guilt. The last may sometimes be a wise course, where there are gaps in the evidence against him, which he himself might have been obliged to fill had he exposed himself to interrogation or attempted to offer an unacceptable explanation.

The trial ends with speeches by both sides to the jury, followed by an impartial summing-up of the entire case by the judge. Where the prisoner calls no other witness, and whether or not he gives evidence himself, he (or his counsel)[2] has the right to make the last speech before the judge sums up. The fairness, moreover of the summing-up is guaranteed by the prisoner's right of appeal to the Court of Criminal Appeal in the event of his conviction by the jury. In that court,[3]

[1] He cannot, however, have it both ways, and claim a good character or attack the characters of witnesses for the prosecution, while remaining immune from such attack himself. Other exceptions to the rule were referred to in a judgment of the Court of Criminal Appeal in the following passage: "The principle is that the prosecution are not allowed to prove that a prisoner has committed the offence with which he is charged by giving evidence that he is a person of bad character and one who is in the habit of committing crimes, for that is equivalent to asking the jury to say that because the prisoner has committed other offences he must therefore be guilty of the particular offence for which he is being tried. But if the evidence of other offences does go to prove that he did commit the offence charged, it is admissible because it is relevant to the issue, and it is admissible not because, but notwithstanding that, it proves that the prisoner has committed another offence . . . in other words, whenever it can be shown that the case involves a question as to there having been some mistake or as to the existence of a system of fraud, it is open to the prosecution to give evidence of other instances of the same kind of transaction, notwithstanding that the evidence goes to prove the commission of other offences, in order to negative the suggestion of mistake or in order to show the existence of a systematic course of fraud." *R. v. Fisher (1910) 1 K.B. 149, 152, per Channel J.*

[2] Although the courts have a discretion, which they exercise very readily, to grant certificates for the defence by counsel of prisoners who appear unable to afford to pay for their own defence, very many prisoners in England defend themselves. This gives them certain advantages, because they can count on the judge's jealously guarding their privileges; and it is also usual, in such cases, for prosecuting counsel to refrain from making a final speech to the jury. In Scotland, every man standing his trial is defended as of course by counsel—if need be, by the sheriff of the county. That has been the law since the sixteenth century. See *Scots. Statutes 1587. c. 91.*

[3] The court consists of three, and in important cases, of five or more judges of the High Court, sitting usually under the presidency of the Lord Chief Justice of England.

any wrong direction as to the law or gross mis-statement or omission of the facts may result in the entire conviction being quashed, and a probably guilty man going free. The prosecution have no corresponding right of appeal against an acquittal. There is therefore every inducement to the judge to err, if at all, in favour of the defence.

A conviction by the jury (which, like an acquittal, must always be unanimous, or the trial is rendered abortive) or a plea of "guilty" (which dispenses with the necessity for a trial properly speaking) is followed by the revelation, normally for the first time, of the prisoner's previous life history. Punishment is within the exclusive province of the judge; subject again to the power of the Court of Criminal Appeal, at the instance of the prisoner, but never of the prosecution, to vary the sentence. It is not proper for the prosecution even to suggest a penalty to the judge, still less to ask for one. Apart from murder and treason, for which the death sentence is prescribed, there are very few offences in respect of which a specific penalty is laid down by law. Punishments for most offences are subject to a statutory maximum;[1] and as to offences at common law, the spirit if not the letter of the law enjoins reasonable moderation in the imposition of fines[2] and terms of imprisonment.[3] Subject to this, the judge has a very wide discretion, ranging from a power, where he regards the prisoner as an habitual criminal, to place him in preventive detention for a long term of years, down to the granting, in a venial case, of an absolute discharge. Where, however, severe sentences of certain kinds are contemplated, the prisoner is amply safeguarded against oppression by the right to previous notice of what is proposed, the right, in some cases, to be medically examined, and the right to be shown personally and in open court the confidential reports submitted to the judge on behalf of the Prison Commissioners.[4]

Despite these many obstacles in the way of a prosecution, persons who are really guilty do not too easily escape justice in England. It is thought, indeed, that they are convicted the more readily because juries know that trials are fair and sentences humane. Justice and ferocity do not flourish together. Justice issues from strength, ferocity from weakness. The terror in which lawlessness and violence held England during the eighteenth century, resulted in a panicked legislature applying the death penalty almost wholesale to a great variety of offences. Not only, in consequence, did juries, often with the connivance of judges, acquit the prisoner, or at most convict him, in defiance of the evidence, of non-capital minor offences, but every device for the protection of accused persons was carefully fostered and extended. Thus, the ancient immunity of priests from sentence of death was given so wide an interpretation that any person apparently capable of reading the Lord's Prayer could successfully claim "benefit of Clergy". Parliament struggled to counter this evasion over a period of centuries by creating new capital offences for which this benefit was not to be available, and by eventually abolishing it altogether in 1827.[5] But the more uncompromising the law, the more jealous of human rights the courts became; and the more the guilty men, no doubt, who escaped justice. The reformers of the late eighteenth and early nineteenth centuries pointed this out again and again. But Parliament was obdurate.[6] It was not until a beginning of reform was made in 1848,[7] and the functions of justices of the peace (magistrates) were set upon a regular footing at the same time as an efficient professional police force was firmly established, that justice and its administration found a measure of harmony.

The elaborate safeguards for the defence which have been noticed were neither conceived nor devised by legislators or reformers. They grew. They developed out of historical accidents. The struggles between the Crown and the Church established the judge, representing the King, as the arbiter between the parties[8] instead of the inquisitor of medieval theory.[9] The rivalry of King and Barons gave birth to Magna Carta, the object of which was to check royal interference rather than to assert the liberty of the common man. The victory, on the other hand, of the Crown over the local power of the sheriff, set up the justices of the peace as the first line of defence against crime (and injustice) and established the King's Commissioners (now the High Court Judges) as the dispensers of justice in capital and other grave cases.[10] The Court of Star Chamber stemmed from and expressed the doctrine of the divine right of kings. Its proceedings were rigorously inquisitorial. After its abolition, public opinion operated in favour of the immunity of a prisoner from interrogation.[11] Puritan sentiment against the temptation to commit perjury was probably responsible for the rule, which prevailed in criminal cases until 1898,[12] that a prisoner was not only permitted

[1] Occasionally also—notably in certain motoring offences and in offences under war-time Defence Regulations—to a statutory minimum.

[2] This limitation can be traced back to *Magna Carta (1215)*.

[3] See *R. v. Bryan (1951) 35 Cr. App. R. 121*; *R. v. Higgins (1952) 1 K.B. 7.*

[4] *Criminal Justice Act, 1948, ss. 20 (7) (8), 21 (4) (5), 22, 23.*

[5] *7 and 8 Geo. 4, c. 28, s. 6.*

[6] See Holdsworth: "The Movement for Reforms in the Law". 56 *Law. Q. Rev.* 33, 208, 340.

[7] *Indictable Offences Act, 1848*; *Summary Jurisdiction Act, 1848.*

[8] See Shawcross: Address to French judges and lawyers. 10 *Mod. Law Rev.* 1.

[9] See Ullmann: "Medieval Principles of Evidence", 62 *Law Q. Rev.* 77, 78.

[10] See Holdsworth: *History of English Law*, Vol. 1.

[11] See Gooderson: "Evidence of Co-Prisoners". 11. *Camb. Law, Jo.* 209.

[12] *Criminal Evidence Act, 1898.*

but compelled to refrain from giving evidence on his own behalf. The Revolution of 1688 brought with it the doctrine of the supremacy of law; and the victory over claims by the executive to effect arbitrary arrest[1] and to exercise the right of search[2] was won in the courts. Finally, with the reform of Parliament in the nineteenth century, and the assertion in turn of its supremacy even over the common law,[3] the whole process of administering criminal justice began to be tidied up, and is still being set in order. But some of the safeguards generated in more barbarous times remain.

So carefully to guard prisoners from a revelation of their past history; still to permit them the privilege of making an unsworn statement upon which they cannot be questioned; and above all, to provide that an acquittal must inevitably and irrevocably follow any serious doubt left in the minds of the jury by a gap in the evidence, or raised in their minds by a tale told by the prisoner which, though they may not believe it, could conceivably be true—all this may seem exaggerated to-day. Possibly it may. But his liberties to the Englishman, are and always have been safeguards that he has won for himself and his sons in the course of history. They are not necessarily such as he can justify in the course of argument. It is often and truly said that there is an English prejudice which prefers to contemplate the acquittal of ten guilty men rather than risk the conviction of one who is innocent. If that is still the price of human rights in the world today, who will say that it is too much to pay?

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[1] *Leach v. Money (1765) 19. Tr. 1001.*

[2] *Entick v. Carrington (1765) 19 St. Tr. 1029; Wilkes v. Halifax (1769) 19 St. Tr. 1406.*

[3] See Wright: "Liberty and the Common Law", 9 *Camb. Law Jo.* 2–4.

UNITED STATES OF AMERICA

HUMAN RIGHTS IN THE UNITED STATES IN 1951 [1]

A DIGEST OF TREATIES, FEDERAL AND STATE LEGISLATION, ORDERS, JUDICIAL DECISIONS, AND OTHER REGULATORY ACTS, WITH SELECTED TEXTS

CONTENTS

INTRODUCTION

In the political and legal tradition of the United States the rights of individuals have always comprised protection of individual liberty against government as well as the right of individuals to claim positive action by government to protect their rights. This high value placed on limitations on the powers of government finds expression in constitutional provisions which define those powers and subject them to specific restrictions. The liberties thus guaranteed to everyone in the United States must be respected by governmental agencies, federal as well as local; and they find protection, when necessary, in the courts of the states and of the United States. The responsibility for affirmative action to protect and extend the recognized rights of Americans similarly rests on the governments of the United States, the states, territories and local communities, each according to the functions constitutionally assigned to it in the federal structure of the United States.

Constitutional and legislative provisions relating to human rights have a long history in the United States. Many of the statements on freedom of speech, press, and religion and the right to self-government date back to the charters and agreements made at the time the first settlers came to America. These bills of rights, as they were called, were frequently retained and expanded in constitutions framed in the early colonies and later in the various states, and were the basis for the first ten amendments, known as the Bill of Rights, in the Federal Constitution. Additional rights protecting citizens are in the body of the Constitution, and some have been added in later amendments.

Under the judicial system of the United States the interpretations of particular constitutional and legislative provisions in relation to cases brought before the courts become precedents which must be taken into account in later cases, thus constantly expanding the understanding and application of these provisions in the changing situations of modern life. Since the provisions in the early colonial and state constitutions related largely to civil and political rights, a great body of legislative and judicial interpretation exists in this field. In the field of social, economic, and cultural rights, the legislative and judicial activity reported in any one year tends to be relatively greater, both because of the complex problems involved as the country opens up new opportunities to its citizens and because fewer laws and precedents have as yet been produced to give these rights their full and precise meaning. The responsibility of state governments in regard to social, economic, and cultural rights is extensive, as under the United States Constitution the federal Government may exercise only limited powers in certain areas, and the promotion of certain rights, such as education, is largely a function of the states.

In addition to the support for human rights by governmental agencies, constitutional and legal provisions and court decisions, not least in importance is the support afforded in the exercise and enjoyment of

[1] This note was prepared by the United States Government.

these rights by the attitude of the American people and the whole climate of public opinion.

Progress of the United States in the field of human rights during 1951 must, therefore, be considered as supplementing and reaffirming the basic human rights and liberties long enjoyed in this country.

This survey touches only on the major and most significant developments in this field—viz., on definitive actions and statements of the executive branches of the federal, state, and territorial governments, on the most important federal, state, and territorial laws, on international agreements which have actually come into force, and on legal principles established by decisions of the highest courts of the land. A complete picture would also include reference to the day-to-day federal, state, and territorial activities relating to human rights, and to those continuing from past years, and to the vast financial provision for these activities made by states territories and local communities as well as by the federal Government.

Part I will take up those actions of the federal, state, and territorial governments, and some of those of their local sub-divisions, which have seemed to represent significant developments in the field of human rights in the United States in 1951, including both civil and political rights on the one hand and economic, social, and cultural rights on the other. Part II will refer to the several international agreements made by the United States which came into force in 1951 and contain references to human rights.

I. FEDERAL, STATE, AND TERRITORIAL ACTIONS

Human rights can be affected by action of the executive, legislative, or judicial branches of the governments of the United States, the states and territories, or local governmental units. Such actions may range from an executive order of the President, a law of Congress, or a decision of the Supreme Court of the United States to a local city ordinance regulating the holding of street-corner meetings.

A. General

As in previous years, President Truman by proclamation[1] designated 10 December as Human Rights Day and called upon the people of the United States to celebrate that day by public reading of the Universal Declaration of Human Rights and by other ceremonies designed to enlarge our understanding of its provisions, and thus to "join with the citizens of other countries in a common effort to strengthen the forces of freedom, justice, and peace in the world through promoting the universal achievement of the fundamental human rights and freedoms set forth in the Declaration".

[1] 16 *Federal Register* 12449.

Similarly, 15 December was widely celebrated as Bill of Rights Day, commemorating the 160th anniversary of our Bill of Rights, which is the name popularly given to the first ten amendments to the Constitution of the United States. It is these amendments which contain the principal guarantees of human rights in the Constitution, including those of freedom of speech and of the press, freedom of petition for redress of grievances, the right of freedom from search and seizure, the right of fair and speedy trial, trial by jury, and confrontation of opposing witnesses, the prohibition of excessive bail or fines and of cruel and unusual punishments, and the right not to be deprived of life, liberty, or property without due process of law.

Practical methods of promoting an understanding of human rights were set forth in the publication issued by the United States Office of Education entitled *How Children learn about Human Rights*.[2] This booklet gave suggestions for teaching children about human rights and for the application of the principles involved in human rights to situations arising in the schoolroom.

B. Civil and Political Rights

The enjoyment of his civil and political rights by the inhabitant of the United States is well grounded in specific constitutional provisions, legislation, judicial holdings, more than a century of usage and precedent, and a favourable state of public opinion. Specific aspects of these rights are defined still more clearly each year by law or judicial action. For instance, in 1951, progress was recorded in the removal by additional states of the poll tax as a requirement for voting. The requirements of a fair trial were more clearly set forth, and other civil and political rights were better defined.

1. *Government by the Will of the People*

Voting

The Federal Constitution assures the citizens of the United States a republican form of government responsive to the will of the people through their elected representatives, and expressly provides that the right to vote shall not be denied or abridged on account of race, colour, or sex. In 1951, additional measures to assure every citizen the right to vote in fair and honest elections were adopted in several states.

Two states, South Carolina and Tennessee, eliminated payment of poll tax as a qualification for voting. South Carolina, in a general election in 1950, had approved a constitutional amendment to this end, and during 1951 this amendment became effective by action of the General Assembly. These actions reduced to five the number of states requiring payment of a poll tax as a pre-requisite for voting.

[2] Federal Security Agency, Office of Education, Bulletin 1951, No. 9. Wilhelmina Hill and Helen K. Mackintosh, *How Children learn about Human Rights* (Washington, Government Printing Office, 1951).

In October 1951, the Louisiana Democratic State and Central Committee deleted a rule that only whites could participate in the party's primary elections in that state.

In Florida, the election law of 1951 was interpreted as forbidding segregation at the polls by permitting but one place of entrance to the polls and one place of exit from the polls.

In Alabama, a constitutional amendment was adopted requiring those seeking to register for voting to satisfy the county registrars that they are of good character; that they have fulfilled the obligations for state and federal citizenship, can read and write any article of the United States Constitution, and pass a written examination to be prepared by the State Supreme Court.

An Alabama law affirmed for certain workers the right to take time off to vote, thus making twenty-six states which have given statutory protection of this privilege for some or all workers of the state.[1]

Several states adopted laws to facilitate absentee voting, particularly by members of the armed forces. As an aid in keeping its list of voters correct, Connecticut passed a law providing that citizens, other than those in the armed forces, who have not voted for four years must file a formal application in order to be retained on the list.

Provision for the Constitutional Government of Puerto Rico

The Territory of Puerto Rico continued during 1951 its progress toward a fuller measure of self-government. Pursuant to an act of Congress approved on 3 July 1950,[2] which provided that the people of Puerto Rico might reorganize their government under a new constitution to be drafted by them, a referendum was held in Puerto Rico on 4 June 1951, on the question of accepting or rejecting this proposed procedure. By a vote of 387,016 to 119,169, the Puerto Rican voters accepted the invitation to draft a constitution. On 27 August 1951, a date set by the Puerto Rican Legislature, an election was held for delegates to the Constitutional Convention and the Convention began its meetings on 17 September 1951.

2. *Life, Liberty, and Security of Person*

The Fifth and Fourteenth Amendments to the Federal Constitution provide that no person shall be deprived by governmental authority of life, liberty, or property without due process of law.

The United States Supreme Court held that a special state police officer who, in his official capacity, by use of force and violence, obtained a confession from a person suspected of crime, was guilty of violating a federal statute (18 U.S. Code 242) which makes it a crime for any person, under pretence of law, to deprive any other person of a right, privilege, or immunity secured or protected by the Constitution and laws of the United States. The constitutional right held to have been violated in this case was the right, guaranteed by the Fourteenth Amendment, not to be deprived of life or liberty without due process of law.[3]

3. *Equal Protection of the Law*

The Fourteenth Amendment to the Federal Constitution provides that no state shall deny any person the equal protection of the laws.

In the case of *Dowd* v. *Cook*[4] the defendant was convicted of murder in a state court, sentenced to life imprisonment, and immediately confined in a state prison. The prison warden, however, acting pursuant to then-existing prison rules, prevented the defendant from filing appeal papers with the State Supreme Court. The Supreme Court of the United States held, in a *habeas corpus* proceeding brought in a federal court, that the warden's suppression of the appeal papers was a violation of the provision of the Fourteenth Amendment of the Constitution of the United States that "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." The Court held, further, that in the circumstances of the case, nothing short of an actual appellate determination of the merits of the conviction could cure the original denial of equal protection of the law, and ordered the district court to enter an order allowing the state a reasonable time in which to afford the convicted man the full appellate review he would have received but for the suppression of his papers, failing which he should be discharged.

4. *Freedom from Unreasonable Search and Seizure*

The Fourth Amendment of the Constitution, which curbs abuses of authority by federal officers, provides that:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

In the case of the *United States* v. *Jeffers*,[5] the Supreme Court held that where federal police officers, acting without a warrant to search or arrest, but with reason to believe that a suspect had narcotics unlawfully concealed there, entered an apartment belonging to

[1] Details of the provisions of these laws may be found in *Time off for Voting under State Law*, United States Department of Labor Bulletin No. 138 (Revised) (Washington, 1952).

[2] 64 Stat. 319. See also *Yearbook on Human Rights for 1950*, p. 324.

[3] *Williams* v. *United States*, 341 U.S. 97 (1951).

[4] 340 U.S. 206 (1951).

[5] 342 U.S. 48 (1951).

other persons, and seized narcotics claimed by the suspect, the search and seizure were not incidental to a valid arrest and hence were in violation of the Fourth Amendment of the Federal Constitution, in the absence of exceptional circumstances to justify their being made without a warrant.

5. *Fair Trial*

The Constitution of the United States contains numerous safeguards with respect to a fair trial, including guarantees of the right to protection against the requirement of exessive bail, compulsory self-incrimination, and double jeopardy, and protection of the right in criminal cases to a speedy and public trial before an impartial jury, with confrontation of opposing witnesses and assistance of counsel.

Excessive Bail

In *Stack* v. *Boyle*,[1] the Supreme Court held that bail set before trial of a defendant in a federal court at a figure higher than an amount reasonably calculated to assure his presence at the trial violates the Eighth Amendment to the Constitution of the United States, which provides that "excessive bail shall not be required".

Counsel to be afforded

Another decision of the Supreme Court held that the due process of law clause of the Fourteenth Amendment to the Constitution requires a state to afford the defendant assistance of counsel in a non-capital criminal case when there are special circumstances showing that without a lawyer the defendant could not have an adequate and fair defence.[2]

Jury Selection

In a case[3] involving the conviction of two Florida Negroes for rape, the Supreme Court unanimously reversed a judgment of the Supreme Court of Florida affirming the conviction because the method of jury selection had excluded Negroes from both the grand jury and the trial jury. Two justices also considered that the conviction should have been reversed on the ground that a fair trial had been made impossible because of the circulation of newspaper and radio reports of alleged confessions by the defendants, which confessions had not been presented in the course of the trial.[3]

Laws permitting women to serve on juries were enacted in 1951 in three states—New Mexico, Oklahoma, and Tennessee. At the end of the year, there were only six states and two territories in which women were not eligible for jury service: Alabama, Georgia, Mississippi, South Carolina, Texas, West Virgiania, Hawaii, and Puerto Rico.

[1] 342 U.S. 1 (1951).

[2] *Palmer* v. *Ashe*, 342 U.S. 134 (1951).

[3] *Shepherd* v. *Florida*, 341 U.S. 50 (1951).

Self-incrimination

Two cases decided by the Supreme Court gave expanded significance to the right of protection against self-incrimination. In the case of *Blau* v. *United States*,[4] the Court upheld the right of a witness before a federal grand jury to refuse to answer questions concerning her activites and records of the Communist Party on the ground that to answer such questions might result in self-incrimination and would be contrary to the provisions of the Fifth Amendment to the Constitution of the United States that: "No person . . . shall be compelled in any criminal case to be a witness against himself."

In the other case,[5] the Court held that the privilege against self-incrimination guaranteed by the Fifth Amendment extends not only to answers that would in themselves support a conviction under a federal statute, but also to those which would furnish a link in the chain of evidence needed to prosecute the individual being questioned for a federal crime. The Court stated that to sustain the privilege, it need only be evident from the implications of the question, in the particular factual setting in which it is asked, that a responsive answer to the question or an explanation of why it cannot be answered, might be dangerous because an injurious disclosure could result.

6. *Grant of Asylum*

During 1951, as in previous years, Congress enacted legislation, in the form of private laws, to provide asylum in the United States for various individuals who might otherwise be required to leave the country.[6]

Entry of additional displaced persons into the United States was facilitated by a law[7] which extended until 31 December 1951 the termination date for the issuance of visas for eligible displaced persons, and which extended until 30 June 1952 the terminal date of the period during which 5,000 non-quota visas could be issued to eligible displaced persons.

7. *Right to Own Property*

The Federal Constitution protects persons from being deprived of life, liberty, or property, without due process of law, and this right has been affirmed on numerous occasions. Protection of the right of ownership in property was again upheld in the courts when the Supreme Court decided in *United States* v. *Pewee Coal Company*[8] that the temporary seizure and operation by the Government of a coal mine, in order

[4] 340 U.S. 332 (1951).

[5] *Hoffman* v. *United States*, 341 U.S. 479 (1951).

[6] For example Private Law 30, 82nd Congress, 1st session, approved 14 May 1951.

[7] Public Law 60, 82nd Congress, 1st session, approved 28 June 1951.

[8] 341 U.S. 114 (1951).

to avert a nation-wide strike of coal miners, resulted in a "taking" of property entitling the mine owner to recover compensation under the Fifth Amendment of the United States Constitution, which provides that "private property [shall not] be taken for public use, without just compensation".

8. *Freedom of Religion*

Freedom of religious worship has been among the most carefully guarded of all the rights enjoyed by the individual in the United States, and has been repeatedly confirmed by the courts.

The most noteworthy case decided by the Supreme Court in 1951 in which the right of freedom of religion was upheld was that of *Niemotko* v. *Maryland*.[1] In this case the appellants' applications to a city council for permits to use a city park for Bible talks was denied, for no apparent reason except the council's dislike for appellants and disagreement with their views. Appellants were convicted in a local Maryland court of disorderly conduct for attempting to hold public meetings and make speeches in the park without having secured permits. There was no evidence of disorder or threat of violence or riot, and it was shown that permits had customarily been granted other organizations for similar purposes. The Court held that appellants were denied equal protection of the laws in the exercise of freedom of speech and religion, contrary to the Fourteenth Amendment, and reversed the convictions.

9. *Freedom of Speech and Expression*

Several important issues involving constitutional guarantees of freedom of speech and expression were decided by the United States Supreme Court.

In the case of *Feiner* v. *New York*,[2] the petitioner had made an inflammatory speech on a city street. The crowd blocked the sidewalk and overflowed into the street. Its feelings were rising, and there was at least one threat of violence. In order to prevent such violence, police officers thrice unsuccessfully requested the petitioner to stop speaking. After his third refusal, and after he had been speaking over thirty minutes, he was arrested, and later convicted of incitement of a breach of the peace. The Court sustained the conviction against the claim that it violated the petitioner's right of free speech under the Fourteenth Amendment. The Court emphasized that the police cannot be used as an instrument for the suppression of unpopular views; but that when a speaker passes the bounds of argument or persuasion and undertakes incitement to riot, the police are not powerless to prevent a breach of the peace.

In the case of *Kunz* v. *New York*,[3] the Supreme Court held invalid a New York City ordinance which required police permits for religious meetings on city streets. The Court's ruling reversed the conviction of the Rev. Carl Jacob Kunz, who had been arrested and fined $10 for preaching without a permit in 1948. In this case, the Court held that the ordinance, because it did not contain appropriate standards for administrative action and gave an administrative official discretionary power to control in advance the right of citizens to speak on religious matters on the city streets, was invalid under the Fourteenth Amendment.

In a case arising out of questioning of a witness by the California Legislature's Committee on Un-American Activities,[4] the Supreme Court held that the privilege of legislators to be free from arrest or civil process for what they do or say in legislative proceedings has been carefully preserved in the formation of state and national governments, and that in order to find that a legislative committee's investigation has exceeded the bounds of legislative power, it must be made plain that there was a usurpation of functions exclusively vested in the judicial or executive branches of government.

In the case of *Breard* v. *Alexandria*,[5] it was determined that rights of salesmen to go on private property are not unlimited and must be weighed against the right of privacy of the property owners. In this case, the Court upheld the constitutionality of a municipal ordinance forbidding the practice of going from door to door for the purpose of soliciting orders for the sale of goods, without prior consent of the owners or occupants. The Court rejected the claim that such an ordinance offends the provision of the Fourteenth Amendment that no person shall be deprived of property without due process of law. The Court also held that such an ordinance does not abridge the freedom of speech and press guaranteed by the First and Fourteenth Amendments, since these constitutional rights have never been treated as absolutes, and that it would be a misuse of the great guarantees of free speech and free press to use them to force a community to admit the sellers of publications to the home premises of its residents.

In *Dennis* v. *United States*,[6] the Supreme Court on 4 June 1951 upheld the constitutionality of the provision of the Alien Registration Act of 1940 (Smith Act), which makes it a crime for any person knowingly or wilfully to advocate the overthrow or destruction of the Government of the United States by force or violence; to organize or help to organize any group which does so; or to conspire to do so. The defendants in this case were the eleven leaders of the Communist Party of the United States, who were found by the jury to have wilfully and knowingly conspired to

[1] 340 U.S. 268 (1951).

[2] 340 U.S. 315 (1951). The judgment of the New York Court of Appeals in People *v.* Feiner was summarized in *Yearbook on Human Rights for 1950*, p. 327.

[3] 340 U.S. 290 (1951).

[4] *Tenney* v. *Brandhove*, 341 U.S. 367 (1951).

[5] 341 U.S. 622 (1951).

[6] 341 U.S. 494 (1951).

organize the Communist Party as a conspiratorial organization intended to overthrow the Government by force and violence "as speedily as circumstances would permit".

An important action in defence of the freedom of communication of ideas was taken by the Federal Communications Commission when it announced that it would strictly enforce the law forbidding radio broadcasting stations to censor speeches by political candidates and that even if the speech libellous the station must not interfere.[1]

Several state legislatures enacted legislation against subversive organizations or activities.

By a Massachusetts law, any person who is a member of an organization attempting to overthrow the Government by unconstitutional means and who remains a member of it knowing it to be subversive may be fined and imprisoned. Laws against subversive organizations were also passed in Indiana, Michigan, and New Hampshire. The Indiana law provided mandatory terms of imprisonment for membership in subversive organizations, while in Michigan it was made a felony to conceal knowledge of subversive acts.

10. *Access to Public Services*

Service in Armed Forces

The principle of equality of treatment and opportunity for all persons in the armed forces without regard to race, colour, religion, or national origin was established by an executive order of the President of 26 July 1948.[2] The order provided that this policy should be put into effect as rapidly as possible, having due regard to the time required to effect any necessary changes without impairing efficiency or morale.

The integration of racial groups in the armed services intended by this order has been completed in the Navy[3] and the Air Force. In the Army, changes are still in progress to complete compliance with the order. Thus, in March 1951, the Department of Defense announced that racial segregation had been ended at the Fort Dix, New Jersey, reception centre, and shortly thereafter it was announced that the Army now has complete integration at all its training centres, although segregation still prevails in some combat units. In an announcement of 26 July 1951, the Department of Defense announced that steps were being taken by the Army to carry to completion the integration of Negro personnel, already in progress, in all combat units of the Far East Command.[4] The integration was to be phased over a period of approximately six months. A similar integration programme was to be applied to service units.

Appointment and Election to Public Office

Candidacy for election to public office is open to those persons who can fulfil the legal requirements for office-holding, while appointment to positions in the federal and state government service is open to those who can meet the qualifications for a particular post. Among the qualifications for certain positions involving responsibility for the security of the Government is assurance that the appointee is in fact loyal.

The legislature of Pennsylvania passed a loyalty bill affecting teachers and other state and local government employees. The law provides for the removal of such employees when charged with specific instances of subversive activitiy with the charges backed up by a "fair preponderance of evidence", while employment may be refused to persons in whose cases there is "reasonable doubt" of loyalty. An appeal mechanism, with appeal to the courts, was also set up.

Efforts by states and municipalities to prevent members of subversive organizations actively seeking the overthrow of constitutional government from becoming candidates for public office or from serving as public employees were upheld by the Supreme Court. In *Gerende* v. *Board of Supervisors of Elections of Baltimore*,[5] the Supreme Court held that a state could constitutionally require that in order for a candidate for public office to obtain a place on the ballot he must take an oath that he is not engaged "in one way or another in the attempt to overthrow the government by force or violence", and that he is not knowingly a member of an organization engaged in such an attempt.

C. Economic, Social and Cultural Rights

The expansion of the economic, social, and cultural rights enjoyed by the individual appears most clearly through the listing and enumeration of the new provisions made by law or regulation in each of these fields. The year 1951 was especially marked by large increases in the number of persons covered by the social security programme, steady improvement in the

[1] Federal Communications Commission File No. BR–449. In the Matter of the Application of WDSU Broadcasting Corporation, New Orleans, Louisiana for Renewal of License.

[2] Executive Order 9981, 13 *Federal Register*, 4313; the text also appears in *Yearbook on Human Rights for 1948*, p. 242.

[3] An extensive historical study of race relations and the process of integration in the United States Navy was published during the year 1951 by one of the first Negroes to serve as an officer in the regular Navy, Lieutenant Dennis D. Nelson, under the title *The Integration of the Negro into the United States Navy* (New York, Farrar, Straus & Young, 1951). While this is not an official history, the author was given full access to official documents and records, and such materials were used with full authority. This work showed that the former concentration of Negro personnel in the steward's branch was being eliminated, and that nearly half of Negro personnel were in other assignments.

[4] Department of Defense, Press Release No. 997–51, 26 July 1951.

[5] 341 U.S. 56,923 (1951).

provisions of the unemployment insurance laws, further progress toward non-discrimination in employment, large provision for improved housing, an all-time high in elementary and secondary school enrolment, and increased cultural interchange between the American people and those of foreign countries.

1. *Social Security*

The basic social security programme of the United States is intended to provide economic security to elderly and retired workers or to surviving families by means of an old-age and survivors' insurance system. The number of persons covered by this programme were largely increased by amendments to the Social Security Act, which were adopted in 1950 and became effective 1 January 1952.[1]

Steps were taken though amendments to the Railroad Retirement Act in Public Law 234, approved 30 October 1951, to effect still more complete coverage of retired workers. These amendments increased benefits and included provisions for transferring to the old-age and survivors' insurance (social security) programme the wage credits of individuals who die or retire with less than ten years of railroad service. These workers or their survivors may thus receive old-age and survivors' insurance benefits. The bill also included provisions relating to financial interchange and benefit interrelationships between the two programmes.

State legislation also affected the coverage of the old-age and survivors' insurance programme. The 1950 Social Security Act amendments had provided for the extension of coverage to state and local governmental employees (other than those in positions already covered by retirement systems) through voluntary agreement between the state and the Federal Security Administrator. By the end of 1950, three states (Arkansas, Idaho and Oklahoma) had already effected such agreements, and four others (California, South Dakota, Washington and West Virginia) had passed enabling legislation. During 1951, agreements were effected by the four which had passed their enabling legislation in 1950 and by an additional twenty-four states (Alabama, Alaska, Arizona, Colorado, Delaware, Florida, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Missouri, Nebraska, New Hampshire, North Carolina, Oregon, Rhode Island, Tennessee, Texas, Utah, Vermont, Wisconsin, and Wyoming). By the end of 1951, there were six other states (Connecticut, Georgia, Illinois, New Jersey, Massachusetts and South Carolina) which had enacted enabling legislation but had not yet effected coverage agreements.

Much of the public assistance legislation enacted by the states during the 1951 legislative sessions was designed to implement other amendments to the Social Security Act adopted in 1950. In sixteen states, legislation enacted in 1951 established programmes of assistance to persons who are permanently and totally disabled. Some additional states had taken the necessary action in legislative sessions called late in 1950; in others, the authority already placed in the state welfare department was sufficiently broad to permit them to benefit from the new federal grants for disability assistance. Thus, by the end of 1951, a total of thirty-six jurisdictions were making payments under approved plans for aid to the permanently and totally disabled.

A few states enacted special legislation to broaden the programme for aid to dependent children by providing for the consideration of the needs of the parents or other adult relative caring for the dependent child; other states took advantage of the new provisions in the Federal Act without enacting additional legislation. A number of states raised the statutory maximum payment for one or more of the assistance programmes. In 1951, twenty-nine states enacted legislation relating to income exemptions for aid to the blind to comply with the 1950 amendments to the Federal Act. Under the impetus of these same amendments, seventeen states enacted legislation to provide for assistance payments to patients in public medical institutions, and several adopted special legislation taking advantage of a new provision to aid payments for medical services. A few states took legislative action in connexion with a federal provision in the Revenue Act of 1951 (Public Law 183, approved 20 October) providing that federal aid may not be withheld because the state makes its welfare records available to public inspection. Various provisions enacted by the states in 1951 were designed to establish the responsibility of relatives for persons receiving public assistance.

2. *Unemployment Insurance and Workmen's Compensation*

Each state has its own unemployment insurance law and operates its own unemployment insurance system with co-operation and grants of funds from the Federal Government.

Almost 35 million workers in industry and commerce were employed in jobs covered by the federal state system of unemployment insurance in 1951. Such laws are in effect in the forty-eight states, the District of Columbia, Alaska and Hawaii, and a special federal system covers railroad workers. Workers in agriculture, domestic service, public service and non-profit organizations are generally not covered. In one-third of the states, all workers in covered industries are protected; in the other states, workers in smaller firms are excluded.

Benefits are provided by the states under varying conditions. In 1951, twenty-two states increased their maximum weekly payments and eight states increased the maximum potential duration of benefits. This emphasis on the size of the weekly payments rather

[1] These amendments have been summarized in the report on "Human Rights in the United States in 1950" (*Yearbook on Human Rights for 1950*, p. 330).

than the period during which payments are made resulted from the continued rise in wages and in the cost of living and the expectation of continued high-level employment during the next few years.

The 1951 sessions of the state legislature saw the first $30 basic maximum weekly benefit (Alaska, New York, North Carolina, Pennsylvania, Washington, and Wisconsin) and the elimination of the last maximum benefit under $20. After the 1951 amendments, fifteen states with 55 per cent of the covered workers in the country had a maximum basic weekly benefit of $26 to $30, and eighteen states with a quarter of the covered workers had a maximum of $25.

Of the eight states which increased maximum duration of benefits, five extended duration to twenty-six weeks, two to twenty-four weeks, and one to twenty-two weeks. Thus it became possible in 1951 for claimants in eighteen states to qualify for benefits for twenty-six weeks, and for up to twenty-three weeks in more than one-half of the states.

Colorado increased the weekly benefit by 26 per cent and potential duration of benefits to a uniform twenty-six weeks for claimants who had had wages in excess of $1,000 in each of five consecutive years and had drawn no benefits during the period.

Basic maximum benefits in a benefit year, not including dependents' or other allowances, ranged from $240 to $689 in 1950; largely because of changes in maximum weekly benefits, the range after the 1951 amendments were enacted is from $240 in Arizona to $795 in Wisconsin. The laws of ten states with approximately 40 per cent of the covered workers now provide for basic maximum annual benefits of $700 or more, while the basic maximum benefits were between $500 and $700 in twenty-five additional states with another 40 per cent of the covered workers.

Disability benefits are payable for non-occupational disabilities to workers covered by railroad unemployment insurance and by four states.

California increased the maximum weekly benefit for temporary disability insurance from $25 to $30, allowed receipt of hospital benefits while claimants are receiving remuneration from an employer, and exempted from contribution and benefits individuals who belong to a religious sect that depends upon prayer for healing.

Workmen's Compensation

Benefits to injured workers, which are provided throughout the United States, were increased in thirty-four states and Hawaii. Benefits for temporary total injury, the most common type of injury, were raised in twenty-eight states and Hawaii. An increase of 20 per cent or more in maximum weekly benefits was voted in eight states. An Illinois amendment provided that 75 per cent of the weekly wages might be paid as benefits for temporary total disability and as high as $97^1/_2$ per cent may be paid for workers having three or more dependent children. Maximum weekly benefits of $30 or more (including allowances for dependants) are now provided in more than half the states.

Death benefits were raised in twenty-eight states and Hawaii. For example, maximum total benefits were raised from $8,400 to $9,200 in Alabama; from $7,500 to $10,000 in Maryland; and from $6,000 to $8,000 in North Carolina. In Oklahoma, death benefits were provided under the act for the first time, the maximum amount being set at $13,500.

Benefits payable for medical aid were increased in seven states; provision was made in seven states and Hawaii for additional appliances to be furnished the disabled worker; and benefits for burial expenses were increased in six states.

Coverage for occupational diseases was introduced in Alabama and Vermont and extended in several other states. Altogether, twenty-five states, Alaska, Hawaii, and the District of Columbia now provide full coverage of occupational diseases, while eighteen others and Puerto Rico cover specified diseases.

Rehabilitation services for the injured worker were provided in the workmen's compensation laws of Missouri and Puerto Rico, in addition to the eighteen states with laws already containing specific rehabilitation provisions; and such services were improved or benefits increased in North Dakota, Ohio, and Utah.

3. *Just and Favourable Conditions of Work*

Migratory Workers

The conditions surrounding migratory workers had been the subject of study by a special Commission on Migratory Workers, appointed by President Truman in 1950 to inquire into the social, economic, health, and educational conditions among migratory workers both alien and domestic, in the United States.[1] In March 1951, the Commission issued a report of findings and recommendations growing out of public hearings held throughout the United States in 1950. The report included recommendations for legislative action on both the federal and state levels.

Congress enacted a law dealing with migratory labour,[2] which authorized the Secretary of Labor, upon certification by the Secretary of Agriculture that such workers are needed, to recruit farm labourers in Mexico, transport them to the United States, provide them with necessary subsistence while en route, as well as emergency medical care, and guarantee that employers will comply with the terms of the individual work contracts with the labourers. An agreement was made with the Mexican Government (see part II below) covering rights to be enjoyed by Mexican agricultural workers in the United States under contracts.

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[1] See *Yearbook on Human Rights for 1950*, p. 336.

[2] Public Law 78, approved 12 July 1951.

Several states enacted in 1951 laws designed to improve the condition of migratory workers. California enacted a law regulating farm labour contractors, under which persons who recruit farm labourers are required to be licensed and bonded, and providing for refusal or revocation of a licence by the Labour Commissioner for failure to comply with specific requirements set up by the law to protect the workers who are recruited. In Minnesota, the state Board of Health was specifically authorized to make sanitary regulations relating to migrant labour camps, in addition to its previous authority to make such regulations for lumbering and industrial camps. Wisconsin also enacted legislation under which all industrial camps must be registered with the state Board of Health, and must obtain annual certificates which may be revoked if the camp does not comply with regulations issued by the board.

Industrial Safety

A number of laws were enacted in 1951 to provide safe work places and working methods. The authority of a state agency to draw up industrial safety regulations was increased or strengthened in Montana, Michigan, Tennessee, and Washington. More specific provisions for the detection and prevention of hazardous conditions included: a Massachusetts law prohibiting the removal of safety guards on machinery having movable parts unless the machinery has been shut down for repairs; in California, an increase from $10 to $25 in the minimum fine for failure to report an accident; in Oregon, specific authority for the state Industrial Accident Commission to post a notice of any violation of a law or rule requiring a safety appliance, device, or safeguard, the notice not to be removed until the employer has complied.

Minimum Wage

A minimum wage, applicable to workers engaged in interstate commerce or in the production of goods for interstate commerce, was established by the Federal Fair Labor Standards Act of 1938.[1] In January 1950, amendments[2] strengthening the provisions of this Act came into force. These amendments raised the legal minimum wage of all workers in interstate commerce from 40 to 75 cents an hour, improved the enforcement provisions, and clarified and modified the overtime provision and the exemptions. The basic protection of this minimum wage applies to about 21 million employees, constituting more than half of all employees in the United States other than those working for government agencies. During the year, marked progress was made in putting these important changes in the law into effect. Wage rates below 75 cents were permitted, under circumscribed conditions, for handicapped workers, for apprentices, for learners in occupations which require training periods, and for workers in certain industries in Puerto Rico and the Virgin Islands. The wage orders applicable to industries in these two areas are reviewed periodically in order to achieve the statutory objective of the 75-cent minimum wage as rapidly as economically feasible.

The year 1951 saw an increase in the sub-minimum rates for learners in a number of industries. The general direction of these revisions was toward the establishment of a 65-cent hourly base for learners' rates, as compared with the 55-cent and 60-cent level which prevailed generally during 1950. New rates were set in the hosiery industry, the cotton garment industry and in a number of others.

Under the Walsh-Healey Act,[3] two new wage determinations were issued by the Secretary of Labor in 1951, and proceedings on several others were nearing completion. This is the federal law which requires that at least the minimum wage prevailing in an industry be paid in the execution of government contracts for materials, supplies and equipment exceeding $10,000 in value. The new wage determinations covered the chemical and related products industry and the dental goods and equipment manufacturing industry. These were in addition to the rates already set in some forty industries, many of which have been the subject of more than one determination. In most important industries in which no wage determination has been made, employment is generally covered by the 75-cent hourly minimum under the Fair Labor Standards Act.

State minimum wage laws, designed to assure the workers covered by them at least a minimum adequate standard of living, are in effect in twenty-six states. Three states strengthened their laws during 1951. Most laws apply only to women and minors, but in five states—Connecticut, Massachusetts, New Hampshire, New York, and Rhode Island—they apply also to adult men workers. In Connecticut the minimum-wage law of that state, applying to men, women, and minors, was amended to establish the same statutory minimum-wage rate as is fixed by the Federal Fair Labor Standards Act—namely, 75 cents an hour. The Act also deleted the provision allowing the wage board to differentiate between male, female, and minor employees in recommending minimum-wage rates.

During the year 1951, twenty-six wage orders improving wage rates and working conditions were issued in the District of Columbia, Puerto Rico, and eleven states—Colorado, Connecticut, Kentucky, Massachusetts, New York, North Dakota, Oregon, Rhode Island, Utah, Washington, and Wisconsin. Of these, seven orders in four states established a basic minimum wage of 75 cents an hour, the minimum currently in effect under the Federal Fair Labor Standards Act for workers in interstate commerce. In a number of states, other wage orders were in process of revision at the end of the year.

[1] 52 Stat. 1060.

[2] 63 Stat. 910. See *Yearbook on Human Rights for 1950*, p. 333.

[3] 49 Stat. 2036.

Women Workers

All but four states have laws regulating the hours of employment of women. In 1951, New York made permanent the provision permitting women over twenty-one to be employed until midnight in mercantile establishments and also passed bills removing certain prohibitions on employment of women at night by permitting women to work in factory-operated restaurants in the previously restricted period between midnight and 6 a.m. and permitting them to work in other restaurants after midnight with the consent of the state Industrial Commissioner. Indiana suspended the operation of its night-work law covering manufacturing establishments for a ten-year period ending 15 March 1961. A number of states enacted laws to permit relaxation of hour standards for women during the national defence emergency under specified conditions.

The Massachusetts legislature approved a bill to tighten the provisions of its law on equal pay for women. Maine enacted a teachers' equal pay law. At the end of the year, twelve states and Alaska had equal-pay laws in effect for women in private employment, while sixteen states and the District of Columbia had equal-pay laws for teachers.

Right to Strike

The United States Supreme Court in 1951 upheld the right of workers to strike in a decision which held invalid a Wisconsin state law outlawing the right to strike in the case of failure of bargaining negotiations where the employer involved furnished essential public utility service.[1] The Supreme Court held that the law was in conflict with federal law in that it prohibited the exercise of rights guaranteed by federal labour legislation.

Non-discrimination in Employment

Under an executive order in February 1951 by which President Truman authorized the Departments of Defense and Commerce to let defence contracts,[2] he directed that there should be no discrimination in connexion with the letting of such contracts against any person on the ground of race, creed, colour, or national origin, and that all contracts let under these conditions should contain a provision that the contractor and any sub-contractor thereunder should not so discriminate.

In December 1951 President Truman issued an executive order[3] establishing a Committee on Government Contract Compliance, the purpose of which was to secure better compliance by contractors and sub-contractors with provisions in their contracts with the United States Government obliging them to practise non-discrimination in the performance of their contracts. These provisions specifically forbade discrimination because of race, creed, colour, or national origin, and extended to sub-contracts as well as to original contracts. They had not, however, been secured by any system of uniform regulation, or inspection, common to all the contracting agencies of the federal Government and widely understood by the contractors and their employees. The executive order was intended to correct this deficiency. It placed the primary responsibility for securing compliance with the non-discriminatory provisions with the head of the agency of the federal Government letting each contract. The committee appointed under the order was expected to examine and study the compliance procedures in use and to recommend changes that would strengthen them. It was to be composed of five members representing government agencies and six other members designated by the President. President Truman, in issuing the order, expressed the view that in fulfilling a contract with the federal Government a contractor should follow the national policy of equal treatment and opportunity.

Colorado in 1951 enacted a fair employment practices law providing for an educational approach to problems of discrimination in private employment because of race, creed, colour, national origin, or ancestry. In signing the law, Governor Dan Thornton called the act "a forward step in human relations" and reaffirmed "Colorado's belief in equal rights for all". In the city of Denver, Colorado, the City Council approved an ordinance establishing a permanent Commission on Human Relations, succeeding previous committees appointed by the mayor. The purpose is to eliminate bias in employment of city and county workers and in providing city services to the public.

The action of Colorado makes three states that have the educational type of fair employment practices law for private employment—Colorado, Indiana, and Wisconsin. Eight states—Connecticut, Massachusetts, New Jersey, New Mexico, New York, Oregon, Rhode Island, and Washington—have acts under which authority is provided to enforce the ban on specified practices of discrimination. In 1951, the New Jersey anti-discrimination law was amended by adding a prohibition against discrimination because of liability for military service; and a California law prohibited discrimination in the acceptance of apprentices on public works on the ground of race, creed, or colour.

The New Jersey Constitution of 1948 provided for municipal or local committees on civil rights in each of the townships. By 1951 seventeen such local public inter-group relations agencies existed in New Jersey.

New Jersey has a Division against Discrimination in the State Department of Education, with a budget

[1] *Amalgamated Association of Street, Electrical Railway and Motor Coach Employees, Division 998* v. *Wisconsin Employment Relations Board*, 304 U. S. 383 (1951).

[2] Executive Order No. 10201, 16 Federal Register 1049. The directive was extended on 31 October 1951 to cover contract letting by the Department of the Interior by Executive Order No. 10298, 16 Federal Register 11135.

[3] Executive Order No. 10308, 16 Federal Register 12303.

of $65,000 and twelve employees. It is under the Commissioner of Education, and the Assistant Commissioner of Education is Director of the Division against Discrimination.

Besides the eleven states having fair employment laws, local ordinances regarding fair employment practices were in effect in some twenty cities, including Phoenix, Arizona; Chicago, Illinois; Sioux City, Iowa; Akron, Cincinnati, Cleveland, and Youngstown, Ohio; and Philadelphia, Pennsylvania. Eight of these ordinances were adopted during 1951. In Philadelphia, the new City Charter created a Commission on Human Relations which would take over the duties of the municipal Fair Employment Practices Commission, created by an ordinance in 1948. By the end of 1951 fair employment practices legislation existed in states or cities which held 32.5 per cent of the nation's population.

4. *Housing and Public Accommodation*

Housing Legislation

Basic federal legislation intended to furnish assistance in providing suitable housing dates from before the Second World War. The Housing Act of 1949[1] provided aid in the housing of low-income families and for slum clearance and urban re-development. The 1949 Act set forth the goal of the United States housing programme as a decent home and a suitable living environment for every American family. The Housing Act of 1950[2] authorized more liberal financial assistance for construction of low-cost houses through the mortgage-insurance programme.

Much of the federal legislation affecting housing enacted in 1951 had as its purpose assistance in the provision of housing and community facilities essential for workers in areas which had become critical housing areas as a result of defence activities. Public Law 139,[3] approved 1 September 1951, contained provisions to assure that private enterprise would be afforded full opportunity to provide the housing needed and set up a liberal mortgage insurance programme to assist private enterprise in such undertakings, such assistance to be available in critical areas for a period of not less than ninety days before the federal Government would construct any permanent housing in such an area. The federal Government was to construct only such necessary housing as private builders did not within the ninety-day period indicate they would provide. The President was authorized to provide essential community facilities and services, and to make loans and grants to local communities to assist them in providing community facilities and services.

[1] 63 Stat. 413.

[2] 64 Stat. 48.

[3] 65 Stat. 293.

Other laws affecting housing provided an additional $3,875,000 for loans for housing in Alaska, and authorized the provision of temporary housing or emergency shelter in the case of major disasters.

Legislation affecting housing was also enacted by over three-fourths of the state and territorial legislatures in session during 1951.

Laws regarding housing authorities in Georgia, Hawaii, Nevada, and Puerto Rico were amended to authorize any housing authority having rural areas within its jurisdiction to undertake the provision of housing for persons of low income within such areas. New York created seven new housing authorities in towns and cities in that state. Georgia, Hawaii, Maine, Minnesota, and Nevada made provision for veterans' preference in admission to low-rent housing projects.

Seven states, making a total of thirty-four states, four territories, and the District of Columbia, enacted new legislation authorizing the undertaking of slum clearance and local re-development projects by local public agencies.

Non-discrimination in Housing

A trend toward elimination of discrimination in housing and public accommodation continued in 1951.

The Housing and Home Finance Agency issued a statement of policy designed to eliminate discrimination with respect to families belonging to minority groups displaced in the course of federally assisted slum clearance operations requiring suitable re-housing arrangements for such families.[4]

Another policy statement required communities planning defence housing to be assisted by the federal Government to provide fully for incoming defence workers of minority groups. It was also stated that defence housing and community facilities to be provided directly by the Housing and Home Finance Administrator should be available for any eligible worker, with no denial on the basis of race, colour, creed, or national origin.[5]

The Public Housing Administration's *Low-Rent Housing Manual*, in a general statement on racial policy applicable to all low-rent housing projects developed and operated under the Housing Act of 1937, declared that to be eligible for assistance, programmes must reflect equitable provision for eligible families of all races in accordance with the volume and urgency of their needs for such housing, and that such housing should be of substantially the same quality, with the same conveniences and facilities.

[4] This statement of policy appeared in an announcement by the Administrator of the Housing and Home Finance Agency on 5 November 1951. Text in Housing and Home Finance Agency Press Release No. HHFA-OA-241 of that date.

[5] Statement by Housing and Home Finance Administrator, 15 November 1951.

State and local governmental agencies also took action against discrimination in connexion with housing.[1]

A Wisconsin law relating to sale of property for non-payment of taxes was amended to provide that racial restrictions on the property were not among restrictions surviving a tax sale.

In New York City, an ordinance was enacted to bar discrimination in selection of tenants for housing built with city aid. In this ordinance it was declared to be the policy of the city to assure equal opportunity to all residents to live in decent, sanitary and healthful living quarters, regardless of race, colour, religion, national origin or ancestry.

Other cities making statements of policy opposed to discrimination in connexion with public housing and urban re-development were Cincinnati, Ohio; Pasco, Washington; Omaha, Nebraska; Pontiac, Michigan; and Toledo, Ohio.

In Los Angeles County, California, the County Board of Supervisors adopted a resolution prohibiting discrimination in the use of any land owned by the county. In the city of Los Angeles the City Council passed an ordinance declaring that all plans for city-assisted re-development projects shall contain clauses prohibiting discrimination and segregation in the sale or renting of housing units in these projects.

In the case of *City of Birmingham* v. *Monk*[2] the United States Court of Appeals affirmed the ruling of the district court and held that a city zoning ordinance making it unlawful for Negroes to occupy property for residential purposes in areas zoned as white-residential, and making it unlawful for white persons to occupy property for the same purpose in an area zoned as Negro-residential, violated the Fourteenth Amendment to the Constitution of the United States which prohibits states from depriving persons of property without due process of law. The Supreme Court of the United States refused to review this decision on 28 May 1951.

Among state and local acts to prevent discrimination in access to and use of places of public accommodation were the repeal by the Maryland legislature of a law requiring segregation of Negroes on intra-state steamboats and railways, which had long been obsolete except on Chesapeake Bay ferry boats; amendment of a Wisconsin law prohibiting hotels, resorts or other places of public accommodation or amusement from discrimination on account of race or colour, to include prohibition also of discrimination because of creed, national origin or ancestry, and of discriminatory advertising; and a provision in the newly adopted City Charter in Philadelphia against discrimination in extending the use of city property.

5. *Health*

Congress passed several laws in 1951 to improve health services or protection to citizens of the country. Among them was Public Law 139, already mentioned, which assists in the provision of hospital and sanitary facilities in communities affected by defence activities. Under its provisions the Surgeon-General of the United States is to administer the portions of the law dealing with health, sewage and sanitation facilities. The Migratory Farm Labor Act includes provision for emergency medical care for this group of workers. A protective law, an amendment to the Federal Food, Drug, and Cosmetic Act, bars the sale, without prescription, of certain barbiturates, narcotics, and new experimental drugs.

Most significant of state legislation enacted in 1951 were several mental health laws. During 1951, Idaho and Utah adopted the model state mental health law which provides for (1) maximum opportunity for prompt medical care, (2) protection against emotionally harmful or degrading treatment, and (3) protection against wrongful confinement and deprivation of rights. The South Carolina legislature passed a law setting up the South Carolina Mental Health Commission and providing for revision of the mental health laws. In addition, a $5 million bond issue was initiated to provide for the construction of state mental institutions. The state of Washington enacted a new law regarding psychopathic delinquents; it provides for their release from state hospitals upon correction of personality problems. Individuals thus concerned may become useful members of society without criminal convictions on their records. Also, a law for rehabilitation of mentally handicapped children was passed by the state legislature. In this same vein, the North Carolina legislature passed a law which provides for treatment of "mentally dangerous" persons who were charged with crime and found innocent. Other states which enacted mental health legislation were New Jersey, Vermont, and California.

Legislation recognizing alcoholism as an illness was enacted in several states. As the result of such legislation, boards, divisions or commissions on alcoholism were created in Michigan, Georgia, Minnesota, North Dakota, Rhode Island, and Vermont. In addition, educational programmes to combat alcoholism have been provided for in Georgia, Indiana, Maine, North Dakota, and Vermont. The Georgia law provides procedures for committal of alcoholics for treatment and rehabilitation. Florida passed a law for the establishment of a hospital for alcoholics. Thirty-nine states and the District of Columbia have official agencies for medical care, research, and rehabilitation in the field of alcoholism, following the basic principle of regarding

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[1] For the texts of these provisions, see *Non-discrimination Clauses in regard to Public Housing and Urban Redevelopment Undertakings* (Washington, Housing and Home Finance Agency, November 1950) and supplements thereto.

[2] 185 F. 2d 859 (1951); 341 U. S. 940 (1951), *certiorari* denied.

alcoholism as a disease rather than viewing its victims as criminals and social misfits.

The chronically ill were also beneficiaries of state legislation in 1951. Minnesota passed a law authorizing its counties to create and maintain nursing homes for the chronically ill and aged person. New Jersey passed legislation providing for state-supervised county-operated programmes of assistance to chronically ill persons.

For the benefit of sufferers from tuberculosis, New York's legislature made a requirement that each county should afford free hospital care for tuberculosis patients, while Delaware provided for a bond issue for the improvement of its tuberculosis sanatoria.

Connecticut passed legislation granting financial aid to a programme of nursing education.

General legislation enacted during the year included statutes creating a Department of Health in Arizona and authorizing the creation of city, county, or district public health departments in Wyoming. The federal Government and most states already have official agencies responsible for public health activities.

6. *Child Welfare*

Mid-century White House Conference on Children and Youth

The Mid-century White House Conference on Children and Youth held at the end of 1950 constituted one of the high points in work for children in the United States in recent years and was among the largest citizen undertakings in behalf of children in the history of the country.

The conference was called by the President and planned by a national committee of citizens appointed by him. It was sponsored on behalf of the federal Government by the Children's Bureau of the Federal Security Agency, in accordance with its function, as defined in the basic legislation creating it in 1912,[1] to investigate and report on all matters related to child life and to increase opportunity for the full development of all children by promoting their health and social welfare. The United States Congress made special appropriations to the Children's Bureau for the conference.

One result of the conference was the creation of a National Mid-century Committee, organized in the spring of 1951. This committee, in collaboration with agencies of the federal Government, the latter working through the Federal Interdepartmental Committee for Children and Youth, set six programme goals as a follow-up of the work of the Mid-century Conference. These goals are:[2]

1. Strengthening family life.
2. Providing opportunities for young people to take part in significant local, state, and national activities.
3. Providing equal opportunities for all children with particular reference to overcoming those conditions which make for discrimination because of race, religion, or national origin.
4. Strengthening spiritual life.
5. Pooling the skills of the experts from different fields to further the total well-being of the child.
6. Encouraging the application and use of tested research knowledge in programmes for children and youth.

Prohibition of Child Labour

Prohibition of child labour and regulation of work by young people has been dealt with in the United States in both federal and state legislation. The basic law, the federal Fair Labor Standards Act of 1938,[3] set minimum standards for the employment of young people in establishments engaged in producing goods for shipment in interstate commerce. The provisions of this Act were strengthened by amendments, which became effective in January 1950,[4] and tightened the prohibitions on child labour. These included a direct instead of an indirect prohibition of the employment of under-age children in the production of goods for interstate commerce, a direct prohibition of their employment in interstate commerce, and a provision which permits their employment in agriculture only outside of school hours in the district in which they are working. In 1951 considerable progress was made in implementing these amendments.

Several orders issued under the provisions of the Fair Labor Standards Act came into effect, by which certain occupations were designated as hazardous, in which children less than eighteen years of age were forbidden to work. Hazardous Occupations Order No. 9, which became effective in January 1951, applied the Act's eighteen-year minimum age standard for hazardous work to all underground and some surface occupations in all mines other than coal mines, to which an earlier hazardous occupations order applies.

State laws regulating conditions of work for young people were improved in four states during 1951. In New Hampshire the fourteen-year minimum age standard was made applicable to all occupations except agriculture and domestic service, instead of to specified occupations. Age certificates were required for minors sixteen and seventeen years of age in Delaware. In California, workmen's compensation benefits were increased 50 per cent for minors injured while illegally employed. Under an Ohio law, the minimum age for employment in a number of hazardous occupations was

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[1] 37 Stat. 79.

[2] The text of these recommendations may be found in the *Social Security Bulletin* published by the United States Federal Security Agency, Vol. XIV, No. 2, February 1951, page 10.

[3] 52 Stat. 1060.

[4] 63 Stat. 910. See also p. 373 above (under *Minimum Wage*)

raised from sixteen to eighteen, and an eighteen-year minimum was set for additional occupations.

Aid to Handicapped Children

The legislature of Illinois authorized local school boards to establish and maintain special educational facilities for mentally handicapped children. State aid for such programmes was to be granted up to a maximum of $250 per child.

In Arizona, a programme was set up for the education of homebound crippled children, as well as for crippled children in institutions, and provision was made for the establishment of a children's colony for handicapped children.

Public Child Welfare Services

Laws were enacted in Delaware and Florida establishing departments of welfare with responsibility for public child welfare services. New Jersey authorized state-wide services and financial aid for children with the proviso that they should be available when and so long as these are not available from a private agency. The Southern Illinois Services Center was established under the Department of Public Welfare to care for children when private and local public services are not available. The state of Washington established a Division of Youth Services within the Department of Institutions to assist in the provision of public services for delinquent children.

7. *Education*

Public education in the United States is a function of the individual states and their subdivisions, rather than of the federal Government, and educational systems and laws relating to education vary somewhat from state to state. Everywhere, however, public education is free in the elementary and secondary schools. Compulsory education laws differ somewhat from state to state, with school-leaving ages ranging from fourteen to eighteen, but including all elementary schooling. With education thus accessible to all, enrolment in elementary and secondary schools, public and private, in the United States set a new record in 1951 at 29,828,000, while college and university enrolments numbered about 2,500,000.

Enrolments at this record level put a severe strain on the physical facilities of the school system of the country. Extensive use was made during the year of the two important laws passed by Congress during September 1950,[1] which provided for assistance by the United States Government in construction of schools in areas affected by federal activities, and for federal assistance to schools in such communities for current operating expenses.

Efforts were made to cope with the shortage of teachers, particularly teachers in elementary schools. The average salary of teachers in elementary schools in the United States during 1950–51 was $2,980—a 3.3 per cent increase over the preceding year. A ruling by the Wage Stabilization Board gave school authorities the right to raise salaries of teachers at their own discretion, provided the increase did not exceed the 10 per cent over January 1950 levels permitted as increases to industrial workers and other segments of the labour force of the country. A California law set a minimum of $3,000 for salaries of public school teachers in that state.

Several states adopted legislation affecting segregation in the schools and for the prevention of discrimination in educational opportunities.

Arizona adopted a law making segregation in the schools optional with local school boards and as a result Tucson and several other cities changed to a non-segregated school system.

In New York, the Fair Educational Practices Act was amended to cover unfair discriminatory practices governing admission to trade and business schools, while an Oregon law made it illegal for vocational, professional or trade schools to discriminate in admissions on the basis of race or creed. The New Jersey Division Against Discrimination reported that as of December 1950 no cases had come to its attention involving admission policies and practices in post-secondary (higher) schools.

In Illinois, discrimination in schools of nursing and of optometry was prohibited by administrative action of the State Department of Registration and Education.

On the other hand, the Georgia legislature passed a school appropriation bill containing a provision withholding all state funds from the public school and university system, if any court should order the admission of Negroes to institutions heretofore reserved for whites.

In line with the decisions of the United States Supreme Court in 1950 on cases involving discrimination in university education, considerable numbers of Negro students were admitted to the graduate schools of several southern state universities.

Vocational Rehabilitation

Vocational rehabilitation of the physically handicapped has been a recognized function of the federal and state governments in the United States for more than thirty years. Under federal law, the federal Office of Vocational Rehabilitation approves state plans for vocational rehabilitation, grants funds to state agencies, develops standards and assists state agencies in their plans and operations.

In 1951, the legislature of West Virginia amended its laws relating to the vocational rehabilitation of disabled individuals to include provision for the establishment, operation and maintenance of special centres for

[1] 64 Stat. 967,1100. See the report on "Human Rights in the United States in 1950," where these laws are summarized (*Yearbook on Human Rights for 1950*, pp. 334–335).

the vocational rehabilitation of handicapped persons and of workshops for blind and severely disabled persons. This is the first state legislation of its kind enacted, although the establishment of special centres for rehabilitation of severely disabled individuals has been accelerated throughout the country.

The Montana legislature passed an act providing for preference to blind or severely disabled persons in securing, through lease, licence, or other type of contract, space in state-owned or other public buildings. This action brought to twenty-one the number of states having such legislation with respect to state-owned or other public buildings.

8. *Cultural Rights*

The right to participate freely in the cultural life of the community and to enjoy its cultural advantages is exercised in the United States not only by American citizens, but by large numbers of visitors from abroad, who come to this country both as a result of the United States Government's programme of exchange of persons, and through privately sponsored exchange arrangements, or of their own volition.

The United States Government's programme of exchange in the field of cultural relations was increased greatly during 1951. This was especially true of the international exchange of persons, by which government grants enable teachers, research scholars, labour leaders, newspaper publishers, editors, and writers to come to the United States for study and research, with provision for travel and observation as desired, while similar grants permit Americans to travel abroad.[1]

International exchange of persons is provided for in several types of programmes officially sponsored by the federal Government. The United States Information and Educational Exchange Act (Smith-Mundt Act)[2] provides for a reciprocal exchange of students, trainees, educators, and leaders of thought and opinion between the United States and other participating countries, which vary from year to year. The Fulbright Act[3] authorizes the use of certain foreign currencies and credits acquired through the sale of surplus property abroad for educational exchanges. By 1951, twenty-four countries had made agreements with the United States to participate in such exchanges. Several programmes provided for exchanges of persons between the United States and certain countries or areas. The Convention for the Promotion of Inter-American Cultural Relations, popularly known as the Buenos Aires Convention,[4] provides for the annual exchange of two graduate students between each two of the signatory American republics. There are specialized programmes for exchanges with Germany[5] and Austria.[6] A programme of educational exchange with Finland[7] authorizes the use of payments by Finland on her debt to the United States for exchanges of persons and educational materials between the two countries. An Iranian-American trust fund arrangement[8] provides that the amount paid by the Government of Iran in settlement of a claim by the United States Government be expended for the education of Iranian students in the United States. A Chinese emergency aid programme[9] provides assistance to Chinese students and scholars in the United States. Exchange activities also took place during 1951 under the technical co-operation and economic co-operation programmes, consisting generally in bringing foreign nationals to the United States as trainees and in sending United States experts abroad to help participating countries with problems related to their economic or technical developments.

Under these plans of exchange, more than 7,800 persons were exchanged under programmes conducted with seventy countries during the year ending 30 June 1951. Of these, 6,291 were awarded grants to come to the United States, while some 1,528 Americans received grants for similar travel abroad. In addition, grants were awarded to 2,894 Chinese students and scholars to complete their studies in this country.

Other foreign visitors came to the United States for cultural and educational purposes and Americans travelled abroad under privately sponsored exchange projects, which, however, received Government encouragement and assistance. Some 4,800 persons were exchanged through assistance given to 464 private organizations, fraternal and business groups, educational institutions and foreign governments. Also, in accordance with the provisions of the United States Information and Educational Exchange Act, some 513 exchange visitor programmes were designated, by which 17,700 persons were exchanged under government and private programmes.

During 1951 approximately 30,000 foreign students were studying in American colleges and universities.

While only a small percentage of the visitors to the United States for cultural purposes were supported by government grants, numbers of others were assisted in their visits, in such matters as establishing professional and community contacts, by orientation and service centres for foreign visitors operated by the United States Government in New York city, Washing-

[1] For additional details on exchange in the field of cultural relations, see the seventh and eighth semi-annual reports of the Secretary of State to Congress on the International Information and Exchange Program, for 1951 (Department of State publications 4401 and 4575, International Information and Cultural Series 20 and 22).

[2] 62 Stat. 6.

[3] 60 Stat. 754.

[4] United States Treaty Series No. 928, 51 Stat. 178.

[5] 64 Stat. 198.

[6] 64 Stat. 613.

[7] 63 Stat. 630.

[8] 64 Stat. 1081.

[9] 63 Stat. 709, 64 Stat. 198.

ton, Miami, New Orleans, and San Francisco. These centres, which served nearly 20,000 foreign visitors in 1951, arrange visits with local civic, business, cultural, religious, and other groups to enable foreign visitors to gain a more accurate picture of America and its way of life than would otherwise be possible.

II. INTERNATIONAL AGREEMENTS

Several international agreements which came into force during 1951 contained important provisions dealing with human rights.

The Charter of the Organization of American States,[1] which had been signed at Bogotá on 30 April 1948, was ratified by the United States during 1951 and came into force 13 December 1951. Its ratification by the United States Senate was accompanied by the reservation that "none of its provisions shall be considered as enlarging the powers of the Federal Government of the United States or limiting the powers of the several states of the Federal Union with respect to any matters recognized under the Constitution as being within the reserved powers of the several states".

The agreement between the United States and Iceland for the defence of Iceland pursuant to the North Atlantic Treaty, signed on 5 May 1951, was followed by an annex on the status of United States personnel and property in Iceland, which was signed on 8 May 1951 and entered into force on that day.[2] The annex contained provisions regarding the rights to fair trial of members of the United States forces in Iceland or dependants of members of such forces who might be prosecuted under the jurisdiction of Iceland. It was agreed that such persons should be entitled to a prompt and speedy trial; to be informed in advance of the specific charges made against them; to be confronted with the opposing witnesses; to have compulsory process for obtaining favourable witnesses, if these were within the jurisdiction of Iceland; to defence by a qualified advocate; to have the assistance of a qualified interpreter; and to communicate with a representative of their government.

A new agreement between the United States and Mexico regarding Mexican agricultural workers employed in the United States was signed and entered into force on 11 August 1951.[3] The agreement dealt with workers who were selected in Mexico under the auspices of the Mexican Government and whose work was carried out in the United States under a standard work contract which was incorporated into the agreement and the observance of which was to be supervised by representatives of the United States and Mexican Governments. The agreement contained in article 8 provides against discrimination against Mexican workers because of their nationality or ancestry. Article 15 regarding wages provided that the employer should pay wages to a Mexican worker at the contracted rate or at a rate not less than the rate prevailing in the area for similar work of domestic agricultural workers, whichever is the greater. By article 35, the United States Government agreed to exercise vigilance and influence to the end that Mexican workers might enjoy impartially and expeditiously the rights granted by the laws of the United States.

The standard work contract contained clauses requiring the provision for the Mexican workers of hygienic lodgings, adequate to the climatic conditions of the area and not inferior to those ordinarily furnished to domestic workers in the area. The contract contained standard clauses relating to provision of medical care and personal injury compensation, methods of wage payment, and wage standards.

Three agreements were made in 1951 to devote to educational purposes the proceeds in foreign currency arising from disposal of surplus property by the United States Government. Such agreements were concluded with Denmark, Iraq, and Japan.[4] The agreements with Denmark and Iraq provided for the creation of the United States Educational Foundations in Denmark and Iraq and an exchange of students and teachers, while the Japanese agreement covered the activities of the United States Educational Commission in Japan, and an educational exchange programme.

Two international agreements came into force which helped to guarantee the right of an author to protection of the moral and material interests resulting from his literary or artistic productions.[5] These were copyright agreements with Finland and Italy, which extended the time for complying with copyright provisions by reason of conditions, such as difficulty of communication, arising out of the Second World War.

A number of other international agreements concluded during 1951 dealt with co-operation between the United States and other countries under the terms of the "Point Four Program" for extending technical

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[1] For the text of the charter, see Department of State publication 4479, Treaties and Other International Acts Series 2361. Pertinent clauses of the Charter appear in *Yearbook on Human Rights for 1948*, pp. 437–439.

[2] For the texts of the agreement and annex, see Department of State publications 4294 and 4351, Treaties and Other International Acts Series 2266 and 2295. See extracts from this Agreement on p. 510 of this *Yearbook*.

[3] For text of the agreement see Department of State publication 4435, Treaties and Other International Acts Series 2331.

[4] For the texts of these agreements, see Department of State publications 4424, 4269 and 4438, Treaties and Other International Acts Series 2324, 2327 and 2335. See extracts from the Agreement with Denmark on p. 511 of this *Yearbook*.

[5] For the texts of these agreements, see Department of State publications 4511 and 4510, Treaties and Other International Acts Series 2383 and 2382. See the Proclamation of the President of the United States in accordance with the Agreement with Italy, on p. 512 of this *Yearbook*.

assistance to under-developed areas.[1] This assistance is designed to aid in the advancement of economic and social standards in the under-developed regions of the world. This programme was first proposed by President Truman in his inaugural address on 20 January 1949, as the fourth point in a statement on American foreign policy. The Act for International Development, approved 5 June 1950,[2] gave the programme legislative sanction, while Public Law 165, approved 10 October 1951, authorized continuance of the programme. The United States also contributed to the expanded programme of technical assistance administered through the United Nations and the specialized agencies.

Each project for technical assistance administered under the United States programme grows out of requests from a foreign government and is worked out co-operatively through an agreement between the Technical Cooperation Administration and the government of the country concerned, in terms of personnel, equipment, funds, and other contributions to be supplied by each party. Activities under the Point Four Program aim at raising the living standards of the under-developed areas by helping to increase food production, stamping out disease, improving schools, developing water and mineral resources, and bettering transportation, housing, public administration, and industry. American technicians go out to work with the technicians and people of other countries on these problems and supply advice and technical skills to further development projects, and qualified persons from these countries are also given additional training opportunities in the United States.

Most of the general agreements for Point Four co-operation with other countries were concluded during 1950 and 1951. By the end of 1951 there were more than thirty such bilateral agreements in force. These general agreements were supplemented by a number of specific agreements covering individual projects, distribution of costs, and dispatch of American advisory missions, particularly in the fields of agriculture, health and sanitation, and education. As a result of requests from governments and the agreements resulting therefrom, there were by the end of 1951, 619 American technicians working on over 200 projects in thirty-three countries.

[1] As an example, see the General Agreement for technical co-operation between the United States of America and Ecuador, signed on 3 May 1951 (p. 509 of this *Yearbook*).

[2] 64 Stat. 204.

URUGUAY

NOTE ON THE DEVELOPMENT OF HUMAN RIGHTS[1]

Constitution of the Oriental Republic of Uruguay of 26 October 1951. The provisions on human rights of this Constitution are published in this *Yearbook*.

Act of 14 February 1951 establishing a Special Retirement Benefit Fund and a system of regulations and resources. This Act was adopted on 12 February 1951 and promulgated on 14 February 1951. It is published in the *Diario Oficial* No. 13285, of 26 February 1951.

The Special Retirement Benefit Fund has been established for civil servants and workers affiliated with the Retirement and Pension Fund for civil servants, teachers, other members of public services and members of the armed forces. Benefits are provided for those who retire after thirty, thirty-six or forty years of service. The special benefit amounts to six times the average monthly salary of the last year in service after thirty years and is proportionally higher after thirty-six or forty years. Services rendered in public service enterprises which were nationalized or have become the property of municipalities or which at some future date will become the property of the State or a municipality will be treated on the same basis as those rendered in the public administration. In case of death of anyone who dies while still in the service, but who by the number of years in the service has acquired a right under this Act, the widow, sons under eighteen years, unmarried daughters or, in their absence, the widowed mother or incapacitated father of the beneficiary shall be entitled to the benefit. The benefit shall not exceed $20,000 and not be below $1,000. The benefits under this Act cannot be assigned or attached. A fund will be created to meet the purpose of the Act, which will be administered separately by the Civil Service, Teachers' and Public Service Retirement and Pension Fund.

Act of 26 March 1951 granting amnesty for electoral offences. This Act was adopted on 14 March and promulgated on 26 March 1951. It is published in the *Diario Oficial* No. 13310, of 4 April 1951. According to this Act, an amnesty is granted for all electoral offences committed before the publication of this Act unless the offensive intention of the offender has been proved.

[1] This note is based on texts and information received through the courtesy of Dr. Anibal Luis Barbagelata, Professor of Constitutional Law, Montevideo.

CONSTITUTION OF THE ORIENTAL REPUBLIC OF URUGUAY[1]

of 26 October 1951

TITLE I

THE NATION AND ITS SOVEREIGNTY

. . .

Chapter III

Art. 5. All religious sects are free in Uruguay. The State supports no religion whatever. It recognizes the right of the Catholic Church to ownership of all temples which have been built wholly or partly from funds of the national Treasury, with the sole exception of chapels dedicated for use by asylums, hospitals, prisons, or other public establishments. It likewise declares exempt from all form of taxes the temples dedicated to worship by the various religious sects.

Chapter IV

Art. 6. In international treaties which the Republic may conclude there shall be proposed a clause to the effect that all differences which may arise between the contracting parties shall be settled by arbitration or other peaceful means.

TITLE II

RIGHTS, DUTIES AND GUARANTEES

Chapter I

Art. 7. The inhabitants of the Republic have the right of protection in the enjoyment of life, honour,

[1] Spanish text in *Diario Oficial*, Vol. 186, No. 13586, of 7 March 1952. English translation: *Constitution of the Republic of Uruguay, 1951* (published by the Pan American Union, Law and Treaty Series No. 36), Washington 1952. The Constitution of Uruguay was adopted as a constitutional law by the General Assembly of the Republic of Uruguay on 26 October 1951 and subsequently ratified by a vote of the people on 16 December 1951.

liberty, security, labour and property. No one may be deprived of these rights except in conformity with laws which may be enacted for reasons of general interest.

Art. 8. All persons are equal before the law, no other distinction being recognized among them save those of talent and virtue.

Art. 9. The establishment of primogenital entailments is prohibited.

No authority of the Republic may grant any title of nobility or hereditary honours or distinctions.

Art. 10. Private actions of persons which do not in any way affect the public order or prejudice others shall be outside the jurisdiction of the magistrates.

No inhabitant of the Republic shall be obliged to do what the law does not require, or prevented from doing what it does not prohibit.

Art. 11. The sanctity of the home is inviolable. No one may enter it by night without the consent of its master, and by day only at the express order of a competent judge, in writing, and in cases determined by law.

Art. 12. No one may be punished or imprisoned without due process of law and a legal sentence.

Art. 13. Ordinary law may establish trial by jury in criminal cases.

Art. 14. The penalty of confiscation of property may not be imposed for reasons of a political nature.

Art. 15. No one may be arrested except in case of *flagrante delicto* or by written order of a competent judge based on reasonable grounds.

Art. 16. In any of the cases contemplated in the preceding article, the judge, under the gravest responsibility, shall take the declaration of the person under arrest within twenty-four hours and shall begin the summary process within forty-eight hours at the most. The declaration of the accused must be taken in the presence of his defender. The latter shall also have the right to attend all summary hearings.

Art. 17. In the event of unlawful detention, the interested party or any other person may apply to the competent judge for a writ of *habeas corpus* to the end that the detaining authority shall immediately explain and justify the legal grounds for such detention, the decision of the aforementioned judge being final.

Art. 18. The laws shall establish the procedure and formalities of trials.

Art. 19. Trials by commission are prohibited.

Art. 20. The taking of an oath by the accused in making a declaration or confession regarding his own acts is abolished; and it is prohibited that the accused shall be treated as a criminal.

Art. 21. Criminal trials *in absentia* are likewise abolished. The law shall make suitable provision to this effect.

Art. 22. Every criminal trial shall begin with an accusation by a complaining witness, or by the public prosecutor, secret examinations being abolished.

Art. 23. All judges are responsible before the law for the slightest infringement of the rights of individuals as well as for deviation from the established order of procedure in that respect.

Art. 24. The State, the departmental governments, the autonomous entities, the decentralized services, and in general any agency of the State, shall be civilly liable for injury caused to third parties, in the performance of public services, entrusted to their action or direction.

Art. 25. Whenever the injury has been caused by their officials, in the performance of their duties or by reason of such performance, in the event they have been guilty of gross negligence or fraud, the corresponding public agency may reclaim from them whatever has been paid as compensation.

Art. 26. The death penalty shall not be applied to anyone.

In no case shall prisons be permitted to use brutal treatment; they shall be used only as a means of assuring that convicts and prisoners are re-educated, acquire an aptitude for work, and become rehabilitated.

Art. 27. In any stage of a criminal trial which will not result in a penitentiary sentence, judges may place the accused at liberty, under a bond as determined by law.

Art. 28. The papers of private individuals, their correspondence, whether epistolary, telegraphic, or of any other nature, are inviolable, and they may never be searched, examined, or intercepted except in conformity with laws which may be enacted for reasons of public interest.

Art. 29. The expression of opinion on any subject by word of mouth, private writing, publication in the Press, or by any other method of dissemination is entirely free, without prior censorship; but the author, printer or publisher as the case may be, may be held liable, in accordance with law, for abuses which they may commit.

Art. 30. Every inhabitant has the right of petition to all or any of the authorities of the Republic.

Art. 31. Individual security may not be suspended except with the consent of the General Assembly or, during its recess, the Permanent Commission and in

the event of an extraordinary case of treason or conspiracy against the country; and even then such suspension may be used only for the apprehension of the guilty parties, without prejudice to the provisions of section 17 of article 168.

Art. 32. The right property is inviolable, but is subject to the provisions of laws which may be enacted for reasons of general interest.

No one may be deprived of his property rights except in case of public necessity or utility established by law, and in such cases the National Treasury shall always pay just compensation in advance.

Whenever expropriation is ordered for reasons of public necessity or utility, the property owners shall be indemnified for loss or damages they may suffer on account of delay, whether the expropriation is actually carried out or not.

Art. 33. Intellectual property, the rights of authors, inventors, or artists shall be recognized and protected by law.

Art. 34. All the artistic or historical wealth of the country, whoever may be its owner, constitutes the cultural treasure of the Nation; it shall be placed under the protection of the State and the law shall establish what is deemed necessary for such protection.

Art. 35. No one shall be compelled to render aid of any kind to the army, or to permit his house to be used for the billeting of troops except by order of a civil magistrate according to law, and in such cases he shall receive from the Republic indemnification for loss that may be incurred.

Art. 36. Every person may engage in labour, farming, industry, commerce, a profession, or any other lawful activity, save for the limitations imposed by general interest which the law may enact.

Art. 37. The entry of any person into the Republic, his residence therein, and his departure with his property, are free, if he obeys the laws, except in cases of prejudice to third parties.

Immigration shall be regulated by law, but in no case shall an immigrant be admitted who has physical, mental, or moral defects which may injure society.

Art. 38. The right of peaceful and unarmed public meetings is guaranteed. The exercise of this right may not be denied by any authority of the Republic except in accordance with law, and only in so far as such exercise may prejudice public health, safety or order.

Art. 39. All persons have the right to form associations, for any purpose whatsoever, provided they do not form an association which the law has declared unlawful.

Chapter II

Art. 40. The State shall safeguard the social development of the family.

Art. 41. The care and education of children, so that they may attain their fullest physical, intellectual, and social capacity, is the duty and the right of parents. Those who have large families to support are entitled to compensatory aid if they need it.

The law shall provide the necessary measures for the protection of infancy and youth against physical, intellectual, or moral neglect by their parents or guardians, as well as against exploitation and abuse.

Art. 42. Parents shall have the same duties toward children born outside of wedlock as toward children born within it.

Maternity, regardless of the condition or circumstances of the mother, is entitled to the protection of society and to its assistance in case of destitution.

Art. 43. The law shall provide that juvenile delinquency shall be dealt with under a special system in which women will be allowed to participate.

Art. 44. The State shall legislate on all questions connected with public health and hygiene, endeavouring to attain the physical, moral, and social improvement of all inhabitants of the country.

It is the duty of all inhabitants to take care of their health as well as to receive treatment in case of illness. The State will provide gratis the means of prevention and treatment to both indigents and those lacking sufficient means.

Art. 45. The law shall promote hygienic and economical housing for workers, by sponsoring the construction of housing and communities which meet these conditions.

Art. 46. The State shall give asylum to indigent persons or those lacking sufficient means who, because of chronic physical or mental inferiority, may be incapacitated for work.

Art. 47. The State shall combat social vices by means of the law and international conventions.

Art. 48. The right of inheritance is guaranteed within the limits established by law. Lineal ascendants and descendants shall have preferential treatment in the laws regarding taxation.

Art. 49. The "family property" (*bien de familia*), its constitution, conservation, enjoyment, and transmission shall be protected by special legislation.

Art. 50. Every commercial or industrial organization in the form of a trust shall be subject to control by the State.

Art. 51. The establishment and enforcement of rates for public services operated by firms holding concessions shall be conditional upon their approval by the State or departmental governments, as the case may be.

The concessions to which this article refers may in no case be granted in perpetuity.

Art. 52. Usury is prohibited. The law fixing a maximum limit on interest rates on loans is of a public character. This law will fix the penalties to be applied to offenders thereunder.

No one may be deprived of his liberty for debts.

Art. 53. Labour is under the special protection of the law.

It is the duty of every inhabitant of the Republic, without prejudice to his freedom, to apply his intellectual or physical energies in a manner which will redound to the benefit of the community, which will endeavour to afford him, with preference to citizens, the possibility of earning his livelihood through the development of some economic activity.

Art. 54. The law must recognize the right of every person, performing labour or services as a worker or employee, to independence of moral and civic consciousness; just remuneration; limitation of the working day; a weekly day of rest; and physical and moral health.

The labour of women and of minors under eighteen years of age shall be specially regulated and limited.

Art. 55. The law shall regulate the impartial and equitable distribution of labour.

Art. 56. Every enterprise, the nature of which requires that the personnel reside on the premises, shall be obliged to provide adequate food and lodging in accordance with conditions which the law may establish.

Art. 57. The law shall promote the organization of trade unions, according them charters and issuing regulations for their recognition as juridical persons.

It shall likewise promote the creation of tribunals of conciliation and arbitration.

The strike is declared to be a right of trade unions. Regulations shall be made governing its exercise and effect, on that basis.

Art. 58. Public officials are in the service of the Nation and not of a political party. Any activity alien to their duties is prohibited and political propaganda (*proselitismo*) on their part, at their offices or during office hours, shall be considered unlawful.

They may not organize groups for propaganda purposes by using the names of public agencies or any connexion their positions may bear to membership in such organizations.

Art. 59. The law shall establish civil service regulations (*estatuto del funcionario*) on the fundamental basis that the official exists for the office and not the office for the official.

Its principles shall apply to subordinate officials:

(A) Of the Executive Power, with the exception of the military, police and diplomatic officials, who shall be governed by special laws;

(B) Of the Judicial Power and of the Contentious-Administrative Tribunal except with respect to judgeships;

(C) Of the Tribunal of Accounts;

(D) Of the Electoral Court and its agencies, without prejudice to regulations enacted for the control of political parties;

(E) Of the decentralized services, without prejudice to whatever may be provided in special laws covering the diverse nature of their functions.

Art. 60. An administrative career service is established for officials covered by the budget of the central administration, who are declared to have permanent status, without prejudice to provisions of law that may be enacted on the subject by an absolute majority of the votes of the full membership of each Chamber or under the third paragraph of this article.

They may be dismissed only in accordance with rules established by this Constitution.

Officials who are political in character or who have duties of personal trust (*de particular confianza*) are not included if given such character by law approved by an absolute majority of votes of the full membership of each Chamber, and they shall be appointed and are subject to dismissal by the appropriate administrative organ.

Art. 61. The civil service regulations shall establish the conditions for admission for career officials and shall regulate the right to permanent status, advancement, weekly days of rest, and the system of annual and sick leave; grounds for suspension or transfer; their official duties; and administrative recourses against rulings that may affect them, without prejudice to the provisions of section XVII.

Art. 62. The departmental governments shall adopt these regulations for their officials in accordance with the rules set forth in the preceding articles, and until this is done the provisions established by law governing public officials shall apply.

To grant permanent status to their officials and to establish positions that are political or of personal trust shall require the approval of three-fifths of the membership of a departmental board (*junta departamental*).

Art. 63. Within one year following the promulgation of this Constitution, the autonomous entities shall adopt civil service regulations for their officials, such regulations to be subject to the approval of the National Council of Government.

These regulations shall contain provisions designed to ensure normal operation of the services and the guarantees established in the preceding articles for public officials, in so far as they can be reconciled with the specific purposes of each autonomous entity.

Art. 64. By a two-thirds vote of the total membership of each Chamber, the law may establish special regulations which, by their general scope or nature,

TITLE IV

THE FORM OF GOVERNMENT AND ITS VARIOUS POWERS

Chapter I

Art. 82. The nation adopts the democratic-republican form of government.

Its sovereignty shall be exercised directly by the voters (*cuerpo electoral*) through election, initiative, and referendum, and indirectly by the representative powers which this Constitution establishes; all in conformity with the rules herein set forth.

TITLE V

THE LEGISLATIVE POWER

Chapter II

Art. 88. The Chamber of Representatives shall consist of ninety-nine members elected directly by the people, under a system of proportional representation which takes into account the votes cast in favour of each party throughout the country.

Each department shall have at least two representatives.

The number of representatives may be changed by law, the enactment of which shall require a two-thirds vote of the full membership of each Chamber.

Art. 89. Representatives shall hold office for four years and their election shall be effected under the guarantees and rules of suffrage provided in section III.

Art. 90. To be a representative it is necessary to be a natural citizen in full exercise of civil rights, or a legal citizen who has exercised his civil rights for five years, and in both cases, to have attained twenty-five years of age.

. . .

Chapter III

Art. 94. The Senate shall be composed of thirty-one members, elected by the people, considering the Republic as a single electoral district, in accordance with the guarantees and rules concerning suffrage contained in section III and stated in subsequent articles.

. . .

Art. 95. The senators shall be elected by the system of integral proportional representation.

Art. 98. To be a senator it is necessary to be a natural citizen in full exercise of civil rights, or a legal citizen who has exercised these rights for seven years, and in both cases to have attained thirty years of age.

. . .

TITLE IX

THE EXECUTIVE POWER

Chapter I

Art. 149. The Executive Power shall be exercised by the National Council of Government.

Art. 150. The National Council of Government shall consist of nine members elected directly by the people, together with a double number of alternates, for a period of four years, with the guarantees and in accordance with the rules of suffrage set forth in section III, the Republic to be considered as a single electoral district. In the election of the national councillors, votes may be accumulated by parties but accumulation by factions (*sub-lemas*) is prohibited.

Art. 152. To be a national councillor a person must be:

(1) A natural citizen in the exercise of his civil rights;

(2) At least thirty-five years of age.

. . .

Chapter II

Art. 158. The Presidency of the National Council of Government shall be by rotation, by yearly periods, among the members elected by the party which obtained a majority and by order of their place on the respective list.

. . .

Chapter IV

Art. 168. The National Council of Government, acting with the respective Minister or Ministers, has the following duties:

. . .

(17) To take prompt measures of security in grave and unforeseen cases of foreign attack or internal disorder, giving an account within twenty-four hours to a joint session of the General Assembly, or during its recess, to the Permanent Commission, of the action taken and its motives, the decision of the latter bodies being final.

With respect to persons, the prompt measures of security authorize only their arrest or removal from one place in the territory of the country to another provided they do not elect to leave it. This measure, like the others, must be submitted within twenty-four hours to a joint session of the General Assembly or to the Permanent Commission, which will make the final decision;

. . .

TITLE XIX

THE OBSERVANCE OF FORMER LAWS

ENFORCEMENT AND AMENDMENT OF THE PRESENT CONSTITUTION

Chapter IV

Art. 332. The provisions of the present Constitution which recognize individual rights, as well as those which confer powers and impose duties on public authorities, shall not be without effect by reason of the lack of corresponding regulations, but such regulations shall be supplied on the basis of analogous laws, general principles of justice, and generally accepted doctrines.

. . .

VENEZUELA

DECREE No. 43 OF 30 DECEMBER 1950 TO RESTORE CERTAIN CONSTITUTIONAL GUARANTEES AS AMENDED BY DECREE No. 119 OF 18 APRIL 1951[1]

Introductory Note. On 13 November 1950, the rights and freedoms guaranteed by the Constitution of Venezuela of 20 July 1936, as amended in 1945,[2] were suspended. By decree No. 43 of 30 December 1950, certain rights and guarantees were restored. Article 3 of decree No. 43 provided that the exercise of the rights of freedom of assembly and association would be the subject of special regulations. This article was replaced by a new article 3, the text of which is contained in decree No. 119 of 18 April 1951 (see below) and by decree No. 120 concerning the right of association and assembly, which is likewise reproduced in the present *Yearbook*.

Art. 1. The guarantees referred to in article 32, paragraphs 3, 4, 7 and 17, sub-paragraphs (IV) and (VI),[3] of the Constitution of the United States of Venezuela regarding the inviolability of correspondence and of the home, the freedom of movement and the right not to be held *incommunicado* or under detention in the circumstances described in the said sub-paragraph (VI), are hereby restored.

Art. 2. The guarantee referred to in article 32, paragraph 6, of the Constitution of the United States of Venezuela[4] shall be subject to restrictions as specified below:

Sole article: It shall be unlawful to publish or disseminate opinions or news which are based on rumour or which convey malicious insinuations or ideas likely to spread alarm, incite others to disrespect of the law or subvert the social or political order. Accordingly, any material of a political nature intended for publication shall be submitted to a commission of inspectors which shall be composed of members representing the occupations concerned with publicity in the federal entity affected. The commission shall grant or withhold permission for the publication of the material submitted to it according to the contents thereof.

If any publicity agency publishes material for which permission has not been granted as aforesaid, the said agency shall be liable to suspension or to a fine not exceeding 5,000 bolivares, as the executive authorities may direct.

Art. 3. (*as amended in 1951*) The exercise of the guarantees referred to in article 32, paragraph 11, of the Constitution of the United States of Venezuela[5] is subject to the following terms:

Freedom of assembly without arms in private rooms which do not endanger public order and freedom of association are guaranteed, subject to restrictions and prohibitions provided for in other decrees.

Art. 4. The exercise of the guarantees referred to in article 32, paragraph 17, sub-paragraphs (III) and (X), of the Constitution of the United States of

[1] Spanish text of decree No. 43 of 30 December 1950 in *Gaceta Oficial* No. 23,418, of 30 December 1950; of decree No. 119 of 18 April 1951 in *Gaceta Oficial* No. 23,507, of 18 April 1951. English translation from the Spanish text by the United Nations Secretariat. See also the summary of decrees No. 43 of 1950 and No. 119 of 1951 in *Síntesis de las Labores Realizadas por la Junta de Gobierno de los EE. UU. de Venezuela* (24 November 1950–24 November 1951), Caracas, Government Press (no date), pp. 7 and 8. Introductory note prepared by the United Nations Secretariat.

[2] See the provisions on human rights in this Constitution in *Yearbook on Human Rights for 1946*, pp. 422–424. For a description of the constitutional situation in Venezuela in 1948 and 1949, see the note in the *Yearbook on Human Rights for 1948*, p. 251; cf. also decree No. 330 of 23 November 1949 concerning the restoration of certain constitutional guarantees in the *Yearbook on Human Rights for 1949*, p. 246.

[3] See *Yearbook on Human Rights for 1946*, pp. 422–424.

[4] Article 32, paragraph 6 guarantees to Venezuelans "Freedom of thought expressed orally, by writing, or through the press, or by any other means of publication, but expressions constituting injury, calumny, defamation, abuse, or incitements to an offence shall be punishable as prescribed by statute. Anonymity is prohibited, and war propaganda or propaganda intended to subvert the social and political order shall be unlawful."

[5] Article 32, paragraph 11, of the Constitution of 1936 guarantees to Venezuelans "Freedom of assembly without arms, publicly or privately, without endangering public order, and the authorities may not use any coercive action; and freedom of association, subject to any statutory restrictions and prohibitions. Regulations shall be enacted to govern the exercise of the right of assembly." The former text of article 3 of Decree No. 43 of 1950 provided: "The exercise of the guarantees referred to in article 32, paragraph 11, of the Constitution of the United States of Venezuela shall be subject to special regulations, pending the enactment of which the relevant measures and other provisions enacted by the Provisional Government shall continue to be operative."

Venezuela[1] shall be subject to restrictions as specified below:

Sole article: In cases where there is substantiated evidence of the existence of plans or activities calculated to subvert the constituted authorities, but not otherwise, the Federal Executive shall have power to order persons who are strongly suspected of being implicated in such plans or activities to be remanded in custody. This measure shall be suspended when the circumstances which led to its adoption cease to exist.

Art. 5. Decree No. 682 dated 13 November 1950 is hereby repealed.

[1]Article 32, paragraph 17, sub-paragraphs (III) and (X) provide:

"III. No citizen may be imprisoned or detained without instituting a summary inquiry as to whether an offence has been committed deserving punishment acting on the person and without a written order from the official ordering the detention, in which order the reason for the arrest shall be expressed, unless the accused has been taken *in flagranti delicto*. In no case may the inquiry be prolonged for more than thirty days after arrest.

"X. After order has been restored no citizen may remain deprived of liberty for political reasons, unless he has to undergo a punishment previously imposed."

DECREE No. 120 CONCERNING THE RIGHT OF ASSOCIATION AND ASSEMBLY[1] of 18 April 1951

Art. 1. Political parties or organizations formed by Venezuelan citizens in the full exercise of their political rights may operate in the territory of the Republic, provided that they comply with the formalities laid down in the present decree.

Art. 2. Persons wishing to form political parties or organizations shall submit an application in duplicate to the first civil authority of the area concerned, accompanied by the following documents:

1. A copy of the articles of association of the organization, with the signature of all persons present at the meeting at which it was adopted; and

2. A copy of the programme and of the statutes defining the bases, purposes and attitude of the political party or association.

Sole paragraph. Persons who were members of the national or local executive committees of parties dissolved by decree No. 9 of December 1948 and No. 480 of 13 May 1950 may not join or participate in the organization or activities of political parties or organizations.

Art. 3. The authority shall have a period of thirty days to consider the application. If it finds it in conformity with the law and with the present decree, it shall grant the authorization requested. If not, it shall convey its refusal to those concerned, who may appeal against the decision to the Federal Court of Appeal within ten days following the receipt of the refusal. The court shall take a decision within ten working days of receiving the motion, the authority and the persons concerned being entitled to submit their observations in writing.

Art. 4. On receiving authorization, the persons concerned shall open and keep up to date the following records:

(*a*) Records of the proceedings of general meetings;

(*b*) Records of the proceedings of the executive board or committee;

(*c*) Records of correspondence, in which copies of all communications emanating from the organization shall be inserted regularly. Incoming correspondence shall be kept in proper files;

(*d*) Records of membership, stating the full names of members of the organization, together with their sex, age and profession;

(*e*) An account book, in which all items of income and expenditure shall be entered, accompanied by supporting vouchers;

The membership records and account books shall have numbered pages and shall be previously stamped by the appropriate civil authority, to whom they shall be submitted for this purpose by those concerned.

[1]Spanish text in *Gaceta Oficial* No. 23,507, of 18 April 1951. English translation from the Spanish text by the United Nations Secretariat. See also the introductory note to the preceding text. In Circular No. P2042 of 11 September 1951, the Minister of the Interior informed the governors of states and federal territories that in accordance with the provisions of decree No. 120, political organizations referred to in this decree enjoyed complete freedom and guarantees to carry out their activities and propaganda provided that they complied with the provisions of this decree. The Minister recommended that the governors guarantee to these organizations the usual exercise of their activities; the governors should abstain from all actions not indispensable for the punishment of insults, libel, disrespect to the authorities, or subversive propaganda, in conformity with the above-mentioned decree. See the summary of this decree in *Síntesis de las Labores Realizadas por la Junta de Gobierno de los EE. UU. de Venezuela* (24 November 1950–24 November 1951), Caracas, Government Press (no date), p. 8.

Sole paragraph. Parties already authorized shall comply with the requirements regarding records laid down in the present decree within ninety days following its publication.

Art. 5. Governors of states of the federal district or of federal territories may at any time require political parties or organizations to submit to them or to their official representatives their membership records or account books. Should such a demand not be met within a period of seventy-two hours or should the books prove not to have been kept up to date or to have been falsified in any way, fines of up to 500 bolivares may be imposed or the authority granted may be revoked, according to the gravity of the offence. Appeals against such decisions may be made to the federal Court of Appeals under the terms and conditions laid down in article 2 of the present decree.

Art. 6. Public meetings for the purpose of political propaganda may be held in closed premises and may be freely attended by as many citizens as can normally be accommodated in the premises without risk to security or health and provided that legal requirements are complied with.

Art. 7. Promoters and organizers of a public meeting shall submit in duplicate, at least forty-eight hours in advance, an application to the first civil authority of the area, stating the day, hour, place and programme of the meeting and the names of intending speakers.

Such an application shall be signed by at least five citizens, who by virtue of this act, acquire the status of organizers of the meeting in the eyes of the authorities.

The authority must answer the application in writing within twenty-four hours of its receipt, either granting permission for the meeting to be held, if the request is in accordance with the law, or refusing it, if there are legal grounds for such a course. In the case of a refusal, the official must state the reasons in replying to the applicants.

If the organizers do not agree with the grounds on which the refusal is based, they may so inform the said authority in writing within twenty-four hours of receiving the refusal, or may propose changes to remove the grounds for objection. On receiving the new application, the authority must reply to it, either granting permission on account of the changed circumstances, or confirming its refusal.

Art. 8. In order to ensure the free conduct of meetings, in respect of which all legal requirements have been met, the authorities shall have access to such meetings. Persons interrupting, impeding or disturbing such proceedings shall be punished in accordance with the law. Similarly, the authorities shall disperse a meeting, if offences are committed in the course of that meeting, provided that the offences cannot be prevented by other means.

Art. 9. Any assembly of citizens which impedes free access to public places, or the normal functioning of official, political, judicial or administrative bodies, or which in any way threatens, disparages or insults these bodies or their members, shall be dispersed by the authorities, without prejudice to the imposition of the appropriate penalties.

Art. 10. The measures and provisions adopted by the Provisional Government in respect of the exercise of the right of association and assembly for trade union purposes, shall remain in force, pending the drafting of a separate decree for the regulation of such activities.

Art. 11. The Associations and Public Meetings Act of 6 October 1947 is rescinded herewith.

ELECTORAL STATUTE[1]

Decree No. 118 of 18 April 1951

PART I

FUNDAMENTAL PROVISIONS

Chapter I

THE OBJECT AND PURPOSES OF ELECTION

Art. 1. Elections to the Constituent Power shall be by universal, direct and secret suffrage, in accordance with the terms of the present statute.

Art. 2. The Supreme Electoral Council shall determine the date on which elections shall be held, in accordance with the provisions laid down below.

Art. 3. The Constituent Power shall be exercised by an assembly to be known as the Constituent Assembly of the United States of Venezuela . . .

Art. 4. The Constituent Assembly of the United States of Venezuela shall consist of representatives elected in accordance with the present statute and shall:

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[1] Spanish text in *Gaceta Oficial* No. 288 *Extraordinario*, of 18 April 1951. English translation by the United Nations Secretariat. See a summary of the entire decree in *Síntesis de las Labores Realizadas por la Junta de Gobierno de los EE. UU. de Venezuela*, 24 November 1950–24 November 1951, Caracas, Government Press (no date), p. 8.

1. Approve its members and elect its officers;

2. Draw up its rules of procedure and debate and, in general, whatever parliamentary rules may be required;

3. Draw up the Constitution of the Republic;

4. Examine the memoranda and accounts of the Provisional Government, the Auditor-General's report and the other documents submitted by such agencies as are required to report on their work to the Legislative Power;

5. Draw up the laws for the election of representatives of the public authorities and, at the request of the Executive Power or of three of its members, discuss such other laws as it may declare to require urgent consideration.

Art. 5. Representatives to the Constituent Assembly of the United States of Venezuela shall enjoy immunity from the date of its proclamation until thirty days after the close of its sessions.

Chapter II

CONCERNING ELECTORS AND CONDITIONS OF ELIGIBILITY

Art. 6. Venezuelans, of both sexes, over twenty-one years of age, whether or not they can read and write, in respect of whom there has not been a final judgment placing them under a civil disability or inflicting on them a sentence involving loss of political rights, are electors and as such have the right and duty to register and vote in the elections referred to in the present statute.

Members of the armed forces are deprived of electoral rights and exempt from electoral duties while on service with the forces.

Art. 7. Registered electors, who are Venezuelans by birth and twenty-five years of age, are eligible to stand as representatives to the Constituent Assembly.

[Article 8 deals with incompatibilities between the office of representative and certain other public offices.]

DECREE No. 241 CONCERNING FUNCTIONS OF THE MUNICIPAL COUNCILS AND DEPARTMENTAL AND COMMUNAL JUNTAS[1]

of 20 July 1951

Art. 1. The organization, powers and functions of the municipal councils and departmental and communal juntas throughout the territory of the Republic shall be governed, within their respective areas, by the national Constitution promulgated by the Constituent Act of the Provisional Government, by the constitutions and laws of the states, the organic laws of the federal district and of the federal territories and other relevant legal provisions in force under the said Constitution, as well as by the present decree.

Art. 2. Pending the holding of popular elections to the bodies referred to in the preceding article, their members shall be appointed and dismissed by the governors concerned, with the consent of the Government Junta; appointments shall be made from among Venezuelan citizens having reached their majority, of either sex, in full possession of their civil and political rights and domiciled in the area of the body concerned. Substitutes shall be appointed only in cases of the temporary absence of members of the councils.

Art. 3. Decree No. 332 of 23 November 1949 is hereby abrogated.[2]

. . .

[1] Spanish text in *Gaceta Oficial* No. 23,586, of 23 July 1951. English translation from the Spanish text by the United Nations Secretariat. See the summary of this decree in *Síntesis de las Labores Realizadas por la Junta de Gobierno de los EE. UU. de Venezuela*, 24 November 1950–24 November 1951, Caracas, Government Press (no date), p. 10.

[2] The previous functions of the municipal councils and departmental and communal juntas were regulated by this decree.

YUGOSLAVIA

LEGISLATION

A. Federal Legislation

CRIMINAL CODE OF THE FEDERATIVE PEOPLE'S REPUBLIC OF YUGOSLAVIA [1]

of 2 March 1951

Introductory Note. The foundation of the FPRY legislation was laid down during the struggle against the invader in the Second World War. The new criminal legislation was built parallel with the foundation of the new People authority of Yugoslavia. Criminal laws covering specific fields were gradually evolved and with the enactment of the new Criminal Code on 2 March 1951, a complete and unified criminal law, based on all progressive principles of modern criminal jurisprudence, was enacted.

During the discussion of the draft criminal code, the question had arisen as to who should be the object of criminal juridical protection. Should the object of protection be the citizen and his rights or the State organization? The principle that the citizen and his rights should, primarily, be the object of protection was adopted and incorporated into article 1 of the Criminal Code. The other provisions in the Code have been influenced by this principle and therefore article 1 should serve as a guide in interpreting the provisions of the Code in their application to actual cases.

The Criminal Code contains such progressive provisions as the principle of *nulla poena sine lege* (article 2); the prohibition of retroactive application of the Criminal Code, except in a case when the new law is more favourable to the offender than the old one (article 90); the non-extradition of persons prosecuted for their activities in favour of democratic principles (article 97, para. 4); the award of amnesty and pardon for all kinds of criminal offences (articles 84–86); the legal and judicial rehabilitation of sentenced persons (articles 88–89); the award of conditional sentences (articles 48–50), etc.

The principle of individualization of punishment has been incorporated in the Criminal Code and is expressed in articles 38–47. No sentence may be pronounced by deducing existing provisions to particular cases on the basis of analogy. By a series of provisions the legislature has given to the court extensive powers to mitigate punishment when the court is satisfied that there are extenuating circumstances. The legislature has also authorized the court to decide that no criminal offence has been committed when elements of a criminal offence are present, but of slight importance and when the consequences of such an offence are insignificant (article 3, para. 2).

On the subject of criminal responsibility of minors, certain changes in favour of the minors have been introduced in the Criminal Code. A person under fourteen years of age is not criminally liable (article 5, para. 1); nor is a minor over fourteen years of age, provided he was unable to understand the significance of his act (article 5, para. 2). When the court finds a minor criminally liable, the punishments, even for most serious criminal offences, are to a great extent mitigated. Junior minors, aged fourteen to sixteen, may regularly be sent to educational or educational-reformatory homes and in the case of senior minors, aged sixteen to nineteen, in so far as certain punishments are applicable, the maximum is much lower than in the case of persons of full age.

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[1] Serbian text in *Sluzbeni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 13, of 9 March 1951. English translation in *New Yugoslav Law* (Bulletin on legislation in the Federative People's Republic of Yugoslavia), Belgrade, No. 2–3, April–September 1951. This Code was promulgated by order of the Presidium of the National Assembly of the Federative People's Republic of Yugoslavia No. 332 of 2 March 1951. Pursuant to article 2 of the Introductory Act to the Criminal Code, the Code came into force on 1 July 1951. The introductory note was prepared by Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations.

The award of the most severe punishment is forbidden in certain cases. A death sentence may not be pronounced against an expectant mother (article 27) nor may it be executed against a person suffering from a grave bodily or mental disease (article 52, para. 2). The punishment of deprivation of citizenship has been abolished though civil rights of an offender may be limited permanently or for a period of time. The punishment of correctional labour has been completely excluded.

It is in conformity with its principles that the Criminal Code also contains basic provisions prescribing the manner in which punishments shall be executed. These provisions conform to the general principles of the Penal Code. It explicitly forbids that the convicted person be subjected to physical sufferings or to humiliation through the execution of a sentence (article 51, para. 2). A convicted pregnant woman shall, during the last three months of her pregnancy and after her confinement until the child has completed one year of age, serve her sentence of imprisonment or detention in a protectional home for pregnant convicts (article 53, para. 6). Convicts are guaranteed one day of rest every week, remuneration for their work and in case of accident at work, medical treatment free of charge (article 55, para. 1).

The contents of the Special Part of the Criminal Code are sub-divided into sixteen chapters(chapters 10–25) as follows:

Chapter X—Criminal Offences against the People and the State (articles 100–123)
Chapter XI—Criminal Offences against Humanity and International Law (articles 124–134)
Chapter XII—Criminal Offences against Life and Body (articles 135–147)
Chapter XIII—Criminal Offences against Freedom and Rights of Citizens (articles 148–164)
Chapter XIV—Criminal Offences in the Field of Labour Relations (articles 165–168)
Chapter XV—Criminal Offences against Honour and Reputation (articles 169–178)
Chapter XVI—Criminal Offences against Personal Dignity and Morals (articles 179–189)
Chapter XVII—Criminal Offences against Marriage and the Family (articles 190–198)
Chapter XVIII—Criminal Offences against Human Health (articles 199–212)
Chapter XIX—Criminal Offences against National Economy (articles 213–248)
Chapter XX—Criminal Offences against Social and Private Property (articles 249–267)
Chapter XXI—Criminal Offences against General Safety of Persons (articles 268–278)
Chapter XXII—Criminal Offences against Justice (articles 279–288)
Chapter XXIII—Criminal Offences against Public Order and Legal Intercourse (articles 289–313)
Chapter XXIV—Criminal Offences against Official Duty (articles 314–326)
Chapter XXV—Criminal Offences against the Armed Forces (articles 327–362).

Among the offences included in the Special Part as criminal offences, the following are characteristic:

According to chapter XI, criminal offences against humanity and international law include all those which are in various international documents adopted as crimes violating the international criminal law. Among others, article 124 deals with the crime of genocide. This article gives the definition of what is to be considered as genocide.

In chapter XIII, criminal offences against freedom and rights of citizens include, among others, the violation of equality of citizens (article 148), unlawful deprivation of liberty (article 50), extortion of statement (article 151), ill-treatment through misuse of official position or powers (article 152), infringement of inviolability of dwelling (article 154), unlawful searching of dwellings and persons (article 155), violation of secrecy of letters and other parcels (article 156), unauthorized disclosure of secrets (article 157), violation of the right of suffrage (article 159–160), violation of the right of complaint (article 161), and violation of copyright (article 164).

Chapter XIV which deals with criminal offences in the field of working relations to the disadvantage of the working people includes, in the first place, the conscious violations of provisions concerning salaries, working time, annual leave, prohibition of overtime and night work, the right belonging to a person on the basis of social insurance (articles 165–166, para. 1), and the failure to take hygienic and technical protective measures during work (article 167).

According to chapter XIX, which deals with criminal offences against the national economy, unlawful speculation, including concealing, hoarding or with-holding of goods from circulation, or acting in any other way, with intent to obtain disproportionate material benefit, shall be punished (article 233).

In chapter XXIII penalties are provided for abuses in exercising the freedom of religious worship or religious rites for purposes contrary to the constitutional order (article 311), as well as for the disturbance or prevention of religious rites (article 313).

General Part

CHAPTER ONE

INTRODUCTORY PROVISIONS

Criminal Code

Art. 1. (1) This Code protects from violence, arbitrary treatment, economic exploitation and other socially dangerous acts, the person of citizens, their rights and freedoms guaranteed by the Constitution and laws, the political, national, economic and social foundations of the Federative People's Republic of Yugoslavia, its independence and security, its socialist social order and State organization established by the Constitution and laws.

(2) This protection is effected by determining which socially dangerous acts shall be considered as criminal offences, by prescribing punishments, measures of security and educational-reformatory measures, and by application of such punishments and measures towards perpetrators of criminal offences through a procedure determined by law.

There is no Criminal Offence or Punishment without Law

Art. 2. No punishment may be imposed on anyone for acts which, prior to being committed, did not constitute criminal offences under the law and concerning which no punishment had been prescribed for the perpetrators thereof.

Purpose of Punishment

Art. 3. The purpose of punishment is:

To prevent activity perilous to society;

To prevent the offender from committing criminal offences and to reform him;

To exercise educational influence on other people in order to deter them from committing criminal offences;

To influence development of social morals and social discipline among citizens.

CHAPTER TWO

CRIMINAL OFFENCE AND CRIMINAL LIABILITY

Criminal Offences

Art. 4. (1) A criminal offence is a socially dangerous act, the elements of which are defined by law.

(2) An act containing the elements of a criminal offence defined by law, but representing insignificant social danger because of its slight importance and because of the insignificance or absence of detrimental consequences is not a criminal offence.

Age

Art. 5. (1) A person committing a criminal offence before attaining fourteen years of age is not criminally liable for such act.

(2) A minor over fourteen years of age who was not able to understand the significance of his act or control his conduct at the time of committing a criminal offence because of his mental immaturity is not criminally liable.

Sanity

Art. 6. (1) A person committing a criminal offence in a state of lasting or temporary mental disease, temporary mental derangement or defective mental development is not criminally liable inasmuch as owing to such a state of mind he was unable to understand the significance of his act or control his conduct.

(2) If at the time of committing a criminal offence the capacity of the offender to understand the significance of his act or control his conduct was substantially reduced owing to some state of mind mentioned under paragraph 1 of this article, the court may mitigate the punishment.

(3) The offender is criminally liable if by use of alcohol or in another way he had brought himself in a state of temporary mental derangement, although he was aware or should and could have been aware that he might commit a criminal offence in such a state of mind.

Intention and Negligence

Art. 7. (1) An offender is criminally liable for a criminal offence only when he had committed it intentionally or by negligence.

(2) A criminal offence is committed intentionally when the offender was aware of his act and wanted to commit it; or when he was aware that a prohibited consequence might result from his action or omission and had consented to it.

(3) A criminal offence is committed by negligence when the offender was aware that a prohibited consequence might result from his act but had wantonly assumed that it would not ensue or that he would be able to prevent it; or when he was not aware of the possibility of a prohibited consequence resulting from his act although under the circumstances and by his personal qualities he should and could have been aware of such a possibility.

(4) For a criminal offence committed by negligence the offender is criminally liable only when so provided by law.

Necessary Defence

Art. 11. (1) An act committed in necessary defence is not a criminal offence.

(2) Defence is justified if it was of the kind absolutely necessary for the offender to repel from himself or from another person a simultaneous unlawful attack.

(3) If the offender exceeds the limits of necessary defence the court may inflict on him a reduced punishment, and if this excess was due to strong excitation or fright provoked by attack the court may release him from punishment.

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CHAPTER FOUR

PUNISHMENTS

1. Kinds of Punishment and Conditions of Their Imposition

Kinds of Punishments

Art. 24. The following punishments may be inflicted on the perpetrators of criminal offences:

1. Punishment of death;
2. Imprisonment;
3. Detention;
4. Limitation of civil rights;
5. Prohibition to exercise a specified profession;
6. Confiscation of property;
7. Fine.

Commutation of Punishment of Death

Art. 29. (1) Punishment of death may be commuted by act of amnesty or pardon into a punishment of imprisonment for life.

(2) If the court finds that in view of the gravity of the criminal offence a death sentence should be pronounced, but that there are justified reasons for not pronouncing it, and that a punishment of imprisonment for term would not correspond to the gravity of the criminal offence, it may pronounce the punishment of imprisonment for life instead of punishment of death.

Punishment of Limitation of Civil Rights

Art. 31. (1) The punishment of limitation of civil rights includes the loss of the rights of suffrage, the rights to acquire and to exercise electoral functions in social organizations and associations and the right to public appearance.

(2) The punishment of limitation of civil rights may be permanent or for a term.

(3) The punishment of limitation of civil rights for a term may not be less than for one year or exceed the period of five years.

Permanent Limitation of Civil Rights

Art. 32. (1) The punishment of permanent limitation of civil rights shall be pronounced whenever the offender is sentenced to death, or a punishment of death is commuted into a punishment of imprisonment for life.

(2) The punishment of permanent limitation of civil rights shall start on the day when the court judgment becomes final.

(3) When a person is sentenced to a permanent limitation of civil rights the court judgment shall deprive him of all honorary titles and decorations.

Restoration of Civil Rights

Art. 34. A person sentenced to limitation of civil rights for term shall resume his civil rights with the day of expiration of punishment of limitation of civil rights.

2. Fixing the Punishment

General Principle in fixing the Punishment

Art. 38. (1) The court shall fix the punishment for any criminal offence within the limits provided by law for such offence, taking into account all the circumstances bearing on the amount of punishment (aggravating and extenuating circumstances), and especially: the degree of criminal liability, motives from which the offence was committed, the intensity of danger or injury to the protected object, circumstances under which the offence was committed, past conduct of the offender, his personal conditions and his bearing after the criminal offence.

Fixing the Amount of Fine

Art. 39. In fixing the amount of fine the court shall take into consideration the property position of the offender.

Reduction of Punishment

Art. 42. (1) When the law provides the possibility of reduction of punishment, the court may impose a punishment below the limits prescribed by law or impose a lighter kind of punishment.

(2) The court may impose a punishment below the limits prescribed by law or pronounce a lighter kind of punishment also in the case when it finds that there are extenuating circumstances indicating the possibility of the purpose of punishment being attained even with a lighter punishment.

Mode of Reduction of Punishment

Art. 43. When the court considers that punishment should be reduced, this shall be done in the following manner:

(1) When the law prescribes a minimum amount of imprisonment, detention or a fine, this minimum may be reduced to the minimum of that kind of punishment allowed by law.

(2) When the law prescribes a punishment of imprisonment or detention without fixing the minimum, imprisonment may be substituted by detention for not less than three months, and detention by a fine.

Remission of Punishment

Art. 44. The court may remit the punishment only in the cases prescribed by law.

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3. Conditional Sentence

Imposition of Conditional Sentence

Art. 48. (1) When a person is sentenced to detention up to two years or to a fine, the court may suspend execution of the pronounced sentence under the

condition that the convicted person does not intentionally commit another equally grave or even graver criminal offence within a determined period of time, which may not be less than one year nor exceed five years.

(2) The suspension of execution of the sentence may also be conditioned by compensation for damages fixed in the judgment on the part of the convicted person within a determined period of time, which may not exceed one year.

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4. General Provisions on Execution of Sentences

Purpose of Execution of Sentences

Art. 51. (1) The purpose of punishment defined by this Code is effected by execution of the sentence.

(2) Convicted persons must not be subject to physical sufferings nor their human dignity humiliated through execution of the sentence.

Execution of Death Sentence

Art. 52. (1) Death sentence cannot be executed before it is established that it has not been revoked or commuted by act of amnesty or act of pardon.

(2) Death sentence cannot be executed against a person suffering from a grave bodily or mental disease so long as this disease lasts.

Serving of Sentence in Penal Correctional Institutions

Art. 53. (1) Convicted persons shall serve their sentences of imprisonment and detention in penal correctional homes or prisons.

(2) The sentence of detention up to six months shall be served by convicted persons in prisons.

(3) Male and female persons shall serve their sentences of imprisonment and detention in separate penal correctional institutions, but if they are in the same penal correctional institution they shall be separated from one another.

(4) Persons sentenced to imprisonment shall serve their sentence separately from those sentenced to detention.

(5) Convicted persons shall serve their sentences of imprisonment or detention jointly and in exceptional cases in isolation.

(6) During the last three months of pregnancy and after childbirth until the child completes one year of age, female persons shall serve their sentences of imprisonment or detention in the protectional home for pregnant convicts.

Obligation to Work of Persons sentenced to Imprisonment or Detention

Art. 54. (1) Persons sentenced to imprisonment or detention are obliged to work if they are capable for work.

(2) Working time is eight hours a day.

(3) As a rule persons sentenced to imprisonment shall be assigned to physical work, but if they are not capable of such work they must do the work for which they are capable.

(4) Persons sentenced to detention shall, as a rule, be assigned to the work corresponding to their technical skill and capacity; if such persons are assigned to physical works, such works must be of lighter nature inasmuch as they do not correspond to the former occupation of the convicted person.

Rights of Persons sentenced to Imprisonment or Detention

Art. 55. (1) The persons sentenced to imprisonment or detention are guaranteed:

A day of rest a week;
Remuneration for their work;
Medical protection free of charge;
Right to social insurance in case of accident at work;
Right to correspondence, reception of visitors and parcels.

(2) Persons sentenced to detention are subject to a lighter regime as regards correspondence, reception of visitors and parcels than those sentenced to imprisonment.

Conditional Release

Art. 56. (1) A person sentenced to imprisonment or detention may be conditionally released after serving a half of his sentence if he proves by his work and behaviour that he had improved so much that he may be expected not to commit further criminal offences.

(2) If a convicted person particularly distinguishes himself by his work and behaviour during execution of his sentence he may be conditionally released even before serving a half of his sentence of imprisonment or detention.

(3) A person sentenced to imprisonment for life may be conditionally released after serving fifteen years of his sentence if he fulfils the conditions under paragraph 1 of this article.

(4) Conditional release shall be in effect until the expiration of the period of pronounced punishment; for persons whose sentence of death was commuted into a sentence of imprisonment for life the period of conditional release is ten years.

. . .

221 of this Code inasmuch as the offence concerns national currency.[1]

Application of the Criminal Law against a Citizen of the Federative People's Republic of Yugoslavia for Criminal Offences committed abroad

Art. 93. The criminal law of the Federative People's Republic of Yugoslavia shall be applied against a citizen of the Federative People's Republic of Yugoslavia for criminal offences committed abroad other than those provided under article 92 of this Code, if he is found within the territory of the Federative People's Republic of Yugoslavia or extradited.

Application of the Criminal Law against Foreigners for Criminal Offences committed abroad

Art. 94. (1) The criminal law of the Federative People's Republic of Yugoslavia shall be applied against a foreigner committing a criminal offence against the Federative People's Republic of Yugoslavia or its citizens outside the territory of the Federative People's Republic of Yugoslavia, for which at least a punishment of detention is prescribed by law, excepting criminal offences enumerated in article 92 of this Code, if he is found within the territory of the Federative People's Republic of Yugoslavia or extradited.

(2) The criminal law of the Federative People's Republic of Yugoslavia shall be applied against a foreigner committing abroad a criminal offence against a foreign State or a foreigner, for which a punishment of imprisonment or a heavier punishment may be pronounced under this law, if he is found within the territory of the Federative People's Republic of Yugoslavia and is not extradited to the foreign State. In such a case the court cannot pronounce a heavier punishment than the one prescribed by the law of the country in which the offence was committed.

Prosecution for Criminal Offences committed abroad

Art. 95. (1) Prosecution shall not be undertaken in the cases provided under articles 93 and 94 of this Code:

1. If the offender has entirely served the sentence imposed on him abroad;

2. If the offender was released abroad by a final judgment or his punishment is extinguished by prescription or pardoned;

3. If such a criminal offence is prosecuted under foreign law only upon proposal or complaint of the injured party, and these are not filed.

(2) In the cases provided under articles 93 and 94 of this Code prosecution shall be undertaken only if such an offence is punishable under the law of the country in which it was committed. If such a criminal offence is not punishable under the law of the country in which it was committed, prosecution shall be undertaken only at the request of the Minister of Justice of the Federative People's Republic of Yugoslavia.

Computation of Punishment served abroad

Art. 96. The punishment served by the offender under a judgment of a foreign court for some criminal offence shall be computed with the punishment pronounced by the Yugoslav court, but if these punishments are not of the same kind computation shall be made at court's discretion.

Extradition and the Rights to Asylum

Art. 97. (1) A citizen of the Federative People's Republic of Yugoslavia may not be extradited to a foreign State.

(2) Extradition of foreigners shall be carried out under international treaties, and in absence of such treaties, under the law of the Federative People's Republic of Yugoslavia.

(3) Extradition is not permitted if the offence for which it is requested is not a criminal offence under Yugoslav laws.

(4) The Federative People's Republic of Yugoslavia will not extradite foreigners prosecuted for their activity in favour of democratic principles, national liberation, rights of the working people and freedom of scientific and cultural activity.

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Special Part

CHAPTER TEN

CRIMINAL OFFENCES AGAINST THE PEOPLE AND THE STATE

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Incitement of National, Racial or Religious Intolerance, Hatred or Dissension

Art. 119. (1) Whoever through propaganda or in any other way incites or spreads national, racial or religious hatred or dissension among the peoples and nationalities living in the Federative People's Republic of Yugoslavia, shall be punished by imprisonment for not more than fifteen years.

[1] These articles refer to: Contra-revolutionary attack against the State and social organization; endangering of territorial integrity and independence of the State; undermining of military and defence power of the State; destruction of vital establishments of national economy; association against the people and the State; hostile propaganda; aiding perpetrator of a criminal offence against the people and the State; preparation of offences under articles 102, 103 and 114; forgery and utterance of counterfeit currency.

(2) If the offence under paragraph 1 of this article is being committed systematically or by utilization of one's position or rank, or if disorder, violence or other heavy consequences result from such an offence, the offender shall be punished by imprisonment.

(3) Whoever by insulting citizens or in any other way incites national, racial or religious intolerance, shall be punished by detention for not more than two years.

. . .

CHAPTER ELEVEN

CRIMINAL OFFENCES AGAINST HUMANITY AND INTERNATIONAL LAW

Genocide

Art. 124. Whoever, with intent to exterminate completely or partially a national, ethnical, racial or religious group commits homicides or inflicts grievous bodily injuries, or gravely ruins physical or mental health of members of such groups, or forcefully displaces the population, or places such a group under the conditions of life leading to complete or partial extermination of the group, or applies measures calculated to prevent propagation of members of such a group, or forcefully sends children to another group, shall be punished by imprisonment for not less than five years or by death.

War Crimes against Civil Population

Art. 125. Whoever in violation of the provisions of international law in time of war, armed conflict or occupation orders or carries out homicides, tortures or inhuman treatment of civil population, including biological experiments, infliction of grievous sufferings or injuries to physical integrity or health; unlawful displacement or removal or forceful denationalisation or conversion of the population to another religion, forcing to prostitution or rape, application of measures of intimidation and terror, taking of hostages, collective punishments, unlawful sending to concentration camps and other unlawful apprehension, deprivation of right to proper and impartial trial, forcing to serve in armed forces of an enemy Power or in its intelligence service or administration, driving to forced labour, starving of population, confiscation of property, plundering, unlawful and arbitrary destruction or appropriation of property on a large scale not justified by military needs, taking of unlawful and disproportionately great contributions and requisitions, devaluation of national currency or unlawful issue of currency, shall be punished by imprisonment for not less than five years or by death.

War Crimes against Wounded and Sick Persons

Art. 126. Whoever in violation of the provisions of international law in time of war or armed conflict orders or carries out homicides, tortures or inhuman treatment of wounded, sick and shipwrecked persons, or medical personnel, comprising here biological experiments, inflicting of hard sufferings or injuries to physical integrity or health; or who orders or carries out unlawful and arbitrary destruction or appropriation of materials and supplies of sanitary institutions or units on a large scale not justified by military needs, shall be punished by imprisonment for not less than five years or by death.

War Crimes against War Prisoners

Art. 127. Whoever in violation of the provisions of international law orders or carries out homicides, tortures or inhuman treatment of war prisoners, comprising here biological experiments, inflicting of hard sufferings or injuries to physical integrity or health, forcing to serve in armed forces of an enemy Power, or deprives them of the right to proper and impartial trial, shall be punished by imprisonment for not less than five years or by death.

Organizing of Group for Commission of Genocide and War Crimes

Art. 128. Whoever organizes a group for commission of criminal offences under articles 124–127 of this Code, or who incites other persons to create such groups or prepares their organization, shall be punished by imprisonment for not less than five years or by death.

Unlawful Killing or Wounding of Enemy

Art. 129. Whoever in violation of the provisions international law in time of war or armed conflict kills or wounds an enemy who had thrown his arms or surrendered unconditionally or has no means of defence, shall be punished by imprisonment.

Violation of Bearer of the Flag of Truce

Art. 130. Whoever in violation of the provisions of international law in time of war or armed conflict insults, ill-treats or detains a bearer of the flag of truce or his company or prevents them from returning, or in any other way violates their immunity, shall be punished by detention for not less than six months or by imprisonment for not more than five years.

Cruel Treatment of Wounded and Sick Persons and War Prisoners

Art. 131. Whoever in violation of the provisions of international law cruelly treats wounded and sick persons or war prisoners, or renders impossible for them to or prevents them from enjoying the rights belonging to them under such provisions, shall be punished by detention or by imprisonment for not more than five years.

Destruction of Cultural and Historical Monuments

Art. 132. Whoever in violation of the provisions of international law in time of war or armed conflict orders or carries out destruction of cultural and

historical monuments and buildings or institutions devoted to science, arts, education and humanitarian purposes, shall be punished by detention or by imprisonment.

Misuse of the Red Cross Sign

Art. 133. (1) Whoever misuses or without authorization carries the signs or the flag of the Red Cross or corresponding signs, shall be punished by detention for not more than two years.

(2) Whoever commits the offence under paragraph 1 of this article within the zone of war operations, shall be punished by detention.

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CHAPTER THIRTEEN

CRIMINAL OFFENCES AGAINST FREEDOM AND RIGHTS OF CITIZENS

Violation of Equality of Citizens

Art. 148. Whoever on the basis of national, racial or religious difference denies or limits the rights of citizens established by the Constitution of the Federative People's Republic of Yugoslavia, by constitutions of the people's republics, by laws or other provisions, or whoever on the basis of this difference grants privileges and favours to citizens, shall be punished by detention for not less than three months or by imprisonment for not more than five years.

Compulsion

Art. 149. (1) Whoever imposes by force or by serious threat any action, omission or sufferings upon another person, shall be fined or punished by detention for not more than two years.

(2) Prosecution shall be undertaken upon filing of a complaint by the victim.

Unlawful Deprivation of Liberty

Art. 150. (1) Whoever unlawfully detains or keeps detained any person or in any other way deprives him of freedom of movement, shall be punished by detention for not more than two years.

(2) If the act of unlawful deprivation of liberty is committed by a person in office by misuse of his position or powers, the offender shall be punished by detention for not less than three months and not more than three years, or by imprisonment for not more than three years.

(3) Attempt shall be punishable.

(4) If unlawful deprivation of liberty lasted for more than one month or was executed in a cruel manner, or the health of an unlawfully detained person was thereby gravely ruined, or other heavy consequences ensued, the offender shall be punished by imprisonment for not more than eight years.

(5) If an unlawfully detained person loses his life in consequence of it, the offender shall be punished by imprisonment for not less than two years.

Extortion of Statement

Art. 151. A person in office using force or threat in exercising his office with intent to extort a statement from an accused person, witness, expert or any other person at hearing, shall be punished by detention for not less than three months or by imprisonment for not more than five years.

Ill-treatment through Misuse of Official Position or Powers

Art. 152. A person in office who, taking advantage of his official position or powers, ill-treats another person, insults him or treats him in any other way offensive to human dignity, shall be punished by detention for not more than one year.

Endangering of Security

Art. 153. (1) Whoever endangers the security of any person by a serious threat, shall be fined or punished by detention for not more than six months.

(2) Prosecution shall be undertaken upon filing of a complaint by the victim.

Infringement of Inviolability of Dwelling

Art. 154. (1) Whoever without authorization breaks into another person's dwelling or closed premises or does not leave them at the request of the authorized person, shall be punished by fine or by detention for not more than one year.

(2) If the offence under paragraph (1) of this article was committed by a person in office through misuse of his official position or powers, the offender shall be punished by detention for not more than two years.

(3) Attempt shall be punishable.

(4) Prosecution for the offence under paragraph 1 of this article shall be undertaken upon filing of a complaint by the victim.

Unlawful Search

Art. 155. A person in office unlawfully searching a dwelling, premises or a person, shall be punished by detention for not more than two years.

Violation of Secrecy of Letters and Other Parcels

Art. 156. (1) Whoever without authorization opens another person's letter or telegram, or any other closed writing or parcel, or whoever without authorization retains, conceals, destroys or hands a letter, telegram, closed writing or parcel to any other person, shall be punished by fine or by detention for not more than six months.

(2) Whoever, with intent to procure benefit for himself or for any other person or to inflict damage to any person, communicates to another person the secret he had learnt through unauthorized opening of another person's letter, telegram or any other closed

writing or parcel, or makes use of such a secret, shall be punished by detention for not more than one year.

(3) If the offence under paragraph 1 of this article is committed by a person in office in exercise of his official duty, he shall be punished by detention for not more than two years.

(4) Offences under paragraphs 1 and 2 of this article shall be prosecuted upon filing of a complaint by the victim.

Unauthorized Disclosure of Secrets

Art. 157. (1) An attorney, advocate, physician, midwife or any other person who without authorization discloses a secret he had learnt in exercising his profession, shall be punished by detention for not more than one year.

(2) No punishment shall be inflicted for the act under paragraph 1 of this article on a person disclosing a secret in general interest or in the interest of another person outweighing the interest of keeping the secret.

(3) Prosecution shall be undertaken upon filing of a complaint by the victim.

Prevention or Disturbance of Public Assembly

Art. 158. (1) Whoever by force, serious threat, fraud or in any other way prevents or obstructs calling up or holding of a public assembly to which the citizens are entitled by law, shall be punished by detention for not more than two years.

(2) If the offence under paragraph 1 of this article is committed by a person in office through misuse of his position or powers, the offender shall be punished by detention for not less than three months and not more than three years.

Violation of the Right of Suffrage

Art. 159. A person in office who without legal grounds refuses to enter a person into the electoral register or who deletes his name from it with intent to prevent him from exercising his right of suffrage, shall be punished by detention for not more than one year.

Violation of Free Exercise of Rights by Voters

Art. 160. (1) Whoever by force, serious threat or in any other way compels another person to exercise or not to exercise his right of suffrage, shall be punished by detention for not more than two years.

(2) If the offence under paragraph 1 of this article is committed by a member of an electoral committee or by any other person in office in exercise of his duty, the offender shall be punished by detention for not less than three months and not more than three years.

Violation of the Right to complain

Art. 161. A person in office who in exercise of his office prevents any citizen from enjoying his right to file a complaint, demurrer, application or address, shall be punished by detention for not more than one year.

Prevention of Publication and Distribution of Publications

Art. 162. Whoever unlawfully prevents publication, sale or distribution of books, magazines, newspapers and other printed matters, shall be punished by detention for not more than one year.

Violation of Copyright

Art. 163. (1) Whoever in violation of the provisions on protection of copyright publishes, alters, reproduces, exhibits, produces or translates a literary, artistic, or scientific work of any person, shall be punished by fine or by detention for not more than one year.

(2) Prosecution shall be undertaken upon filing of a complaint by the victim.

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CHAPTER FOURTEEN

CRIMINAL OFFENCES IN THE FIELD OF WORKING RELATIONS

Violation of Provisions on Rights of Persons in Working Relations

Art. 165. Whoever consciously fails to observe the provisions on salaries, working time, annual leave or on prohibition of overtime and night work and thereby denies or limits the rights belonging by law to a person in working relation, shall be punished by fine or by detention for not more than six months.

Violation of Rights to Social Insurance

Art. 166. (1) Whoever consciously fails to observe the provisions on social insurance and thereby denies or limits the right belonging to any person on the basis of social insurance, shall be punished by fine or by detention for not more than one year.

(2) Whoever simulates sickness or provokes disease or incapacity for work, or hampers or prevents his recovery or his own capacity for work and thereby realizes the right to social insurance, which does not belong to him by law, shall be punished by fine or by detention for not more than one year.

Failure to take Hygienic and Technical-protective Measures during Work

Art. 167. Every responsible person in a mine, factory, workshop or any other work site who consciously fails to apply the provisions on hygienic and technical-

protective measures during work, although knowing that this might cause danger for life or health of the persons in working relation, shall be punished by fine or by detention for not more than one year.

Failure to ensure Accommodation and Supply of Persons in Working Relation

Art. 168. Every responsible person in a mine, factory, workshop or any other work site who in violation of his duty fails to ensure accommodation or supply of persons in working relation, although knowing that this might cause danger for life or health of persons in working relation, shall be punished by fine or by detention for not more than one year.

CHAPTER FIFTEEN

CRIMINAL OFFENCES AGAINST HONOUR AND REPUTATION

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Damaging of Reputation of the State, its Organs and Representatives

Art. 174. Whoever exposes to contempt the Federative People's Republic of Yugoslavia, a people's republic, their flag or arms, their highest organs of authority or representatives of the highest organs of authority, armed forces or the Supreme Commander, shall be punished by detention for not less than three months and not more than three years.

Damaging of Reputation of a Foreign State or International Organization

Art. 175. (1) Whoever exposes to contempt a foreign State, its flag or arms, shall be punished by detention for not less than three months and not more than three years.

(2) The same punishment shall be inflicted on a person committing the offence under paragraph 1 of this article against the Organization of the United Nations, the International Red Cross or some other international organization recognized by the Federative People's Republic of Yugoslavia.

Damaging of Honour and Reputation of Chief of a Foreign State, Diplomatic Representative or Representative of International Organization

Art. 176. (1) Whoever damages the honour and reputation of the chief of a foreign State, shall be punished by detention for not less than three months and not more than three years.

(2) Whoever commits the offence under paragraph 1 of this article against a diplomatic representative of a foreign State in the Federative People's Republic of Yugoslavia, shall be punished by detention for not more than two years.

(3) The same punishment shall be inflicted on a person committing the offence under paragraph 1 of this article against a representative of the Organization of the United Nations, the International Red Cross or some other international organization recognized by the Federative People's Republic of Yugoslavia.

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CHAPTER SIXTEEN

CRIMINAL OFFENCES AGAINST PERSONAL DIGNITY AND MORALS

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White Slave Trade

Art. 188. Whoever carries out or makes possible white slave trade, shall be punished by imprisonment for not less than one year and not more than fifteen years.

Production and Distribution of Obscene Publications

Art. 189. (1) Whoever produces, sells, distributes, exhibits in public, procures or keeps for sale writings, pictures or other objects grossly offending public morals, shall be punished by detention for not more than two years.

(2) Objects mentioned under paragraph 1 of this article shall be forfeited.

CHAPTER NINETEEN

CRIMINAL OFFENCES AGAINST NATIONAL ECONOMY

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Unlawful Speculation

Art. 233. (1) Whoever causes scarcity of goods at the market by concealing, hoarding or withholding them from circulation or in any other way with intent to obtain disproportionate material benefit through artificial rise of prices, or whoever takes advantage of the existing scarcity of goods through artificial rise of prices with intent to obtain disproportionate material benefit, shall be punished by detention or by imprisonment for not more than five years.

(2) If the offence under paragraph 1 of this article is committed as a professional practice or the case is an especially grave one, the offender shall be punished by detention for not less than six months or by imprisonment for not more than ten years, and may also be punished by confiscation of property.

(3) Goods making the object of unlawful speculation shall be forfeited.

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CHAPTER TWENTY-THREE

CRIMINAL OFFENCES AGAINST PUBLIC ORDER AND LEGAL INTERCOURSE

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Misuse of Religion and Church for Political Purposes

Art. 311. Any religious representative who misuses the freedom of exercise of religious affairs or religious rites for purposes contrary to the constitutional order, shall be punished by detention for not more than two years.

Disturbance of Religious Rites

Art. 313. Whoever disturbs or prevents performance of religious rites, shall be punished by fine or by detention for not more than one year.

CHAPTER TWENTY-FOUR

CRIMINAL OFFENCES AGAINST OFFICIAL DUTY

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Unlawful Appropriation of Objects during Search or Execution

Art. 321. A person in office who, during search of a dwelling, premises or person or during execution of confiscation, sequestration or enforcement proceedings, takes away any movable thing with intent to procure thereby unlawful material benefit for himself or for another person, shall be punished by imprisonment for not more than ten years.

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BASIC ACT CONCERNING PETTY OFFENCES[1]

of 8 October 1951

Introductory Note. This Act contains the amendments to the Basic Act of 1947 concerning petty offences. Its main provisions define a petty offence as an act which violates some legal provision and which before it was committed has been declared by a statute or other legal enactment to be an offence against the law entailing a specific penalty. A penalty may not be awarded for a petty offence on the basis of analogy.

The Act specifies those State authorities which may conduct proceedings for petty offences and pass sentence.

Penalties for petty offences are of two kinds, fine and detention, which may not be awarded together. A fine of up to 10,000 dinars may be imposed. A heavier fine may be imposed in exceptional cases under a statute or a governmental decree issued under a statutory power. Detention may not exceed thirty days and may be awarded only under a statute or a governmental decree. In special cases where there are grounds for mitigating the penalty, a fine or detention may be commuted to a reprimand.

Proceedings for a petty offence may not be taken against a minor under fourteen years of age.

The following provisions and principles also protect the rights of accused persons: the principle that the facts must be proved; and the duty of the State authority to ensure that the accused person's defence is not prejudiced by his ignorance or illiteracy, to hear him before deciding the case, and to permit him to use his own language during the hearing and, if he does not know the official language, to permit him to acquaint himself with the documents and to follow the whole case through an interpreter. Subject to the general rules, the accused is entitled to counsel; he may submit evidence, plead and use other legal procedures, and examine and copy documents. He may only be remanded in custody if his identity cannot be established or if he has no permanent residence and there is reason to believe that he committed the petty offence and may abscond. In those two instances detention must not exceed twenty-four hours and must be deducted from the final sentence. Accused persons may appeal. Where a sentence is quashed and the proceedings are abandoned, a person who has served a term of detention or paid a fine is entitled to compensation by the State or to be repaid the fine, as the case may be.

Proceedings for petty offences are conducted at first instance by a petty offences judge. The case is heard at second instance by the Republican Petty Offences Council (a bench of three judges), or, in certain cases, by the Federal Petty Offences Council, which has the power to quash the previous decision. In an extraordinary proceeding, the Federal Petty Offences Council may, on its own initiative, or on the request of the convicted person act as a third instance. All these tribunals decide independently, basing themselves only on statute or other legal enactments.

[1] Serbian text in *Sluzbeni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 46, of 17 October 1951, received through the courtesy of Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation from the Serbian text by the United Nations Secretariat. The Act came into force on 17 November 1951. The introductory note was prepared by Mr. Jevremovic.

A penalty may not be executed until the decision has become final.

Persons sentenced to detention need not work unless they consent to do so. Working time must not exceed eight hours a day. Convicted persons who work are guaranteed pay for their work, one free day a week, free health protection and social insurance against accidents at work. They may receive visitors, use their own bedding and receive food from outside the prison.

Execution of a sentence of detention must be deferred in case of serious illness or pregnancy, and may also be deferred for other good reasons. The execution of a sentence may be interrupted for a good reason.

PART I

SUBSTANTIVE PROVISIONS

Chapter I

BASIC PROVISIONS

Art. 1. 1. A petty offence is a breach of a legal provision for which an administrative penalty or protective measure is prescribed by a statute or some other legal enactment.

2. Administrative penalties and protective measures shall be awarded by the State authorities specified in this Act.

Art. 2. 1. An act may be punished as a petty offence only if at the time it was committed it was forbidden and a penalty was prescribed for it by a statute or some other legal enactment.

2. If after a petty offence has been committed the enactment governing it is amended, the more lenient provision shall be applied.

Art. 3. Legal provisions concerning petty offences may be enacted:

(*a*) By statute;

(*b*) By edict or decree of the Government of the Federal People's Republic of Yugoslavia or of the government of a people's republic;

(*c*) By regulation or decree of the President of the Government of the Federative People's Republic of Yugoslavia, the president of the government of a people's republic, the Governmental Council of the Federal People's Republic of Yugoslavia, the governmental council of a people's republic, or a minister in charge of a ministry of the Government of the Federative People's Republic of Yugoslavia or of the government of a people's republic;

(*d*) By regulation or order of the President of the Governmental Council of the Federative People's Republic of Yugoslavia or the president of the governmental council of a people's republic, by virtue of special power conferred by statute or edict;

(*e*) By order of the people's assembly of an autonomous province, resolution of the people's committee of an autonomous region, or decree of the central executive committee of the people's assembly of an autnomous province;

(*f*) By resolution of a people's committee (local people's committee, committee of a village, town, district or region).

Art. 4. 1. A State authority specified in the preceding article may prescribe administrative penalties and protective measures only for breaches of legal provisions enacted by itself within its powers under the Constitution, a statute or some other general enactment.

2. A State authority empowered to prescribe administrative penalties and protective measures may not delegate that power to a subordinate State authority.

3. A people's committee may not delegate that power to any of its authorities.

Art. 6. 1. Petty offences may be made punishable by fine or detention.

2. A petty offence may be made punishable by fine or detention or both.

3. In the cases specified in the present Act (article 35), a person committing a petty offence may be punished by reprimand in lieu of fine or detention.

Art. 7. 1. No fine of less than twenty or more than 10,000 dinars may be prescribed.

2. A fine assessed by proportional or similar reference to a specified base, and prescribed by statute or edict for a petty currency, customs, taxation or other offence committed for material gain, may exceed 10,000 dinars.

3. Fines exceeding 10,000 dinars may be prescribed by statute or edict for petty offences committed by legal persons.

Art. 10. 1. Detention may be prescribed only by statute or edict.

2. Except as otherwise provided in this Act . . ., detention may not last less than six hours or more than thirty days.

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Chapter II

RESPONSIBILITY

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Art. 17. 1. A person who was under fourteen years of age at the time of committing a petty offence shall not be responsible therefor.

2. If such a person commits a petty offence, his parents or guardian shall be required to take educative measures.

Art. 20. Negligence shall be sufficient to establish responsibility, unless the provision governing the petty offence lays down that only a wilful offence shall be punishable.

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Chapter IV

PRESCRIPTION

Art. 40. 1. Administrative penal proceedings may not be taken if six months have elapsed since the offence was committed.

2. The period of prescription shall be interrupted by any act of a competent authority directed towards the conduct of proceedings against a person committing a petty offence.

3. The periods laid down in the preceding paragraphs may be extended in respect of particular petty offences by special statutory provision.

Art. 41. 1. An administrative penalty or protective measure which has been awarded may not be executed if six months have elapsed from the date of the decision.

2. The period of prescription shall be interrupted by any act of a competent State authority directed towards execution of the penalty or protective measure. The period shall begin to run again after every interruption, but in no case may a penalty or protective measure be executed after the expiry of one year from the date on which the decision became final.

3. The periods laid down in the preceding paragraphs may be extended in respect of particular petty offences by special enactment.

PART II

ADMINISTRATIVE PENAL PROCEEDINGS

Chapter V

BASIC PRINCIPLES

Art. 44. 1. A State authority conducting administrative penal proceedings must establish fully the truth of the facts relevant to a decision. It must enquire with equal care into the evidence against and for the defendant.

2. A State authority conducting administrative penal proceedings shall ensure that the rights of an alien are not prejudiced by ignorance or inexperience.

Art. 47. 1. A defendant who does not know the language in which administrative penal proceedings are being conducted shall be enabled, through an interpreter, to acquaint himself with all the documents in the case and to follow the proceedings.

2. Such a defendant may use his own language in the proceedings.

Art. 48. A defendant in administrative penal proceedings may not be remanded in custody. He may be held pending the decision only in the cases specified in this Act.

Art. 49. 1. An appeal shall lie against a decision of a court of first instance.

2. The decision of a court of second instance shall be final.

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Chapter VI

GENERAL PROVISIONS

1. *Authorities conducting Administrative Penal Proceedings*

Art. 51. 1. Administrative penal proceedings shall be conducted at first instance by the petty offences judge of the district or city (or regional) people's committee. The city (or regional) people's committee may if necessary have two or more petty offences judges.

2. The government of a people's republic may decide that the petty offences judge of the area of a specific town forming part of a district or built-up place, or of the area of the local authority of a specific harbour, frontier or airfield, shall conduct administrative penal proceedings for that area.

3. Administrative penal proceedings for petty offences prescribed by a local people's committee or the people's committee of a village or of a town forming part of a district and having no petty offences judge shall be conducted by the people's committee's petty offences commission, which shall be constituted by the secretary of the people's committee and two members appointed by the committee.

4. Special statutory provision may lay down that proceedings for specified petty offences shall be conducted at first instance by the petty offences council in the ministry of home affairs of a people's republic or by some other State authority.

Art. 58. 1. Petty offences judges and councils shall give decisions independently in accordance with statute and other legal provision . . .

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Chapter VII

INSTITUTION AND CONDUCT OF PROCEEDINGS

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2. *Measures for compelling Attendance of Defendant*

Art. 96. 1. A defendant may not be arrested before decision unless his identity cannot be established or he has no fixed abode and there is good reason to believe that he has committed the petty offence and will abscond.

2. The arrest of a defendant shall be recorded in a written report, which shall indicate the day and hour at which his arrest was ordered and shall be signed by the petty offences judge and countersigned by the defendant to indicate that the order for his arrest has been notified to him.

3. A defendant may not be held for more than twenty-four hours, during which period he shall either be heard and the case decided or he shall be released.

4. Any period during which the defendant has been under arrest before decision shall be counted against his sentence. A period of arrest in excess of twelve hours shall count as one day's imprisonment or a fine of 200 dinars.

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Chapter IX

LEGAL REMEDIES

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2. *Stay and Cassation of Final Decision*

Art. 139. 1. A petty offences council in a ministry of home affairs of a people's republic may of its own motion stay or quash an unlawful or invalid decision given by a petty offences judge or by the petty offences commission of a local people's committee (people's committee of a village or of a town forming part of a district) within their respective areas.

2. An unlawful or invalid final decision shall, if given by a petty offences council in a ministry of home affairs of a people's republic, be subject to stay or cassation by the Petty Offences Council in the Ministry of Home Affairs of the Federative People's Republic of Yugoslavia, or, if given by any other administrative authority, then by the State authority superior thereto.

3. Where a final decision is quashed, its legal consequences shall thereby be annulled.

A final decision may not be stayed or quashed after the expiry of six months from the date on which it became final.

Art. 140. 1. A petty offences council in a ministry of home affairs of a people's republic may stay or quash a final decision in favour of the defendant which has been proved after becoming final to have been based on a false statement of a witness or expert or on a false document, or to have been given in consequence of a criminal act by a judge or any other public officer participating in the conduct of the administrative penal proceedings.

2. A final decision shall, if given by a petty offences council in a ministry of home affairs of a people's republic, be subject to stay or cassation under the preceding paragraph by the Petty Offences Council in the Ministry of Home Affairs of the Federative People's Republic of Yugoslavia, or, if given by any other administrative authority, then by the State authority superior thereto.

3. A final decision may not be stayed or quashed under the preceding paragraph after the expiry of one year from the date on which it became final.

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Chapter XI

COMPENSATION FOR MATERIAL DAMAGE RESULTING FROM WRONGFUL SENTENCE

Art. 142. 1. A person sentenced to detention in administrative penal proceedings may claim compensation from the State for material damage resulting from his wrongful sentence if the final decision has been stayed or quashed and the proceedings against him have been finally abandoned because of a finding that the act was not a petty offence, or that there was no evidence that he committed the petty offence, or that he was for some reason not responsible for the petty offence.

2. Compensation shall not be paid unless the convicted person has appealed against the decision, nor if he has himself caused the penalty to be imposed upon him by a false confession or by his conduct during the administrative penal proceedings.

3. The right to compensation shall lapse after thirty days from the date on which the decision to abandon the proceedings became final.

4. Claims for compensation shall be made to the ministry of finance of the people's republic concerned.

5. If the claim is rejected wholly or partially by decision of the ministry of finance of the people's republic, or if no decision on the claim is made within two months, the claimant may take the claim to the court within thirty days from the date on which the decision was notified or upon the expiry of the said period of two months.

PART III

Chapter XII

DECISIONS IN ADMINISTRATIVE PENAL PROCEEDINGS

Art. 146. 1. Persons sentenced to detention may not be assigned to work except with their consent.

2. Working time may not exceed eight hours a day.

Art. 147. 1. Persons sentenced to detention shall be granted pay for their work, if working, one free day a week, free health protection, and social insurance against accident at work.

2. Persons sentenced to detention may send and receive communications without restriction. They may receive visitors in accordance with the rules of the institutions but more freely than may persons sentenced to detention for criminal offences.

3. Persons sentenced to detention may use their own bedding and may receive food prepared for them outside the prison.

Art. 149. 1. Execution of detention shall be deferred if the prisoner is seriously ill, and may be deferred for other good and sufficient reasons.

2. Execution of detention may not begin during the three months preceding or the six months following childbirth.

3. A prisoner's application to defer detention shall be decided by the authority competent to execute the penalty.

Art. 150. 1. Execution of detention may be interrupted for a period not exceeding ten days in the event of the death of a parent, spouse, or child or for some other sufficient reason. The decision therefor shall be given by the State authority executing the penalty.

2. The period of interruption shall not count against the sentence.

Art. 152. 1. If a final decision in virtue of which a defendant has paid a fine is quashed, or if it is stayed and the proceedings against the defendant are finally abandoned, the amount of the fine shall be repaid to the defendant.

2. The right to claim repayment of a fine shall be extinguished after the expiry of two years from the date on which the decision to abandon the proceedings became final.

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EXECUTION OF PENALTIES, SECURITY MEASURES AND CORRECTIVE TRAINING MEASURES ACT[1]

of 20 October 1951

Introductory Note. This Act elaborates and amends the principles of the Criminal Code governing execution of penalties, security measures and corrective training measures, and enacts a detailed system for their application.

Only those penalties, security measures and corrective training measures which are prescribed by law and awarded by sentence of a court may be executed on convicted persons; no other penalties, measures or limitations of a convicted person's rights are allowed. Execution of a penalty can proceed only after the court's decision has become final. In accordance with the humanitarian character of the rules concerning execution of penalty, no convicted person may be subjected to physical pain or humiliation, but the purpose of the punishment is re-education.

Penalties, security measures and corrective training measures are carried out in separate institutions: corrective penal homes; institutions for mentally disordered persons; institutions for custody and medical treatment; protective homes for convicted pregnant women; corrective penal homes for minors; and special educational establishments for minors which take into account age, sex, health and other conditions. There is a special protective system for pregnant women and nursing mothers. Treatment is given to sick convicts in corrective penal homes, special corrective penal health institutions, or public hospitals.

Besides the department of home affairs, the department of national health and the courts participate in the execution of security measures; social welfare and educational agencies participate in the execution of corrective training measures.

All sentences except fines must be executed at the cost of the State.

Postponement of execution of a penalty is allowed for sufficient reason.

As a rule there is no system of solitary confinement. Sentences of imprisonment are served in groups, and the personal characteristics, previous life and behaviour of the convicted person and similar circumstances are taken into account.

Sentenced persons able to work must do so. Work has an educational character. Persons sentenced to imprisonment are assigned to work corresponding to their technical skill and capacity. The working time is eight hours a day. A day of rest a week is guaranteed.

A convicted person is entitled to be paid for his work. One-third of his pay may be used for personal necessaries, one-third is assigned to his family and one-third is saved; the savings are given to him on

[1]Serbian text in *Sluzbeni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 47, of 24 October 1951. Text received through the courtesy of Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation from the Serbian text by the United Nations Secretariat. The Act came into force thirty days after its publication. The introductory note was prepared by Mr. Jevremovic.

his discharge. He is also entitled to free health protection and social insurance in case of accident at work, and may receive visitors, correspond with members of his family, receive food parcels, underwear and other articles for personal use, newspapers, illustrations, books, and documents referring to his legally defensible rights and interests; he may apply to the State authorities to protect his rights and interests, and complain of violation of his rights and of methods employed against him in the corrective penal home and similar institutions. A decision must be given on each complaint.

During the period of their imprisonment, with a view to their re-education, convicted persons are not only assigned to industrial or agricultural work or work on farms connected with corrective penal institutions, but also follow cultural, educational and gymnastic courses given by a special group of instructors.

Minors work only six hours a day; they are assigned to work corresponding to their age, physical capacities and personal inclinations. Special trade and agricultural schools and, if necessary, complementary courses in general educational subjects are provided for them. Where such courses cannot be provided in the corrective penal home, convicted minors are allowed to attend schools outside the home. The time spent at school is included in the daily working hours.

Convicted persons may be released conditionally.

Committees of citizens are organized to assist released offenders. They help the offender to find employment, make grants to him in case of illness, etc.

All institutions competent to execution penalties, security measures and corrective training measures are under the regular supervision of specified high State authorities, including the Presidium of the National Assembly of the FPRY.

PART I

GENERAL PROVISIONS

Art. 1. Persons convicted of offences shall be subjected only to penalties, security measures and corrective training measures prescribed by law and awarded by sentence of a court.

A sentence of a court shall be executed only if it has become final and there is no legal impediment to its execution.

Art. 2. Execution of a penalty, security measure or corrective training measure on a convicted person shall extinguish or limit only those rights comprehended by the penalty or measure and in the manner and under the conditions prescribed in the sentence of the court and by this Act.

The object or manner of execution of a penalty or measure shall not cause physical pain or injury to human dignity.

[Articles 3–10 determine the authorities which are responsible for the execution of the penalties, protective measures and corrective training measures and the institutions in which these penalties shall be served or these measures shall be taken.]

Art. 11. From three months before her confinement until the child is one year old, a pregnant woman shall serve a sentence of rigorous imprisonment or imprisonment in a protective home for convicted parturient women.

Minors sentenced to rigorous imprisonment or imprisonment for over three months shall serve their sentences in corrective penal homes for minors.

Convicted persons suffering from serious chronic diseases shall serve sentences of rigorous imprisonment in medical corrective penal homes.

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PART II

EXECUTION OF PENALTIES

Chapter II

EXECUTION OF PENALTY OF IMPRISONMENT

1. *Start of Execution of Penalty; Committal of Convicted Person to Corrective Penal Establishment*

. . .

Art. 30. If the convicted person is not remanded in custody or imprisoned for interrogation, and is suffering from a serious disease, the beginning of execution of the penalty may at his request be deferred for the duration of the disease. Likewise, if a death has occurred in the family of the convicted person, or to enable him to complete urgent agricultural or other work for which he has no other source of labour, the beginning of execution of the penalty may be deferred for not more than two months from the date on which it should have taken place. If the convicted person is a pregnant woman, the beginning of execution of the penalty shall be deferred from a date three months before confinement until the child is eight months old. If a convicted woman is nursing her child, the execution of her penalty may on medical advice be deferred until the child is twelve months old.

A request to defer execution of penalty shall be decided by the home affairs commissioner competent to enforce the penalty. An appeal against the decision shall lie to the ministry of home affairs of the people's republic or to the home affairs commission of the

Autonomous Province of Vojvodina or of the regional People's Committee of the autonomous region of Kosovo-Metohija . . .

Execution of the penalty shall be deferred until a decision has been reached on the application.

2. *Service of Sentence*

. . .

Art. 33. Men and women shall serve their sentences in separate corrective penal establishments or, provided they are segregated, in the same establishment.

Persons remanded in custody or imprisoned for interrogation shall be completely segregated from convicted persons serving sentences of imprisonment.

Art. 35. Solitary confinement of a person sentenced to rigorous imprisonment or imprisonment may be ordered only as an exceptional measure if his personal characteristic and behaviour show that he is dangerous to the safety and re-education of the other prisoners.

Solitary confinement may be ordered at the beginning of or during the term, for not more than one-quarter thereof and not more than three years.

Solitary confinement shall not be ordered for a convicted person whose physical and mental condition, in the opinion of the medical officer of the establishment, does not permit his segregation from the other prisoners.

Orders for solitary confinement shall be made by the competent minister of home affairs.

3. *Rights and Duties of Convicted Persons*

Art. 37. Persons serving their sentences in corrective penal homes shall be provided with free food, clothing, footwear, underwear and bedding. Persons serving their sentences in prisons shall be provided with free food and bedding, and with clothing, underwear and footwear if necessary.

Convicted persons shall be fed according to diet tables.

Diet tables and regulations governing clothing, footwear, underwear and bedding shall be compiled by the Minister of Home Affairs of the FPRY.

Art. 38. Convicted persons shall be entitled to receive remuneration for work done by them at the rate of output prescribed for the particular kind of work.

Convicted persons shall receive for overtime work not done as a disciplinary measure and for work done in excess of the prescribed output a bonus in accordance with the general rules governing wages for the particular kind of work.

Convicted persons who distinguish themselves at work by rationalization, innovation or invention may be awarded a special bonus.

The by-laws may provide privileges consonant with the purpose of the penalty for convicted persons who distinguish themselves at work by exceeding the prescribed output or by rationalization, innovation or invention.

Art. 39. Not less than one-third of the wages received by a convicted person for his work shall be retained by the administration of the corrective penal establishment as his savings, to be handed over to him when he is released.

A convicted person may spend one-third of his earnings on personal necessaries in accordance with the by-laws.

A convicted person may send the rest of his money, being his bonuses and that part of his wages which he has not spent on personal necessaries, to his family or to any other person whom he is legally liable to maintain; if he has no family, he may direct this money to be retained as his savings. It shall be available to satisfy a claim for maintenance by any person whom he is legally liable to maintain.

Ten per cent of a convicted person's earnings shall be deducted for the promotion of cultural and educational activities in corrective penal establishments and for assisting persons released therefrom. Regulations for this fund and for deductions from earnings shall be made by the Minister of Home Affairs of the FPRY in agreement with the Minister of Finance of the FPRY.

Art. 40. While serving his sentence, the convicted person shall be entitled to free health protection and social insurance against accident at work.

Regulations on the social insurance of convicted persons shall be prescribed by the Public Health and Social Policy Council of the Government of the FPRY, in agreement with the Minister of Home Affairs of the FPRY and the Minister of Finance of the FPRY.

Art. 41. A convicted person shall be entitled to receive documents relating to his rights and legally defensible interests and also to send written representations to government authorities for the protection of his rights and legally defensible interests.

Documents addressed to a convicted person and representations written by him shall be sent through the administration of the corrective penal establishment.

The administration of the corrective penal establishment shall assist convicted persons by advising them on the various steps to be taken to protect their rights.

Art. 42. A convicted person may correspond with his spouse, children, parents, brothers and sisters. He may correspond with other persons only by leave of the administration of the corrective penal establishment.

A convicted person may receive parcels of food, clothing and other personal necessaries, and money.

Persons sentenced to rigorous imprisonment may receive and send letters and receive parcels once a month, and persons sentenced to imprisonment twice a month.

Correspondence and receipt of parcels shall be governed by the by-laws.

Art. 43. A prisoner shall be entitled to receive visits from members of his family. In particular cases he may also, by leave of the governor of the corrective penal establishment, be visited by other persons.

Meetings between a visitor and a convicted person shall be held in a separate room in the presence of an official appointed by the director.

Persons sentenced to rigorous imprisonment may receive one visit a month and persons sentenced to imprisonment may receive two visits a month.

Visits to prisoners shall be governed by the by-laws.

Art. 44. A convicted person may use the money which is at his free disposal to procure in the corrective penal establishment newspapers, periodicals, books, food and other personal necessaries, but not alcoholic beverages.

Art. 45. The governor of a corrective penal home or the home affairs commissioner administering a prison shall ensure that convicted persons are not deprived of their legal rights.

A convicted person may complain of an infringement of his rights to the governor of the corrective penal home or the home affairs commissioner. Complaints of convicted persons and the decisions taken thereupon shall be recorded in a register.

A convicted person may also complain of infringement of his rights to an official inspecting the corrective penal establishment, and may do so in the absence of any official thereof.

Art. 46. A convicted person must work if he is capable of doing so. Working time shall be eight hours a day. A convicted person may be directed to work overtime in accordance with the general provisions on overtime work.

A convicted person shall be entitled to one day's rest a week.

A convicted person may spend a certain part of each day in the open air, outside the rooms in which he ordinarily spends his time. These matters shall be governed by the by-laws.

Art. 47. A person sentenced to imprisonment shall ordinarily be assigned to work befitting his special training and aptitude.

Any manual work to which he is assigned shall, if different from that of his previous employment, be very light.

Art. 48. A person sentenced to rigorous imprisonment shall ordinarily be assigned to manual work.

A convicted person who is not capable of manual work shall be assigned to work of which he is capable.

Art. 49. Convicted persons shall ordinarily perform compulsory work in groups under the control of an official of the corrective penal establishment in which they are serving their sentences. They shall be assigned to working groups by the administration of the establishment.

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4. *Re-education Measures*

Art. 53. Measures for the re-education of convicted persons shall consist in particular of work in industrial enterprises, trade workshops and farms, of instruction in trades, and of cultural, educational and physical culture courses.

To carry out these measures each corrective penal establishment shall organize industrial enterprises, trade workshops and farms to be operated by convicted persons, technical and agricultural schools and courses, general educational courses, courses for illiterates, and cultural, educational and physical culture instruction.

The administration of the corrective penal establishment shall ensure that these measures are carried out.

Art. 54. Corrective penal establishments shall have staffs of instructors to give cultural, educational and physical culture instruction. These groups shall have a head instructor who shall direct their work.

Art. 55. A convicted person shall ordinarily be employed in an industrial enterprise, trade workshop or farm of the corrective penal establishment.

A convicted person may be employed outside a corrective penal establishment only in a State or other co-operative enterprise or on public works, and only after he has spent at least three months in the establishment if sentenced to imprisonment and six months if sentenced to rigorous imprisonment.

Convicted persons shall not be employed by private persons.

Art. 56. Corrective penal establishments shall have libraries, from which convicted persons may borrow books.

Certain convicted persons may be allowed to obtain and read other books of content not conflicting with their re-education.

Art. 57. For the proper direction of the life and work of convicted persons serving sentence, and of measures of re-education, the administration of a corrective penal establishment shall keep a personal file for each convicted person.

The personal file shall contain particulars of the convicted person, and of his life and work before sentence, his previous convictions, his work, conduct and behaviour while serving his sentence, and any other information on his special characteristics.

The form of the personal file shall be prescribed by the Minister of Home Affairs of the FPRY.

5. *Disciplinary Measures*

Art. 58. Convicted persons may be punished by disciplinary measures for offences against by-laws or labour discipline, and for improper behaviour towards officials and other prisoners.

Disciplinary measures against convicted persons shall consist of:

1. Reprimand;

2. Extension of work time by two hours for three to thirty days;

3. Hard labour for not more than fourteen days;

4. Stoppage of correspondence and visiting for not more than three months;

5. Stoppage of parcels for not more than two months;

6. Restriction of purchase of personal necessaries for not more than fourteen days;

7. Solitary confinement for not more than fourteen days.

Prisoners may be awarded one or more of these penalties simultaneously.

Disciplinary measures numbers 2, 3, 5 and 6 hereof shall not be awarded to pregnant women or nursing mothers. In the event of repeated infraction of the by-laws, these measures may be awarded to pregnant women and nursing mothers.

Art. 59. Disciplinary measures shall be ordered by the governor of the corrective penal home or, in a prison where there is no governor, by the home affairs commissioner.

The convicted person must be heard before a disciplinary measure is ordered.

Disciplinary measures shall be recorded in the convicted person's personal file.

[Chapter III deals with protective homes for convicted parturient women.]

Chapter IV

CONDITIONAL RELEASE

Art. 67. A convicted person who has served half his sentence of rigorous imprisonment or imprisonment and whose work and conduct show that he has reformed to such a degree that he may be expected not to commit a further offence may be released conditionally from service of his sentence.

If a convicted person has especially distinguished himself by his work and conduct while serving his sentence, he may be released conditionally even before he has served half his sentence of rigorous imprisonment or imprisonment.

Under the conditions laid down in the first paragraph of this article, a person sentenced to rigorous imprisonment for life may be released conditionally when he has served fifteen years of his term of rigorous imprisonment.

Conditional release shall continue until the term of the sentence has expired or, for persons whose death sentence has been commuted to rigorous imprisonment for life, for ten years from the date of release from service of the sentence (Penal Code, article 56).

Art. 68. Convicted persons who have served half their term of rigorous imprisonment or imprisonment may apply for conditional release to the administration of the corrective penal establishment or to the home affairs commissioner of the people's committee of the area (or town).

The governor of the corrective penal establishment together with the advisory board (article 18), or the home affairs commissioner of the people's committee of the area or town, shall consider at the end of each quarter applications for conditional release and any other cases of convicted persons who satisfy the requirements for conditional release, and shall submit his recommendations for conditional release to the competent minister for home affairs.

The decision concerning conditional release shall be made by the Minister of Home Affairs having jurisdiction over the corrective penal establishment where the convicted person is serving his sentence. The Minister shall first obtain the opinion of a commission consisting of the deputy minister, the chief of the execution of penalties office of the Ministry of Home Affairs, the public prosecutor of the people's republic or his deputy or the Public Prosecutor of the FPRY or his deputy, and one judge of the supreme court of the people's republic or of the Supreme Court of the FPRY.

Art. 69. When a decision to grant conditional release has been made, the place where the convicted person is to reside when released shall be determined. The prisoner may name one or more places of which he wishes one to be appointed for his residence.

A convicted person who is released conditionally must report to the home affairs commission of the area, town or regional people's committee in whose jurisdiction his appointed place of residence is situated.

The Minister of Home Affairs may for good reason appoint a new place of residence for a conditionally released person. In appointing a new place of residence the wishes of the conditionally released person shall be taken into account.

A conditionally released person may change his appointed place of residence only by leave of the Minister of Home Affairs who decided to grant him conditional release.

Art. 70. A conditional release shall be revoked if the convicted person commits while on conditional release a fresh offence of a nature and gravity affording a reason why the conditional release should not continue (Penal Code, article 57, para. 1).

The decision to revoke a conditional release shall be made by the court competent to try the fresh offence.

In the event of revocation the time spent on conditional release shall not be counted as service of sentence (Penal Code, article 57, para. 2).

[Chapter V deals with release of convicted persons from corrective penal establishments.]

Chapter VI

CITIZENS' COMMITTEES FOR PERSONS RELEASED FROM CORRECTIVE PENAL ESTABLISHMENTS

Art. 74. Every people's committee of an area or town shall set up a citizens' committee for persons released from corrective penal establishments on completion of sentence or conditionally.

The committee shall consist of one representative each of the public health and social policy council of the people's committee, the People's Front, the Women's Anti-Fascist Front, the Red Cross and a trade union, with the home affairs commissioner of the competent people's committee as chairman.

When the committee is dealing with minors, its membership shall also include a member each of the People's Youth and the educational workers' trade union.

Art. 75. The citizens' committee shall give persons released from corrective penal establishments any assistance which they may request and in particular shall help them to find employment befitting their capacities if they cannot do so themselves, and may, if they fall ill before entering employment, provide them with material assistance from the fund referred to in article 39 of this Act.

Art. 76. If a minor who has been released has no parents or if his parents cannot provide him with further education, the committee shall recommend the guardianship authority to take appropriate measures.

The committee shall provide the minor with maintenance and work for such time as appears necessary. If the minor enters surroundings which may prejudice his development, the committee shall recommend the guardianship authority to take within its competence measures to remove him from those surroundings and to transfer him to others which will influence him for good.

[Chapter VII deals with the execution of other types of penalties under the following sub-headings: 1. Execution of penalty of limitation of civil rights; 2. Execution of penalty of prohibition of a specified occupation; 3. Execution of penalty of confiscation of property; 4. Recovery of fine.]

[Part III deals with the execution of security measures and contains the following chapters: chapter VIII, Committal to institutions for care and treatment; chapter IX, Confiscation of object; chapter X, Deportation.]

[Part IV deals with execution on minors of penalties, corrective training measures and protective measures and contains the following chapters: chapter XI, Execution of penalty of rigorous imprisonment and imprisonment; chapter XII, Execution of corrective training measures; chapter XIII, Execution of security measures; chapter XIV, Transitional and final provisions.]

DECREE ON THE CONSTRUCTION OF DWELLINGS FOR WORKERS AND CIVIL SERVANTS[1]

of 2 May 1951

Introductory Note. This regulation is of particular importance as one of a series of provisions designed to bring about an immediate improvement in the living conditions of workers. Its purpose is to enable workers to construct their own homes with hygienic facilities appropriate to their requirements, and at the same time to alleviate the housing shortage resulting from the devastation of war, the accelerated industrialization of the country and the consequent influx of farmers into towns.

For this purpose the State grants material aid to workers to enable them to build separate houses or co-operative apartment houses in which they have proprietary rights in the respective apartments. Each worker may obtain material aid to build not more than two apartments in a private house or apartment building.

The State aid consists in granting free of charge for an indeterminate period the use of the land on which to build, the land remaining national property while the house becomes the property of the worker. The worker may transfer his title to a third person by inheritance or contract. In addition, the State grants long-term credit on favourable conditions for the purchase of material and for construction work. The Government may also decide that a portion of the cost shall be borne by the State as a grant to the worker or civil servant for whom the house is being constructed. Other concessions such as exemption from taxes and fees are also given.

[1] Serbian text in *Sluzbeni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 23, of 9 May 1951. Text received through the courtesy of Mr. Branco Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation from the Serbian text by the United Nations Secretariat. The regulation came into force on 9 May 1951. The introductory note was prepared by Mr. Jevremovic.

Art. 1. The State shall provide under the most favourable conditions manual and office workers in cities and in industrial and economic centres with the land, credit and building materials necessary to enable them to construct their own dwellings to accommodate themselves and their families.

A portion of the cost of construction may also be borne by the State in the form of a grant.

Art. 2. Manual and office workers (hereinafter referred to as "investors") may construct their own dwellings consisting of one or more apartments.

An investor may construct a dwelling for his own use consisting of not more than two apartments or of one apartment in a multi-apartment building.

Art. 4. Investors desiring to construct jointly a multi-apartment dwelling may form a housing co-operative for that purpose subject to the provisions of the Basic Act concerning co-operatives.

Such dwellings shall be the property of the housing co-operative. Where construction is co-operative each member of the co-operative shall receive one apartment for his permanent use.

The right to use such an apartment may not lawfully be transferred, save by succession, without the consent of the co-operative.

Art. 5. An investor who has no land of his own on which to construct a dwelling may be allotted the necessary land from the national real-property fund of the local, district or town people's council in whose jurisdiction the land is situated.

Such land shall be allotted for use gratis for an indeterminate period.

Land so allotted shall remain national property.

An investor may record in the land register his ownership of a building or apartment constructed under this decree.

The transfer of the ownership of such building shall import the right to use the land.

Art. 6. The right of occupation, use and disposal of the accommodation of a building or apartment constructed under this decree shall vest exclusively in the owner.

Art. 13. Funds for construction shall be granted to an investor by the State Investment Bank of the Federal People's Republic of Yugoslavia or by a community bank in the form of a long-term loan, in virtue of the investor's application and building permit.

DECREE ON THE SOCIAL INSURANCE OF CLERGYMEN[1]

of 19 May 1951

Introductory Note. This decree, by extending social insurance rights to clergymen, enables clergymen of recognized denominations to enjoy social insurance benefits under the Act concerning the social insurance of manual and office workers and their families[2] subject to the conclusion of an agreement to that effect between the chief governing body of each religious community and the competent State authorities. The benefits to which clergymen and their families are entitled are: free health protection; cash benefits during temporary incapacity for work due to sickness; cash benefits in case of permanently reduced capacity for work; invalidity, old age and family pension; children's allowance and funeral grants.

In determining pension benefits, in addition to the general qualifying period required by the Act concerning the social insurance of manual and office workers and their families, account is taken of the years of service preceding the enactment of this decree.

Social insurance for clergymen is financed for the most part from State grants.

All religious communities, except the Roman Catholic Church, have now concluded social insurance agreements.

Art. 1. A clergyman of a recognized denomination may be socially insured under the Act concerning the social insurance for manual and office workers and their families if the chief governing body of the religious community (church) concludes an agreement to that effect with the Public Health and Social Welfare Council of the Federal People's Republic of Yugoslavia. In such case, for purposes of the rights and duties connected with social insurance, the clergyman shall be deemed to be an employee of his religious community (church).

The Chairman of the Public Health and Social Welfare Council of the Federal People's Republic of Yugo-

[1] Serbian text in *Sluzbeni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 25, of 23 May 1951. Text received through the courtesy of Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation from the Serbian text by the United Nations Secretariat. The decree entered into force on 23 May 1951. The introductory note was prepared by Mr. Jevremovic.

[2] See *Yearbook on Human Rights for 1950*, pp. 344–348.

slavia may empower public health and social welfare councils of the people's republics to conclude agreements with particular religious communities in accordance with the preceding paragraph.

Art. 2. Clergymen and members of their families shall be entitled under social insurance agreements to:

Free health protection;

Cash benefit during temporary incapacity for work due to sickness;

Cash benefit in case of permanently reduced capacity for work;

Invalidity, old-age and family pension;

Children's allowance;

Funeral grant.

Art. 3. The social insurance of clergymen shall be financed from State grants and from contributions paid by the religious communities.

Art. 6. In computing length of employment for the purpose of determining entitlement to social insurance under this decree, account shall be taken, in addition to the time counted for pensions under the Act concerning the social insurance of manual and office workers and their families, of an insured clergyman's time in service before the commencement of social insurance in accordance with the provisions of this decree.

The time during which a person has been socially insured as a clergyman shall be counted as time in service for the purpose of acquiring and enjoying social insurance rights in general.

DECREE CONCERNING CHILD BONUSES[1]

of 25 October 1951

Introductory Note. This regulation establishes a special social protection for families with children by ensuring them allowances for children as a right which is independent from the system of rights based on social insurance pursuant to the Act concerning social insurance for workers, civil servants and their families.[2]

In addition, the right to a layette grant at the time of birth of each child is recognized.

The right to allowance depends on property assessment and a minimum service term of eleven months. Workers and civil servants who, in addition to their regular salary, are owners of land under cultivation exceeding a specified minimum or have additional income or whose spouse has such an income, are not entitled to allowances if the income is higher than provided by law. While the number of people entitled to children's allowances has been restricted by these conditions, on the other hand it has been widened to include benefits for surviving family members and disabled persons under the provisions for disabled military personnel. The right to grants for layettes of infants has been extended to the beneficiaries of personal or disablement pensions under the Act concerning social insurance. Under the new provision the grant for layettes is also payable for children born out of wedlock. The mother of a child born out of wedlock is not entitled to the grant if the father is so entitled. The grant is paid to the mother, however, if she supports the child.

FAMILY ALLOWANCES

Art. 1. The following persons shall be entitled to child bonuses on the conditions laid down in this decree:

(1) Workers and officials employed in public undertakings, institutions and administrations;

(2) Workers and officials employed in co-operatives, co-operative and social organizations and in the undertakings belonging thereto, and likewise the persons elected to permanent posts with fixed pay in social organizations which are posts governed by special provisions;

(3) Active non-commissioned officers, attached civilian officials, commissioned officers, generals and admirals of the armed forces, and members of the People's Militia;

(4) Paid members of the representative bodies and their subordinate bodies;

(5) Recipients of a personal pension, children in receipt of a survivor's pension, and persons in receipt of group III disablement benefit under the Act respecting the social insurance of workers and officials and their families;

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[1] Serbian text in *Sluzbeni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 48, of 26 October 1951. Text received through the courtesy of Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation of the entire Act in: International Labour Office, *Legislative Series 1951*—Yug. 1. The regulation came into force on 1 November 1951. The introductory note was prepared by Mr. Jevremovic.

[2] See *Yearbook on Human Rights for 1950*, pp. 344–348.

(6) Disabled persons in groups I to VII who are in receipt of the State allowance for wartime and peacetime military disablement, disabled members of the People's Militia, persons disabled in pre-military training and air-raid defence, and other disabled persons to whom the provisions on wartime and peacetime military disablement apply; and likewise recipients of survivors' disablement benefit under the said provisions (in respect of the children who are in receipt of benefit);

Art. 2. The child bonuses under this decree shall consist of:

1. A children's allowance;
2. A grant for the layette of the new-born child.

Art. 3. The financial resources for the child bonuses to persons covered by clauses (1) and (3) to (6) of article 1 shall be provided by the State from budgetary moneys.

The financial resources for the child bonuses to persons covered by clause (2) of article 1 shall be provided by contributions paid by co-operatives, co-operative and social organizations and the undertakings belonging thereto, in accordance with special provisions.

Art. 4. The craft co-operatives (for production, transformation or services) and the fishing co-operatives in which fishing is the only or principal occupation can secure the children's allowance and layette grant for their members by making voluntary payment of a prescribed contribution for their total membership.

Persons covered by the preceding paragraph shall, if such voluntary payment of a prescribed contribution is made, receive child bonuses at the same amounts and on the same conditions as employed persons.

Art. 5. Persons who have the right to a child bonus on two or more grounds may only avail themselves of the right on one of those grounds.

CHILDREN'S ALLOWANCE

Art. 6. The children's allowance shall be 1,300 dinars per month or 50 dinars per day. In addition, persons entitled to the said allowance shall receive 425 units of industrial vouchers per month or sixteen units of the said vouchers per day.

The total amount calculated on a daily basis shall not exceed 1,300 dinars and 425 units of industrial vouchers in any one calendar month.

Art. 7. The children's allowance shall be payable at a monthly rate for workers, officials and other persons covered by clauses (2) to (4) of article 1 receiving wages or salary at a fixed monthly rate and to recipients of disablement benefit, and shall be payable at a daily rate for workers whose wages are not at a fixed monthly rate.

Where a children's allowance is fixed at a monthly rate it shall be payable from the first day of the month following commencement of entitlement until the end of the month in which entitlement ceases.

The children's allowance shall be paid simultaneously with the remuneration, pension, disablement benefit or other pecuniary benefit for the corresponding period.

Employed recipients of a pension or disablement benefit shall receive the children's allowance at the same time as the pension or benefit and not at the same time as their remuneration.

Art. 8. The children's allowance shall be payable in respect of each child actually maintained by the recipient of the allowance, including illegitimate children, adopted children, grandchildren, stepchildren and parentless children taken into the home for maintenance.

The allowance shall be normally payable until the child reaches the age of fourteen years; in the case of children continuing their education or under apprenticeship it shall be payable until the end of the prescribed normal period of study or apprenticeship, but not beyond the age of twenty years for secondary-school pupils and apprentices and not beyond the age of twenty-five years for students at the universities and equivalent establishments.

In the case of children permanently incapacitated for work, the allowance shall continue to be payable after they attain the age of fourteen or twenty-five years.

The conditions laid down in the preceding paragraphs shall also apply as regards the allowance for children in receipt of a survivor's pension or survivor's disablement benefit [clauses (5) and (6) of article 1].

Art. 9. Persons covered by articles 1 and 4 who have over two hectares of land under cultivation or obtain from a smaller holding an income adequate for the maintenance of their children, and similarly persons who carry on private gainful activity as a regular occupation in addition to their normal work under a contract of employment, shall not be entitled to the children's allowance.

The minister of finance in each people's republic may, with the agreement of the federal Minister of Finance, vary the provisions of the preceding paragraph in their application to particular regions.

For the purposes of the first paragraph of this article, the property or income of the spouse shall also be taken into account.

The amount of income disqualifying a person for receipt of the children's allowance under the preceding paragraphs shall be prescribed by the federal Minister of Finance in agreement with the Chairman of the Federal Government Council for Health and Social Policy.

Art. 11. If both spouses have a right to a children's allowance under article 1 of this decree, they may come to an agreement as to which spouse shall receive it. If any such couple has not notified the appropriate body under article 17 of such agreement by 1 November 1951, the allowance shall be payable to whichever spouse was receiving it at that date.

If both spouses have a right to a children's allowance and one or both of them has or have children which are not children of the other, either parent may make a separate claim for an allowance in respect of the children who are not children of the spouse.

If a couple having a right to a children's allowance are living apart, each shall be entitled to an allowance in respect of the children maintained in his or her home.

Where the parents live apart, the children's allowance shall be paid to the parent in whose home the child is being maintained, regardless of whether the said parent has a right to that particular allowance under article 1 of this decree and regardless of whether the other parent entitled to an allowance is liable for the child's maintenance.

LAYETTE GRANT

Art. 12. The persons mentioned in articles 1 and 4 of this decree (with the exception of those in receipt of survivors' pensions and survivors' disablement benefit) shall receive in respect of each new-born child a layette grant of 8,000 dinars.

Where a child is born out of wedlock and the mother is not a person covered by article 1 of this decree but the father is entitled to a children's bonus under that article, the layette grant shall be payable in virtue of an acknowledgment of paternity or court affiliation order to the parent in whose home the child is being maintained.

In the event of simultaneous birth of more than one child the layette grant shall be payable for each child born.

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GENERAL DECREE ON SCHOLARSHIPS[1]

of 26 October 1951

Introductory Note. The measures taken by the Government of the FPRY to prepare for the adoption of the new salary system, and particularly the decree concerning child bonuses, made it necessary to revise the scholarship regulations. The main feature of the 1951 decree is that it establishes requirements of substance for scholarship awards instead of the purely formal requirements of the previous regulations. It provides for financial assistance to young persons who have succeeded in their studies and desire to pursue these but cannot afford to. It is also designed to provide the specialists needed in various branches of economic and scientific development.

It opens scholarships to students of secondary, trade and vocational schools. Scholarship holders are no longer required to enter the civil service on completion of their studies and to remain there for a certain length of time, except when the scholarship has been awarded by an economic or similar undertaking and the obligation to enter the civil service is stipulated in the contract.

I. GENERAL PROVISIONS

Art. 1. Any person who shows interest and ability in a certain course of study and distinguishes himself as a student but lacks the necessary means to complete his regular education shall receive an educational grant for that purpose.

Art. 2. Scholarships and grants shall be financed from:

(*a*) Regular budgets;

(*b*) Other funds.

Art. 5. Scholarships financed from the regular budget shall ordinarily be awarded only for study in specified fields at universities and institutions of higher education to students in respect of whom no children's allowance is paid and for whose regular education the persons liable to maintain them cannot pay.

Scholarships to secondary schools may be awarded only in the following exceptional cases:

(*a*) To students of normal schools and teachers' training institutions in respect of whom no children's allowance is paid and whose parents cannot pay for their board and tuition away from home;

(*b*) As a special reward to selected students of higher classes of secondary, vocational and trade schools who by their outstanding conduct and proficiency in their studies may set an example to others but whose parents do not receive a children's allowance for them and cannot afford to send them to school.

[1] Slovene text in *Uradni List* (Official Gazette) of the Federative People's Republic of Yugoslavia No. 48, of 26 October 1951. Text received through the courtesy of Mr. Branco Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation from the Slovene text by the United Nations Secretariat. The decree came into force on 1 November 1951. The introductory note was prepared by Mr. Jevremovic.

III. SCHOLARSHIPS OUT OF OTHER FUNDS

Art. 16. Scholarships may be awarded out of funds of State enterprises and associations, co-operative organizations and agricultural and trade unions, and out of endowments and legacies of individual testators, for regular study at universities and institutions of higher education and at trade and secondary schools.

The scholarships referred to in the preceding paragraph shall be granted by written contract concluded between the agency awarding the scholarship and the scholarship holder. Under the contract the scholarship holder may have to undertake to work upon completion of his studies for a period not exceeding five years for the agency which awarded the scholarship.

IV. GRANTS

Art. 19. Where a student's parents are liable to maintain him and cannot afford to enable him to complete his studies successfully, a university or institution of higher education may make a grant out of its regular budget for that purpose. The same shall apply to a student in respect of whom a children's allowance or some other allowance is paid.

Art. 21. Undertakings, factories and organizations may award scholarships out of their own funds.

A gainfully occupied person who leaves work in order to study may also receive such a grant to an amount not exceeding his previous pay. He may also receive a children's allowance equal to that which he received while working.

B. Republican Legislation

PEOPLE'S REPUBLIC OF SLOVENIA

DECREE ON COMPULSORY MEDICAL EXAMINATION OF PREGNANT WOMEN[1]

of 25 February 1951

Introductory Note. This decree represents a step forward in the development of the medical protection accorded to mothers and children. It requires each pregnant woman to undergo a free general medical examination in the fourth and eighth months of her pregnancy, to ensure complete medical protection of the mother and her child.

Art. 1. Every pregnant woman shall be required to undergo medical examination in the fourth and eighth months of pregnancy for the due protection of her health and that of her expected child.

Art. 4. The examination shall be carried out initially by a medical practitioner who shall decide on the appropriate measures to protect the health of the mother and child and if necessary refer her for a special examination or treatment in an appropriate medical institution.

Where the examination is carried out by a nurse or midwife and the initial examination reveals or arouses suspicion of any sign of illness which might endanger the health or life of the mother or child, the mother shall be referred for examination by a medical practitioner.

Art. 5. A blood test shall be made at each examination. If the Wasserman reaction is positive the procedure set forth in the order concerning venereal diseases shall be followed and the woman sent to a medical institution.

Art. 7. Examinations of pregnant women and their treatment in connexion with pregnancy shall be free of charge.

. . .

[1] Text in *Uradni List* (Official Gazette) of the People's Republic of Slovenia No. 6, of 30 January 1951. Text received through the courtesy of Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations. English translation from the Slovene text by the United Nations Secretariat. The introductory note was prepared by Mr. Jevremovic. The decree came into force on the day of its publication.

JUDICIAL DECISIONS

Note.[1] Enforcement of the law in the FPRY in 1951 is based on the principle of legality and it has developed in the spirit of protection of human rights. Sentences pronounced by the courts in the course of the year 1951 implement human rights and fundamental freedoms as guaranteed to the citizens of the FPRY by the Constitution and the laws in accordance with the principles of the Universal Declaration of Human Rights.

The following judicial decisions which have become final illustrate the application of the aforementioned principles.

[1]This note and the summaries of the following judicial decisions were prepared by Mr. Branko Jevremovic, Delegate of the Federative People's Republic of Yugoslavia to the Commission on Human Rights of the United Nations.

1. ILLEGAL DEPRIVATION OF LIBERTY

Re: STEVAN STEVANOVIC

Regional Court of Brcko[1]

29 December 1951

The facts. Stevanovic was the secretary of a town people's committee. On a certain day he deprived Djoka Micic, because of his refusal to work overtime within twenty-four hours, of his freedom by locking him up for one hour in a room of the town people's committee. On 18 September 1951, the district court of Bijeljina found Stevan Stevanovic guilty of illegal deprivation of liberty pursuant to article 150, para. 2 of the Criminal Code and sentenced him to three months' imprisonment and to costs. The accused, on his conviction, appealed to the regional court in Brcko.

Held: That the appeal should be dismissed and the decision of the district court of Bijeljina should be confirmed. The offence of the accused has been aggravated by the fact that he committed it in his capacity as secretary of the local people's committee. In this capacity the accused was responsible for correct interpretation of the laws and the prevention of their violation and incorrect application.

[1]No. K. Z. 152/51.—District courts deal with civil and criminal cases of minor importance in the first instance, while regional courts deal with civil and criminal cases of major importance in the first instance and review decisions of district courts.

2. PROHIBITION OF INCITEMENT TO NATIONAL HATRED

Re: VINKO ARAS

Regional Court of Rijeka[1]

1951

The facts. Vinko Aras was the manager of a restaurant in Pula and was accused of having said in October 1950, in his capacity as manager and in the presence of the restaurant personnel, that all Italians are fascists and thieves, they are not needed here and that he would put all of them in a row and shoot them. The district court of Pula held the accused's utterances to be a criminal offence under article 2 of the Act, which prohibits the incitement to national and religious hatred and discord[2] and sentenced him to an imprisonment of one month. The Public Prosecutor appealed against this judgment to the regional court of Rijeka.

Held: That the appeal should be admitted and the court's decision concerning the description of the offence and the punishment awarded should be altered. The accused has committed a criminal offence under article 119, para. 3 of the Criminal Code and is therefore sentenced to six months' imprisonment. The time already spent in custody should be included in computing his term of imprisonment.

[1]No. K. Z. 181/51.

[2]Articles 1 and 2 of this Act read as follows:

Art. 1. Every limitation of individual civic rights and of the privileges of citizens on account of nationality, race or religion is punishable as a criminal offence tending to jeopardize the equality, fraternity and unity which are the principal achievements of the national liberation struggle.

Art. 2. Accordingly, all encroachments on equal national rights and all agitation and propaganda tending to provoke national hatreds are punishable. The writing, reproduction and dissemination of matter calculated to provoke national hatreds is punishable.

The court held that it was proved that the accused had uttered, in the presence of other personnel of the restaurant, anti-Italian propaganda, which is contrary to the fundamental principles on which the Yugoslav social order is based. The nature of the criminal offence was aggravated by the fact that the offence was committed when the renewal of requests for option either to stay or leave the country was granted to the Italians. In awarding the punishment, however, the court took into account, as alleviating circumstances, the fact that the accused had never been convicted before and that he was the father of two minor children.

3. RIGHT OF ACCUSED PERSONS

Re: DJULAGA RAHMANOVIC

Regional Court of Doboj[1]

9 November 1951

The facts. On 3 July 1951, the district court of Zavidovici convicted Djulaga Rahmanovic for theft under article 249 of the Criminal Code and sentenced him to six months' imprisonment. The accused appealed against this decision to the regional court of Doboj.

Held: That the appeal should be allowed and the case should be returned to the lower court for re-trial. No opportunity had been given to the accused to defend himself before the court, as the case had been examined in his absence. It was stated in the judgment of the lower court that the accused had been heard and his presence was not required, but the court had not verified the fact whether the accused had been summoned and informed about the main hearing of his case.

[1]No. K. br 58/51.

4. PROTECTION OF LEGAL RIGHTS

Re: IVAN UKOSIC

Public Prosecutor's Office in Porec[2]

1951

The facts. The president of the people's committee[2] at Porec ordered Ivan Ukosic to vacate his apartment within twenty-four hours, as he had opted for Italy and had thus declared himself to be an enemy. The district public prosecutor's office in Porec intervened in its capacity as custodian for observance of legal rights.

Held: That (1) the verbal order concerning the removal of Ukosic from his apartment should be immediately withdrawn; (2) the public prosecutor's office should be kept informed about such matters as are provided in article 23 of the Act concerning Public Prosecution.

It was further stated that the procedure followed by the people's committee of Porec was incorrect, and unlawful. The people's committee is entitled to assign apartments only for the purpose of providing living accommodation. But it has not the right to move tenants from a better into a worse apartment because they claim a right to which they are entitled under the legal provisions in force. Furthermore, in accordance with article 108, para. 3, of the General Act concerning people's committees of 28 May 1949,[3] the parties should have been heard and their statements recorded, and they should also have been informed under para. 4 of the above article of their right of appeal.

[1]No. ON 57/51-2.

[2]The people's committee is a representative and administrative body whose members are elected by the citizens of a determined area (municipality, town, district) by direct and secret ballot. Federal organs have no administrative machinery in the areas in which people's committees operate. These committees carry on such activities as are in the competence of federal organs and organs of the several federal republics. Among these functions is the supervision of the distribution of living quarters.

Pursuant to article 1 of the Public Prosecutor's Office Act, this Office is an organ of the National Assembly of the FPRY, which among other duties supervises the proper application of legal provisions by all other organs. To accomplish this, the Public Prosecutor's Office appoints public prosecutors in all federal republics and other administrative areas, including districts. Pursuant to articles 12 and 14 of this Act, public prosecutors are entitled to intervene by filing complaints in court and administrative proceedings and by resorting to an extraordinary procedure —the filing of requests for the protection of legality when threatened by any decision—proposing to the competent organs to change, cancel or annul the disputed decision. Furthermore, pursuant to article 18, public prosecutors are entitled to request the suspension of a decision against which they have initiated this procedure, until the competent organ has decided on the action taken by the public prosecutor.

In this case, the public prosecutor of the district of Porec is applying legal means against the decision of the people's committee of the district of Porec, proposing that an illegal decision handed down in an administrative proceeding be changed.

[3]See the introductory note to this Act in *Yearbook on Human Rights for 1949*, pp. 248–249.

PART II

LAWS AND OTHER TEXTS ON HUMAN RIGHTS IN TRUST AND NON-SELF-GOVERNING TERRITORIES

A. Trust Territories

TERRITORY OF PAPUA AND NEW GUINEA

TRUST TERRITORY OF NEW GUINEA

AN ACT TO APPROVE THE PLACING OF THE TERRITORY OF NEW GUINEA UNDER THE INTERNATIONAL TRUSTEESHIP SYSTEM; TO PROVIDE FOR THE GOVERNMENT OF THE TERRITORY OF PAPUA AND THE TERRITORY OF NEW GUINEA, AND FOR OTHER PURPOSES[1]

No. 9 of 1949

(Assented to 25 March 1949; in force since 26 November 1951)

PART II

THE TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF NEW GUINEA

. . .

7. The Minister shall make to the General Assembly of the United Nations the annual report required by the Charter of the United Nations on the political, economic, social and educational advancement of the inhabitants of the Territory of New Guinea.

PART IV

ADMINISTRATION

Division 3

ADVISORY COUNCILS FOR NATIVE MATTERS, AND NATIVE VILLAGE COUNCILS

25. Subject to this Act, provision may be made by ordinance for and in relation to the establishment of:

(*a*) Advisory councils for native matters; and

(*b*) Native village councils,

in respect of areas defined by or under ordinance.

26. (1) An advisory council may consider, and tender advice to the Administrator concerning, any matter affecting in any way the welfare of natives in the area in respect of which the advisory council is established.

(2) Any such matter may be brought before an advisory council by any member of the council, by any native, by any native village council or, with the permission of the chairman of the advisory council, by any other person or institution.

(3) If any such matter is submitted to an advisory council by a native village council, it shall be the duty of the advisory council to consider that matter and tender advice to the Administrator concerning it.

27. (1) An advisory council shall consist of such number of native members and such number of other members as is provided by ordinance.

(2) The number of native members shall be at least a majority of the total number of members.

(3) The members of an advisory council shall be appointed by the Administrator and shall hold office during the Administrator's pleasure and subject to such conditions as the Administrator determines.

(4) The native members of an advisory council shall, as far as practicable, be natives who have performed meritorious service as members of native village councils.

28. (1) Minutes of each meeting of an advisory council shall be kept and copies thereof shall be forwarded to the Administrator.

(2) Copies of the minutes shall be transmitted to the Minister by the Administrator as soon as practicable after each meeting.

29. A native village council shall have such functions as are provided by ordinance in relation to the peace, order and welfare of natives in the area in respect of which it is established.

[1] The Government of Australia is the Administering Authority for this Trust Territory. Text of the Act in the following document: United Nations: *Trusteeship Council, Official Records, Third Session, Supplement* (T/337, 28 December 1948). See also Australia, "Note on the Development of Human Rights", on p. 6 of this *Yearbook*.

PART IX

MISCELLANEOUS

71. (1) The slave trade is prohibited in the territory.

(2) Forced labour is prohibited in the territory except in such circumstances as are permitted by the Convention concerning Forced or Compulsory Labour adopted by the International Labour Organisation and approved by Australia on the second day of November, 1931, or any Convention replacing or amending that Convention.

72. Subject to such exceptions and exemptions as are provided by ordinance, the supply of intoxicating liquor to natives is prohibited in the serritory.

RATIFICATION OF INTERNATIONAL LABOUR ORGANISATION CONVENTIONS[1]

The following International Labour Organisation Conventions have been ratified by the Commonwealth on behalf of the Trust Territory of New Guinea—as the Administering Authority:

No. 8. Unemployment Indemnity (Shipwreck), 1920;

No. 27. Marking of Weight (Packages transported by Vessels), 1929;

No. 29. Forced Labour, 1930.

[1]Convention No. 89, 1948, has not been ratified, contrary to the indication in *Yearbook on Human Rights or 1950*, p. 357.

TRUST TERRITORY OF TOGOLAND UNDER BRITISH ADMINISTRATION

NOTE

Extracts from the Gold Coast Local Government Ordinance, 1951 are published on p. 459 of this *Yearbook*. The ordinance is applicable to the Trust Territory of Togoland under British administration.

TRUST TERRITORY OF TOGOLAND UNDER FRENCH ADMINISTRATION

NOTE

Act No. 51–586 of 23 May 1951 relating to the election of deputies to the National Assembly in the territories coming under the supervision of the Ministry of France Overseas.[1]

Act No. 51–1093 of 14 September 1951 extending to the Overseas Territories, Togoland and the Cameroons the provisions on imprisonment for debt.[2]

Decree No. 51–1100 of 14 September 1951 concerning certain details of marriage between persons who retain their personal status in French West Africa, French Equatorial Africa, Togoland and the Cameroons.[3]

[1] See the text on p. 450 of this *Yearbook*.

[2] See the text on p. 451 of this *Yearbook*.

[3] See the text on p. 452 of this *Yearbook*.

TRUST TERRITORY OF THE CAMEROONS UNDER BRITISH ADMINISTRATION

NOTE

Extracts from the Nigeria (Constitution) Order in Council 1951 are published on p. 461 of this *Yearbook.*

TRUST TERRITORY OF THE CAMEROONS UNDER FRENCH ADMINISTRATION

NOTE

Act No. 51–586 of 23 May 1951 relating to the election of deputies to the National Assembly in the Territories coming under the supervision of the Ministry of France Overseas.[1]

Act No. 51–1093 of 14 September 1951 extending to the Overseas Territories, Togoland and the Cameroons the provisions on imprisonment for debt.[2]

Decree No. 51–1100 of 14 September 1951 concerning certain details of marriage between persons who retain their personal status in French West Africa, French Equatorial Africa, Togoland and the Cameroons.[3]

[1] See the text on p. 450 of this *Yearbook*.

[2] See the text on p. 451 of this *Yearbook*.

[3] See the text on p. 452 of this *Yearbook*.

TRUST TERRITORY OF TANGANYIKA

THE REGULATION OF WAGES AND TERMS OF EMPLOYMENT ORDINANCE, 1951

Ordinance No. 15 of 1951 [1]

(27 February 1951)

NOTE

This ordinance provides for the establishment of a Minimum Wages Board and wages councils and otherwise for the regulation of the remuneration and terms of employment of employees. The provisions of this regulation are very similar to those contained in the Regulation of Wages and Conditions of Employment Ordinance of Kenya.[2]

[1] English text in Supplement No. 1 to the *Tanganyika Gazette*, Vol. XXXII, No. 11, of 2 March 1951, pp. 53–66.

[2] See the summary on p. 461 of this *Yearbook*.

TRUST TERRITORY OF RUANDA-URUNDI

NOTE

Decree of 30 March 1948 to generalize the system of family allowances for non-native employed persons as supplemented by the decree of 29 September 1948 and amended by the decree of 26 November 1951.[1]

[1] See p. 444 of this *Yearbook* (Belgian Congo). The decree is applicable to Ruanda-Urundi.

ORDINANCE No. 21/132 OF 11 DECEMBER 1951 BRINGING INTO FORCE IN RUANDA-URUNDI THE DECREE OF 4 APRIL 1950 TO ANNUL AUTOMATICALLY ANY CUSTOMARY MARRIAGE CONTRACTED PRIOR TO THE DISSOLUTION OR ANNULMENT OF THE PREVIOUS MARRIAGE OR MARRIAGES AND ANY MATRIMONIAL AGREEMENT CONCLUDED WITH A VIEW TO SUCH MARRIAGE, AND TO REGULATE THE RESIDENCE OF FORMER POLYGAMISTS IN CERTAIN COMMUNITIES OR REGIONS[1]

NOTE

The text of the Decree of 4 April 1950 is published under "Belgian Congo" in *Yearbook on Human Rights for 1950*, pp. 372–373. The ordinance provides that 1 May 1952 shall be the date on which the provision takes effect prohibiting a person from contracting a second or further customary marriage before the dissolution or annulment of the previous marriage (for the Belgian Congo, it was 1 January 1951). Persons who held polygamous status before 1 May 1952 (1 January 1951 for the Belgian Congo) are required to register. The decree determines the way in which this registration shall be made for men and women by the agents of the territorial services.

The date after which polygamists and their wives may not take up residence in a European community is 1 February 1952 in Ruanda-Urundi (1 July 1950 for the Belgian Congo).

[1] French text in *Bulletin officiel du Ruanda Urundi* No. 12, of 31 December 1951. English summary by the United Nations Secretariat.

DECREE OF 18 DECEMBER 1951, TO REPEAL ARTICLE 21, PARAGRAPH 2, OF THE LEGISLATIVE ORDINANCE OF 5 OCTOBER 1943 CONCERNING INDIGENOUS JURISDICTIONS IN RUANDA-URUNDI (PENALTY OF WHIPPING)[1]

NOTE

The report of the Colonial Council on the draft of this decree states:

"Since the abolition of whipping as a penalty is contemplated in the Congo, its abolition should properly likewise be contemplated in Ruanda-Urundi. This draft decree will operate to abolish whipping as a penalty.

"The draft did not give rise to any discussion and was approved unanimously at the Council meeting held on 7 December 1951."

Single article. Article 21, paragraph 2, of the legislative ordinance of 5 October 1943 concerning indigenous jurisdictions in Ruanda-Urundi is hereby repealed.

[1] French text in the *Bulletin officiel du Congo belge*, Part 1, No. 2, of 15 February 1952, received through the courtesy of Mr. E. Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels. English translation from the French text by the United Nations Secretariat.

TRUST TERRITORY OF WESTERN SAMOA

OFFICIAL SECRETS ACT, 1951

NOTE

See the summary on p. 255 of this *Yearbook*. The Act is applicable in this Trust Territory.

SAMOA AMENDMENT ACT, 1951

NOTE

In all enactments and regulations concerning Western Samoa, this Act alters the term "native" to "Samoan". It also amends the legislation governing the Western Samoan Public Service. (See also p. 255 of this *Yearbook*.)

TRUST TERRITORY OF SOMALILAND

RATIFICATION OF THE TRUSTEESHIP AGREEMENT[1]

By virtue of the ratification of the Trusteeship Agreement for the Territory of Somaliland by the Italian Parliament on 4 November 1951, the Declaration of Constitutional Principles which is annexed to the Trusteeship Agreement forms an integral part of the Italian law, which may be considered as constituting the juridical basis of all subsequent legislation. Article 9 of the Declaration of Constitutional Principles provides that:

"The Administering Authority shall guarantee to all the inhabitants of the territory full civil rights, and also such political rights as are consistent with the progressive political, social, economic and educational development of the inhabitants and with the development of a democratic representative system, due regard being paid to traditional institutions.

"In particular, it shall guarantee:

"1. The preservation of their personal and successional status with due regard to its evolutionary development;

"2. The inviolability of personal liberty, which may not be restricted except by warrant of judicial authority and only in cases and in accordance with regulations prescribed by law;

"3. The inviolability of domicile, to which the competent authority may have access only by due legal process and in a manner prescribed in accordance with local customs and subject to the guarantees for the protection of personal liberty;

"4. The inviolability of freedom and secrecy of communication and correspondence, which may be limited only by means of a warrant of judicial authority stating the reasons and subject to the guarantees prescribed by law;

"5. The rights of property, subject to expropriation carried out for a public purpose, after payment of fair compensation, and in accordance with regulations prescribed by law;

"6. The free exercise of professions and occupations in accordance with local customs and with regulations prescribed by law;

"7. The right to compete for public employment in accordance with regulations prescribed by law; and

"8. The right to emigrate and to travel, subject to such regulations as may be prescribed by law for health and security reasons."

[1] See United Nations document T/L. 266 of 6 June 1952, p. 3:

"The Italian Parliament ratified the Trusteeship Agreement for the Territory of Somaliland under Italian administration, as approved by the General Assembly of the United Nations on 2 December 1950, on 4 November 1951."

The text of this Trusteeship Agreement is to be found in *Yearbook on Human Rights for 1950*, pp. 366–370.

DECREE No. 86 ESTABLISHING A COUNCIL OF EDUCATION[1]

of 20 November 1950

SUMMARY

Article 1 of this decree provides for the establishment of a permanent Central Council of Education whose function shall be to study educational problems in general and provide specific advice for the organization of education in the territory. The membership of the council shall be made up of officials of various agencies, representatives of ecclesiastical and medical bodies and of five other members, three of whom shall be selected from the faculties of academic or vocational schools, and two from the local population. The council shall also study any educational problems concerning the territory which the Administrator may submit to it and shall report monthly to the Administrator on its own activities.

[1] Italian text of the decree in *Bollettino Ufficiale* No. 9, of 1 December 1950. Summary prepared by the United Nations Secretariat.

ORDINANCE No. 10 ESTABLISHING AN ADMINISTRATION OF MUNICIPAL SERVICES[1]

of 6 June 1951

SUMMARY

In every chief town of a residency or vice-residency an Administration of Municipal Services shall be set up and attached to the office of the resident or vice-resident. In other centres of sufficient economic importance such services may also be established. The municipal council shall consist of two to five prominent persons of the municipality, one or two representatives of each of the non-indigeneous minority communities, of business, and of the professions, arts and handicraft, and one representative of cultural and religious associations. The members are appointed from among the inhabitants and, in the case of a non-indigeneous community, with the consent of this community. The council is to be heard on certain matters which are specified in the ordinance.

[1]Text of the ordinance in *Bollettino Ufficiale* No. 6, supplement 1, of 22 June 1951. Summary prepared by the United Nations Secretariat.

ORDINANCE No. 12 ESTABLISHING A HEALTH COUNCIL IN SOMALILAND[1]

of 30 June 1951

SUMMARY

Article 1 of the ordinance provides for a Health Council in Mogadiscio, whose functions will be to foster studies and provide advice on projects relating to the organization of health services in the territory and to health problems in general. The membership of the council will be made up of officials from six government agencies and of six private individuals appointed annually by the Administrator. Representatives of other agencies will participate in deliberations when the council deals with matters connected with their activities.

[1]Italian text of the ordinance in *Bollettino Ufficiale* No. 7, of 1 July 1951. Summary prepared by the United Nations Secretariat.

DECREE No. 120 REPEALING THE MASTERS AND SERVANTS PROCLAMATION[1]

of 12 September 1951

SUMMARY

In 1942 the British Military Administration issued the Masters and Servants Proclamation (No. 32 of 1942) which provided penal sanctions for breach of labour contracts. Decree 120 of 1951 considers that proclamation as incompatible with the new legal situation in the territory and repeals it with effect as from the day of the publication of the decree in the *Bollettino Ufficiale*.

[1]Italian text of the decree in *Bollettino Ufficiale* No. 10, of 1 October 1951. Summary by the United Nations Secretariat.

ORDINANCE No. 18 PROVIDING FOR A REFORM OF THE COUNCILS OF RESIDENCE AND OF THE TERRITORIAL COUNCIL[1]

of 20 October 1951

Art. 1. The residency councils are composed of the following categories of persons:

(1) The hereditary chiefs of tribes and those elected in the traditional *shir* who have been recognized by decree of the Administrator (members by right);

(2) The representatives of legally recognized political

[1]Italian text in *Bollettino Ufficiale* No. 10, Supplement No. 1, of 25 October 1951. English translation from the Italian text by the United Nations Secretariat.

parties;[1] apart from two representatives of the headquarters or branch of each party in the chief town of the residency, their number shall not be less than one-fifth of the number of recognized branches, for each party throughout the residency;

(3) Such eminent notables in the whole of the residency who are recognized by public opinion as persons of outstanding culture, experience and capability; their number shall not exceed that of the chiefs mentioned under (1) above.

The members under (2) and (3) are nominated annually by the competent residents; those under (2) having been designated by the headquarters or the branch at the chief town of the residency.

The competence and functions of the residency council remain unchanged.

Art. 2. The provisions of proclamation No. 4 of 1948 of the British Administration remain unchanged; recognition of branches of political parties is subject, for the purpose of representation in residency councils and in the Territorial Council, to the submission of a list of names consisting of at least 200 per branch.

This list shall be published on the notice board of the residency for thirty consecutive days; during this period any interested person may contest its veracity.

Recognition of each individual name lies within the competence of the residents after the veracity of the lists has been established; they shall be verified with the help of the *cadis* of the residency area.

The resident's decision is subject to appeal to the regional *commissario* in the first instance, and to the Administrator in the second instance.

Art. 3. The Territorial Council as laid down by article 4 of the Declaration of Constitutional Principles[2] annexed to the Trusteeship Agreement for the Territory of Somaliland will be composed as follows:

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[1] The status of political parties in Somaliland is regulated by British Military Administration proclamation No. 4, of 1948, published in *Somalia Gazette*, Supplement No. 1 of 1948. The relevant provisions are as follows:

"2. In this proclamation, unless the context otherwise requires, "club" means any club, society, association, organization, institution or similar body.

"3. Any person who desires to form or promote a club shall apply to the Civil Affairs Officer of the district in which such club shall intend to have its headquarters for permission to proceed with such formation.

"4. At the time of applying for such permission it shall be necessary for the applicant to forward with the application the following information:

"(*a*) A copy of the rules, regulations, articles of association and laws of the proposed club;

"(*b*) The names and addresses of proposed office bearers, officials and officers of said club;

"(*c*) Details of how said club is to be financed.

"5. The Civil Affairs Officer shall have complete discretion as to authorizing or forbidding formation and may attach such conditions to his written approval as he may think necessary in the public interest subject however to the proviso that any person who feels aggrieved by a decision of a Civil Affairs Officer may appeal to the Chief Administrator within 21 days from the date of said decision against (*a*) any refusal to approve of any such application or (*b*) any of the conditions attached to said approval.

"6. In the event of approval having been given, the club will (1) produce such approval to the police headquarters of the area in which the club headquarters are situated for formal registration in police records, and (2) similarly register their local branches with the Civil Affairs Office of the areas in which said local branches will operate.

[Section 7 deals with changes in rules, etc., notice of which is to be given to the police.]

"8. No club formed and registered in terms of this proclamation shall without prior consent from the Civil Affairs Officer and in accordance with any conditions he may impose:

"(i) Organize or attempt to organize any public processions, gathering, meeting or assembly;

"(ii) Issue any orders of any kind to the population or any part of it;

"(iii) Publish any notice or manifests of any kind to the population or any part of it;

"(iv) Collect any subscriptions other than those provided for in its rules, regulations, articles of association or laws.

"9. No club formed and registered in terms of this proclamation shall indulge in any propaganda of any kind against or in favour of any other club or part of the population, where such propaganda might lead to a breach of the public peace or create public alarm, and shall not take part in any conduct prejudicial to public peace and good order.

"10. Notwithstanding the date hereof the terms of this proclamation shall apply to all clubs formed or promoted before said date.

"11. No person shall, without the prior permission from the Civil Affairs Officer take part in the promoting, organizing or holding of any procession, demonstration, public meeting or other public assembly.

"12. Whenever it appears to a Civil Affairs Officer that in the interests of public safety in any area under his administrative charge it is necessary to prohibit persons carrying arms or congregating in public places he may issue and publish in that area the following orders:

"(*a*) No person, other than members of the same family shall congregate in any public place to form a group of more than five.

"(*b*) No person shall carry in any public place any club, stick, cane or knife or any other thing whatsoever used or capable of being used as a weapon:

"Provided that this order shall not apply to any person who by reason of any physical infirmity requires the assistance of a stick or cane; or to any person carrying any instrument or tool for the purpose of his trade or calling.

[Articles 13 and 14 deal with repeals and penalties.]

[2] Article 4 of the Declaration of Constitutional Principles reads as follows:

"The Administrator shall appoint a Territorial Council, composed of inhabitants of the territory and representative of its people.

"In all matters other than defence and foreign affairs, the Administrator shall consult the Territorial Council.

"The legislative authority shall normally be exercised by the Administrator, after consultation with the Territorial Council, until such time as an elective legislature has been established."

(*a*) *Territorial representation:* each of the six regions will have one seat per 70,000 inhabitants, or fractions of more than 30,000, but not less than three seats for each of those regions which are divided into more than three residencies;

(*b*) *Political representation:* one seat by right for each legally recognized party having at least five recognized branches in the interior of the territory, with the addition for each of these parties of one seat for each group of twenty-five recognized branches;

(*c*) *Economic representation:* four seats for the Somali economic groups, three seats for the Italian economic groups and one seat for the Arab group;

(*d*) *Cultural representation:* one seat;

(*e*) *Minority groups:* three seats (one Italian, one Arab and one Indo-Pakistani).

The number of political seats shall in no case be lower than half the number of the territorial seats, and the total number of non-Somali members shall in no case be higher than one-sixth of the whole composition.

Art. 4. The members of the Territorial Council are nominated by decree of the Administrator and hold office for one year.

A double list of names will be drawn up by:

(*a*) For the territorial members: the regional assemblies elected for this purpose by the residency councils of the region, at the rate of one councillor per 10,000 inhabitants of the residency, or fraction of 10,000, and presided over by the *commissari*;

(*b*) For the political members: the officers at the headquarters of the parties;

(*c*) For the Somali representatives of economic groups: jointly the municipal councils of Merca, Kismayu, Villabruzzi, Galkayu, Bender Kassim, Margherita and Belet Wen, for three seats, and the existing labour associations of syndical character for the fourth seat; for the Italian representatives: the Chamber of Commerce of Mogadiscio; for the Arab representative: the Mogadiscio and Kismayu Arab communities;

(*d*) For the cultural representative: the Cultural and Social Institute;

(*e*) For the representatives of the minority groups: the respective communities through the *commissari* of Benadir and Lower Juba.

The persons designated for the Territorial Council must be able to read and write in Italian or Arabic.

Art. 5. The Territorial Council is presided over by the Administrator, or by the Secretary-General, or by their deputy.

Its functioning is regulated by the rules of procedure put into force by ordinance No. 3, dated 6 February 1951.

GENERAL PROVISIONS

Art. 6. Designations by the residency councils and the municipal councils, as well as by regional assemblies, shall be made by secret ballot. Those unable to write shall indicate discreetly their vote to the chairman, who will be assisted by the local *cadi* and by a teller chosen by the assembly.

Art. 7. The members of the residency councils and of the Territorial Council may not, during their term of office, be submitted to penal procedure nor arrested without prior authorization of the Administrator, except in cases of flagrancy.

[Art. 8 contains transitory provisions.]

ORDINANCE No. 21 ON THE ESTABLISHMENT OF AN INSPECTORATE OF LABOUR[1]

of 23 November 1951

Art. 1. The Labour Inspectorate is hereby established in Somaliland.

Art. 2. The functions of the Labour Inspectorate are:

(*a*) To direct and co-ordinate the activities of bodies and organizations operating in the fields of labour and social welfare;

(*b*) To ensure the application of all legal provisions governing working conditions and social insurance in agricultural, commercial and industrial enterprises, and in general wherever work for wages is being performed, subject to the exceptions fixed by law;

(*c*) To secure information concerning working conditions and performance of work, to supply information and technical advice as to the most efficient means of complying with regulations in force in that matter;

(*d*) To supervise the execution of labour contracts; compliance with labour agreements, and with provisions on labour relations and workmen's protection; the administration of insurance, welfare, health and medical benefits for workmen undertaken by public or private organizations; and the observance of regulations governing accident prevention;

[1] Italian text in *Bollettino Ufficiale* No. 12, of 1 December 1951. English translation from the Italian text by the United Nations Secretariat.

(*e*) To ensure the elimination of known defects in equipment or in labour methods which might endanger the health or safety of workmen by pointing out the danger to the proper authority, and to obtain injunctions or the enforcement of immediate remedial measures.

[Articles 3 and 4 determine which central and regional services are to assume the function of the Inspectorate of Labour.]

Art. 5. Labour inspectors are required to make inspections at short intervals on working conditions in their district.

They are authorized to make use of the following powers in the exercise of their duties:

(*a*) To inspect freely and fully, at any time of day or night, factories, workshops, yards and works as far as they are under their supervision; dormitories and refectories, and all installations and premises in which persons are working who can be presumed, without reasonable doubt, to be entitled to their legal protection;

(*b*) To arrange for any examination, check or inquiry necessary to ensure that the legal provisions are actually complied with, and specifically:

1. To question, either alone or in the presence of witnesses, the employer or the personnel of the enterprise as to the application of legal regulations, or to request information from any other person whose testimony they may consider necessary;

2. To request any book or document prescribed by the legislation concerning working conditions, to determine whether or not the latter conform to legal regulations; to copy them or make extracts from them;

3. To demand the publication of notices whenever legal provisions so provide;

4. To take and remove for analysis samples of materials and substances used or handled after having duly informed the employer or his representative.

On the occasion of a visit of inspection, the labour inspector must notify the employer or his representative of his presence, unless he thinks that such notification might jeopardize the effectiveness of the inspection.

Art. 6. Labour inspectors:

(*a*) Cannot have interests of any kind, direct or indirect, in enterprises placed under their supervision;

(*b*) Are forbidden, under penalty of sanctions laid down in article 623 of the Penal Code, to disclose manufacturing or commercial secrets, or industrial processes of which they may have gained knowledge in the exercise of their duties. This applies even after they have left the service of the Inspectorate of Labour;

(*c*) Must handle as strictly confidential the source of any complaint of a defect in installation, or of a breach of legal provisions, and must refrain from disclosing to the employer or his representative that an inspection has been made as the result of a complaint;

(*d*) Must notify the Central Inspector at once of all instances where the application of labour rules appears contrary to the principles laid down in international agreements and recommendations on labour.

Art. 9. Employees and their representatives are guaranteed the right to communicate freely with labour inspectors.

. . .

ORDINANCE No. 22 PROVIDING FOR THE ESTABLISHMENT OF LABOUR SERVICES [1]

of 23 November 1951

Art. 1. By decree of the Administrator, a labour office, controlled by the resident,[2] may be established in each of the residencies, with jurisdiction within the respective residency district. The office is under the Department of Industry, Internal Commerce and Labour, Labour and Social Assistance Section.

In localities which are not the seat of a residency, labour office sections depending directly on the residency labour office may be established by decree of the Administrator.

Art. 2. The following duties are allocated to labour offices:

(*a*) To collect all necessary data to study the district problems, with special consideration for labour relations and unemployment;

(*b*) To find employment for workers through a special section; to collect in the workers' interest data concerning local labour conditions, to draw up and maintain up-to-date lists of names, divided into professional categories, of workers residing in the district;

(*c*) To keep a record of apprentices, in which the names of those who have reached the thirteenth year of age may be listed; to assure the protection and assistance of the apprentices;

[1] Italian text in *Bollettino Ufficiale* No. 12, of 1 December 1951. English translation from the Italian text by the United Nations Secretariat.

[2] By decree No. 145 of 1 December 1951, the Administrator established labour offices in the following residencies: Mogadiscio, Villabruzzi, Merca, Brava, Margherita and Kismayu.

(*d*) To provide registered workers with a labour card or book, free of charge, as a guarantee of their rights and as a record of their technical qualifications;

(*e*) To act, if requested, as arbitrators in labour disputes between employers and workers;

(*f*) To encourage prevention of labour disputes and their peaceable settlement. For this purpose, the parties are required to submit the dispute to the labour office's consideration for an amicable solution, before having recourse to the judicial authority;

(*g*) To supervise the regular observance of labour contracts and use of manpower;

(*h*) To ensure, in agreement with freely constituted trade unions, the protection and care of workers, and to encourage the formulation of collective labour contracts between workers' and employers' organizations;

(*i*) To ensure the proper observance of rules concerning working conditions, with special regard to working hours, women's and children's work, safety in accordance with the rulings on the prevention of work-incurred accidents, to ensure the application of rules concerning insurance, welfare and social assistance;

. . .

(*l*) To supervise the technical direction of preparatory and vocational training schools and courses;

(*m*) To supervise all institutions having as an object the moral and mental development of workers and their recreation, in the interest of their social advancement.

Art. 3. Labour offices are required:

(*a*) To send to the Department of Industry, Internal Commerce and Labour, Labour and Social Assistance Section, an annual report on the functioning of labour services and on labour conditions in the district;

(*b*) To place before this Department all problems of a social character concerning their own districts.

ORDINANCE No. 28 ESTABLISHING THE ECONOMIC COUNCIL OF SOMALILAND[1]

of 23 December 1951

Art. 1. The Economic Council of Somaliland is hereby established.

This Council is the advisory body of the Administration, dealing with economics and labour.

Art. 2. The Economic Council is composed of:

(*a*) 4 representatives of the industrial workers,
4 representatives of the agricultural workers,
4 representatives of the commercial workers,
2 representatives of the overland transport workers,
1 representative of the sea and air transport workers,
1 representative of the credit and insurance workers,
1 representative of the company managers;

(*b*) 3 representatives of the direct farmers (owners, concession holders, employers, participants),
2 representatives of the artisan class,
2 representatives of co-operative societies of production and consumption;

(*c*) 8 representatives of large, medium and small industrial enterprises,
8 representatives of agricultural enterprises,
8 representatives of enterprises for import and export, wholesale and retail trade,
2 representatives of overland transport enterprises,
1 representative of sea and air transport enterprises,
1 representative of insurance enterprises;

(*d*) 1 representative of the Cassa per le Assicurazioni Sociali della Somalia,

(*e*) 1 representative of the Banca d'Italia,

(*f*) 1 representative for each ordinary credit institute,

(*g*) 12 persons particularly competent in economic matters, for the branches of industry, agriculture and commerce,

(*h*) 4 persons particularly competent in social matters.

Art. 3. The members of the Economic Council of Somaliland are appointed by decree of the Administrator.

Designation of members indicated in sub-paragraph (*a*) devolves upon the trade union organizations in proportion to their numerical importance, for a number equal to twice that of the members to be appointed.

The Administrator appoints the members for those sections of labour for which no trade unions exist.

Designation of members as by sub-paragraph (*c*) devolves upon the Chamber of Commerce, Industry and Agriculture of Somaliland in a number equal to twice the number of members to be appointed.

Designation of members as by sub-paragraphs (*d*), (*e*) and (*f*) devolves upon each of the bodies there indicated.

[1] Italian text in *Bollettino Ufficiale* No. 12, Supplement 3, of 31 December 1951. English translation from the Italian text by the United Nations Secretariat.

Members mentioned under (*b*), (*g*) and (*h*), and those for whom no designation is made within fifteen days from the request, will be designated by the Administrator.

Art. 7. The Economic Council may, at the Administrator's request or on its own intitiative, carry out research into problems in the field of economics and labour, apart from its normal advisory tasks.

. . .

DECREE No. 164 CONCERNING REPEAL OF PROCLAMATION NO. 3 OF 1947 ON AGRICULTURAL LABOUR AND CERTAIN OTHER TEXTS[1]

of 31 December 1951

SUMMARY

The decree provides for the repeal of the Proclamation of 16 January 1947 on agricultural labour and certain other texts by which the Chief Administrator was empowered to make regulations for purposes such as the recruitment, engagement and embarkation of labourers, their working conditions, housing, feeding, sanitary arrangements, nutrition, and water supply, the maximum number of working hours and certain other details.

[1] Italian text of this decree in *Bollettino Ufficiale* No. 2, of 1 February 1952. Summary prepared by the United Nations Secretariat. Proclamation No. 3 of 1947 was published in *Somalia Gazette*, Supplement No. 2, of 1947.

B. Non-Self-Governing Territories

AUSTRALIA

TERRITORY OF PAPUA AND NEW GUINEA

Papua

AN ACT TO APPROVE THE PLACING OF THE TERRITORY OF NEW GUINEA UNDER THE INTERNATIONAL TRUSTEESHIP SYSTEM; TO PROVIDE FOR THE GOVERNMENT OF THE TERRITORY OF PAPUA AND THE TERRITORY OF NEW GUINEA, AND FOR OTHER PURPOSES[1]

No. 9 of 1949

NOTE

See Australia, Note on the development of human rights, and extracts from this Act on pp. 6 and 425 of this *Yearbook*.

RATIFICATION OF INTERNATIONAL LABOUR ORGANISATION CONVENTIONS[1]

The following International Labour Organisation Conventions have been ratified by the Commonwealth on behalf of the Territory of Papua, as the responsible authority:

No. 8. Unemployment Indemnity (Shipwreck), 1920;

No. 27. Marking of Weight (Packages transported by Vessels), 1929;

No. 29. Forced Labour, 1930.

[1] Convention No. 89, 1948 has not been ratified, contrary to the indication in *Yearbook on Human Rights for 1950*, p. 357.

BELGIUM

BELGIAN CONGO

DECREE ESTABLISHING A SCHEME OF FAMILY ALLOWANCES FOR INDIGENOUS WORKERS[1]

dated 26 May 1951

CHAPTER I

PERSONS COVERED BY THIS DECREE

Art. 1. Every employer shall be liable in the conditions laid down in this decree, to pay family allowances to persons employed by him under a contract of employment, a contract of apprenticeship or boatmen's articles of agreement for employment on inland waterways, including trainees, irrespective of whether they are remunerated or not.

The aforementioned persons shall be referred to as "workers" in the text which follows.

Workers who merely carry on an activity of an accessory nature shall not be deemed to be workers within the meaning of this decree.

An activity shall be deemed to be accessory if the worker carries on an independent activity as his principal activity or if the sum total of his daily activities as a worker does not amount to a weekly average of one half-day's work each day.

Art. 2. For the purposes of this decree, an employer shall not be entitled to invoke the nullity of a contract where such nullity is the result of the violation (even involuntary) by the said employer of the law respecting contracts of employment, contracts of apprenticeship, boatmen's articles of agreement for employment on inland waterways or contracts for training.

CHAPTER II

ALLOWANCES AND RECIPIENTS

Art. 3. Every worker shall be entitled to family allowances in respect of all periods during which he is covered by the legislation respecting contracts of employment, contracts of apprenticeship, boatmen's articles of agreement for employment on inland waterways or contracts for training, for:

1. Every legitimate child born of a monogamic marriage or marriage by civil law, custom or religious ceremony capable of being confirmed by the law as a valid marriage, and every child legitimized by any such marriage. Account shall be taken of children common to both parents and children issue of one parent only, including children of a dissolved polygamic marriage adopted into a monogamic marriage contracted by one of the spouses;

2. Every child of which the worker is the legally appointed guardian (either under the system of guardianship provided for in sections 249 to 266 of the Civil Code of the Belgian Congo or the guardianship of orphans according to custom);

3. Adopted children or children recognized according to law;

4. His wife (in the case of a monogamic marriage) who is not divorced or separated from him and who has charge of at least one child entitled to receive benefits (if she resides in an area where tribal custom does not apply) or at least three children entitled to receive benefits (if she resides outside such area).

Children's allowances shall be paid in respect of every child up to the age of sixteen years, or up to twenty-one years if the child pursues a full-time course in an educational establishment.

Family allowances shall be paid only in respect of the wife and children maintained by the worker and living with him unless the separation was caused by the employer or results from the nature of the work.

Children living in an educational establishment shall be deemed to be living with the worker.

Allowances shall not be given in the case of wives and children under sixteen years of age who already receive rations for their work in the service of an employer.

Art. 4. If both husband and wife are in a position to claim family allowances in respect of the same children, the allowances shall be granted only to the husband.

If persons other than the husband and wife are in a position to claim family allowances in respect of the same children, such allowances shall be paid only to the person in charge of the said children.

[1] French text of the decree in *Bulletin officiel* of the Belgian Congo, of 15 July 1951, received through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des sciences administratives*, Brussels. English translation of the complete text in: International Labour Office, *Legislative Series*, 1951, Bel. 9.

No allowance shall be granted to a worker whose wife receives family allowances from the colony.

Art. 5. Wherever the interests of the spouse or children so require, the local administrative officer or his representative shall be empowered to order, on application by the said husband or wife, if he deems it necessary, or on his own initiative, that the allowances be given to a person or an institution appointed by him.

Both husband and wife shall be heard in every case.

The decision shall be noted in the workbook and the person or institution appointed shall be notified thereof. The decision may be appealed against to the district commissioner.

CHAPTER III

ALLOWANCES

Art. 6. The family allowance in respect of a wife shall be fixed as one-half of the rations to which the worker is entitled; the allowance in respect of a child shall be one-quarter of the said rations.

Family allowances shall be granted in accordance with the rules respecting the issue of rations to the worker.

Family allowances shall be paid in kind; as an exceptional measure, if the worker receives the value of the ration in cash the family allowances may be paid in cash.

The allowances in kind shall be paid once a week; the cash value thereof shall be paid twice a month.

Art. 7. The governor of the province shall determine for each region or each employer the proportion between the number of workers and the average number of wives and children entitled to receive allowances.

The Governor-General shall be empowered to order payment of a contribution equal to the difference between the total amount of the allowances actually paid and the total amount of the allowances corresponding to the average figure calculated, such contribution to be payable by employers who grant allowances to a number of wives and children less than the said average.

The contribution shall be paid to a special fund managed by the Colonial Fund for Employees' Pensions and Family Allowances. The said Fund shall be endowed with legal personality. Its rules shall be established by Royal Order.

The revenue from the contributions shall be used to assist children who have previously received family allowances, or should have received them, and are incapable of maintaining themselves by their work as a result of physical or mental infirmity.

Art. 8. Family allowances shall in no case be deemed to be additional remuneration.

Family allowances shall not be taken into account for the purpose of calculating minimum wages. They shall be inalienable and free from liability to attachment.

CHAPTER IV

SUPERVISORY MEASURES

Art. 9. The labour inspectors and the local administrative officers shall be responsible for ensuring the observation of this decree, without prejudice to the duties of the officers of the judicial police.

CHAPTER V

PENALTIES AND LIMITATION

Art. 10. Any employer (or his agent) who fails or refuses to pay family allowances to a worker within the time limit and in the manner laid down by the law or who fails or refuses to pay the sums referred to in section 7 shall be liable to a fine of not less than 100 and not more than 200 francs.

The amount of the fine shall be multiplied by the number of persons in respect of whom the offence is committed, but the sum total of the fines imposed shall not exceed 10,000 francs.

Art. 11. Any person who:

1. By producing untrue written evidence or by making false declarations or in any other manner is guilty of wilful fraud for the purpose of obtaining for himself or enabling some other person to obtain the allowances referred to in this decree or in order to shirk the obligations provided for in this decree; or

2. Being aware that he is not entitled to all or a part of the allowances granted pursuant to this decree, fails to inform the local administrative officer or his representative within fifteen days that he has received allowances to which he was not entitled:

shall be liable to a term of penal labour of not less than eight days and not more than one year or a fine of not less than 200 and not more than 400 francs, or both.

Art. 12. The employer shall be reponsible at civil law for payment of fines imposed on his agents as a result of non-observance of the provisions of this decree.

Art. 13. The injured person's right of action in the civil courts and the State prosecution in the case of a contravention for which penalties are provided in sections 10 and 11 shall become statute-barred one year after the date on which the contravention was committed.

Art. 14. Every agreement which is contrary to the provisions of this decree shall be automatically null and void.

. . .

DECREE OF 30 MARCH 1948 TO GENERALIZE THE SYSTEM OF FAMILY ALLOWANCES FOR NON-NATIVE EMPLOYED PERSONS AS SUPPLEMENTED BY THE DECREE OF 29 SEPTEMBER 1948 AND AMENDED BY THE DECREE OF 26 NOVEMBER 1951 [1]

CHAPTER I

SCOPE

Art. 1. Every employer having one or more persons in his service to whom the decree of 10 October 1945 respecting the insurance of employed persons against old age and premature death applies shall be subject to the provisions of this decree.

Persons whose employment is subsidiary to their principal business shall not be deemed to be employed persons for the purposes of this decree.

The employment of persons who are primarily engaged in carrying on an independent occupation and of persons whose total daily periods of employment do not together amount to a half-day's work shall be deemed to be subsidiary employment.

(*As amended on 26 November 1951*). For the purposes of this decree, it shall be presumed that no contract of service has been concluded between relatives by blood or marriage up to the third degree inclusive. Similarly, relatives by blood or marriage up to the third degree inclusive living with and forming part of the household of a partner in a company, a sleeping partner, a member of an incorporated non-commercial operative company, a non-contractual *de facto* partnership or a non-incorporated special partnership, a business manager, managing director or director of a company, institution or any other association, shall not be deemed to be employed under a contract of service by such company, institution, partnership or association.

No proof shall be admitted against the presumptions laid down in the preceding paragraph.

. . .

CHAPTER II

PERSONS TO WHOM AND IN RESPECT OF WHOM ALLOWANCES ARE PAYABLE

Art. 3 (*as amended on 26 November 1951*). Every employed person whose employment is not subsidiary employment within the meaning of article 1 and to whom the last two paragraphs of the said article do not apply shall be entitled to family allowances during every period when he is compulsorily insured under the Decree of 10 October 1945 respecting the insurance of employed persons against old age and premature death, for the benefit of:

(1) His monogamous wife (excluding a wife divorced, but including a wife separated *a mensa et toro*, from her husband) if she has the care of one or more children.

The allowance shall not be payable:

(*a*) If the wife is engaged in any gainful occupation;

(*b*) Unless the employed person is entitled to family allowances under paragraphs (2), (3) and (4) below;

(2) Each legitimate child (including children of the marriage, the employed person's own children and those of his wife if they are dependent on him);

(3) Any illegitimate children who have been acknowledged and any adopted children (in so far as they are in fact dependent and are brought up elsewhere than in the native environment, including any illegitimate children who have been acknowledged by the employed person or his wife and any children adopted by either party);

(4) Any grandchildren who are dependent (in so far as a family allowance is not otherwise payable for them under the laws in force in the Belgian Congo or Ruanda-Urundi).

Allowances under paragraphs (2), (3) and (4) shall be payable until the child attains the age of eighteen years: provided that they shall be continued until the age of twenty-one years if it is shown that the child is attending a full-time educational establishment. They shall be payable for the period of the school holidays only if the child continues to attend the establishment after the holiday.

No allowance shall be payable in respect of married children unless they are dependent on the employed person receiving the allowance.

Art. 3 bis (*as amended on 26 November 1951*). Employed persons who are in receipt of income or allowances under chapters III, VI and VII of the Decree of 10 October 1945 shall be entitled to family allowances in respect of the beneficiaries designated in the preceding section, provided that they have completed at least sixteen years' service, including holidays, in the Belgian Congo or Ruanda-Urundi.

. . .

[1] The French texts of the 1948 decrees are given in the *Bulletin officiel* of the Belgian Congo of 15 May 1948 and 15 November 1948. The French text of the decree of 26 November 1951 amending the above-mentioned decrees will be found in the *Bulletin officiel* of the Belgian Congo of 20 December 1951. The latter decree came into force on 1 January 1952. English translation from the French text by the United Nations Secretariat. The decree of 26 November 1951 came into force on 1 January 1952.

If the employed person has completed at least twenty years' service, including holidays, in the Belgian Congo or Ruanda-Urundi, the family allowances shall be granted at the age of fifty-five.

If he has completed at least eighteen but less than twenty years' service, the allowance shall be granted at the age of fifty-six.

If he has completed at least sixteen but less than eighteen years' service, the allowances shall be granted at the age of fifty-seven.

. . .

CHAPTER III

ALLOWANCES

Art. 6 (as amended on 26 November 1951). Family allowances shall be paid for each calendar month during the whole of which the employed person was compulsorily insured under the decree of 10 October 1945 respecting the insurance of employed persons against old age and premature death, or during which he received the income or allowances provided for under that legislation if he meets the requirements laid down in article 3 *bis*.

. . .

Art. 8 (as amended on 26 November 1951). The monthly rate of the family allowances provided for in section 3 shall be:

700 francs for the first child in respect of whom an allowance is payable;

850 francs for the second child in respect of whom an allowance is payable;

1,100 francs for the third child in respect of whom an allowance is payable;

1,200 francs for the fourth child in respect of whom an allowance is payable;

1,300 francs for the fifth child and each further child in respect of whom an allowance is payable;

and, for the wife, the highest rate payable in respect of any of the children.

The rate of the family allowances provided for in article 3 *bis* shall be equivalent to half the amount established above.

. . .

CHAPTER IV

CONTRIBUTIONS

Art. 11 (as amended on 26 November 1951). Every employer to whom this decree applies shall pay a monthly contribution on behalf of each employee whose employment is not a subsidiary employment within the meaning of article 1 and who is not covered by the last two paragraphs of the said article, and for whom contributions are payable under the Decree of 10 October 1945 respecting the insurance of employed persons against old age and premature death.

The monthly rate of the contribution shall be 1,000 francs in respect of male employees, and 700 francs in respect of female employees.

The contribution under this article shall only be payable in respect of complete calendar months during which the employee was insured under the above mentioned decree.

The rate of the monthly contribution may be modified by Royal Order.

The employers who are authorized to pay family allowances direct to their employees shall be subject to such special rules as are prescribed for them. They must, *inter alia*, submit their annual accounts and vouchers before the end of the quarter following the expiration of the financial year so that contributions may be set off against the allowances due, and must clear off any balance within the same time limit.

Art. 13. The employer shall not be entitled to recover from his employees or to deduct from their remuneration any contribution or part thereof payable by him.

Art. 14 (as amended on 26 November 1951). If an employer fails to pay the full amount of the contribution or to supply the documents required at the date and in the manner prescribed by law, the contribution shall be increased by 1 per cent for each month of delay.

. . .

[The following chapters deal with the collection of contributions and payment of allowances, the Family Allowances Council which determines in first instance all complaints made by employed persons, appeals against decisions of the Family Allowances Council which are made to the Appeal Court in Leopoldville, penalties and limitations.]

DECREE TO REPEAL ARTICLE 19, PARAGRAPH 2, OF THE CONSOLIDATED DECREE CONCERNING INDIGENOUS JURISDICTIONS IN THE BELGIAN CONGO (PENALTY OF WHIPPING)[1]

dated 18 December 1951

NOTE

The report of the Colonial Council on the draft of this decree states:

"This draft decree abolishes whipping as a penalty.

"The earlier decree of 14 December 1933 had reduced the maximum number of strokes to eight, in the hope of thus preparing for the abolition of this penalty. The general intellectual evolution of the populations and the progress in the relations between the indigenous authorities and the people whom they administer have now made it possible to carry out its complete abolition.

"The draft decree did not give rise to any discussion and was approved unanimously at the Council meeting held on 7 December 1951."

[1]French text in the *Bulletin officiel du Congo Belge*, Part 1, No. 2, of 15 February 1952, received through the courtesy of Mr. E. Lesoir, Secretary-General of the Institut international des sciences administratives, Brussels. English translation from the French text by the United Nations Secretariat.

Single article. Article 19, paragraph 2, of the decrees of 15 April 1926, 22 February 1932, 14 December 1933 and 17 March 1938, consolidated by the royal order of 13 May 1938, concerning indigenous jurisdictions, is hereby repealed.

DECREE TO REPEAL ARTICLE 42, PARAGRAPH 1, OF THE DECREE OF 5 DECEMBER 1933 CONCERNING INDIGENOUS JURISDICTIONS (PENALTY OF WHIPPING)[1]

dated 18 December 1951

NOTE

The Report of the Colonial Council on the draft of this decree states:

"This draft decree abolishes the penalty of whipping as a disciplinary measure applicable to policemen and messengers in the indigenous *circonscriptions*. The abolition is justified by the professional and moral quality of these officials, which has improved appreciably in recent years.

"The draft decree did not give rise to any discussion and was approved unanimously at the Council meeting held on 7 December 1951."

[1]French text in the *Bulletin officiel du Congo Belge*, Part 1, No. 2, of 15 February 1952, received through the courtesy of Mr. E. Lesoir, Secretary-General of the Institut International des Sciences administratives, Brussels. English translation from the French text by the United Nations Secretariat.

Single article. Article 42, paragraph 1, of the Decree of 5 December 1933 concerning indigenous *circonscriptions* is hereby repealed.

DENMARK

GREENLAND

GREENLAND SCHOOLS ACT[1]

Act No. 274 of 27 May 1950

CHAPTER II

PRIMARY SCHOOL

Art. 7. (1) A child attaining seven years of age before or during the calendar year shall, unless his parents provide for him other suitable education, which shall be subject to ordinary school supervision, be bound to attend school at the beginning of the school year. Compulsory school attendance shall cease at the end of the school year occurring in the calendar year in which the child attains the age of fourteen years.

(2) The Minister of State shall make rules governing compulsory school attendance.

Art. 9. The subjects of instruction shall always include religion, the reading and writing of Greenlandish and Danish, arithmetic, writing, hygiene, history, geography and natural history . . .

Art. 10.[1] Where the circumstances so require, primary-school instruction may, as prescribed by the Minister of State on the recommendation of the Directorate of Schools, be given in two types of course as follows: in the first type of course (course A) the language of instruction throughout the entire period of attendance at school and in all subjects except Danish shall be Greenlandish; in the second type of course (course B) the language of instruction from the end of the second school year at latest, in a progressively increasing number of subjects, shall be Danish, except in Greenlandish and religion, where it shall be Greenlandish.

(2) The school inspector, after consultation with the principal of the school and after making every possible allowance for the wishes of the parents, shall decide which pupils may be regarded as suited for admittance to the Danish-language course.

[1]Danish text in *Lovtidenden A* No. 32, of 25 June 1950, received through the courtesy of Professor Max Sørensen, University of Aarhus. English translation from the Danish text by the United Nations Secretariat.

CHAPTER III

SECONDARY SCHOOL AND TEACHERS' TRAINING SCHOOL

Art. 11. . . .

(3) The language of instruction shall be Danish, except that religion, Greenlandish and Greenland civics shall be taught in Greenlandish . . .

CHAPTER V

GENERAL PROVISIONS

. . .

Art. 20. A Danish teacher engaged for service in Greenland must ordinarily have passed a test in Greenlandish. The Minister of State shall make rules for the test.

Art. 22. (1) Any young Greenlander who, while or after attending school in Greenland, shows special aptitude for further training at a more advanced school or for a handicraft, trade, etc., shall, as determined by the Minister of State on the recommendation of the competent authorities in Greenland, be enabled to obtain further training in Denmark.

(2) Any Greenlander going, as provided in paragraph 1, to Denmark to complete his training shall, as determined by the Minister of State, be granted free travel and subsistence. The sums required for this purpose shall be appropriated in the annual Finance Acts.

Art. 24. The Minister of State shall take the necessary steps to enforce the provisions of this Act, and shall also determine the manner in which the transition from the present school organization to the organization prescribed by this Act should be effected.

. . .

ORDER No. 369 CONTAINING TRANSITIONAL PROVISIONS FOR EDUCATION IN GREENLAND[1]

of 25 August 1950

Art. 6. (1) In elementary schools at Julianehaab, Godthaab, Egedesminde and Holsteinsborg, teaching in the first grade, beginning on 1 September 1950, shall be organized with a view to separating pupils into a Danish-language and a Greenlandish-language group at the completion of the second grade in 1952. It must therefore be ensured that while the teaching of the Greenlandish language is not neglected, pupils are given a thorough grounding in the Danish language in their first school year.

(2) As the teaching of the Greenlandish language is in the nature of an experiment, the Directorate of Schools shall be required to prepare and transmit to the Ministry of State not later than 1 June 1951 a report on the progress of the scheme to that date, with a view to the promulgation of more detailed regulations concerning its scope and aims.

[1] Danish text in *Lovtidenden A* No. 43, of 25 August 1950. English translation from the Danish text by the United Nations Secretariat. The order was promulgated by the Minister of State.

ACT No. 271 CONCERNING THE ADMINISTRATION OF JUSTICE IN GREENLAND[1]

of 14 June 1951

CHAPTER II

COMMON PROVISIONS FOR ALL CASES

A. *Language of the Court*

Art. 1. The languages of courts are Greenlandish and Danish.

If not all members of the court and parties to the case understand the language used, interpretation shall be made by a member of the court or by an interpreter.

D. *Admission of the Public*

Art. 7. Meetings of the court are held in public.

By way of exception, when special circumstances so require, the court may decide that a case shall be dealt with entirely or partially *in camera*. Such decision may be taken in particular out of consideration for the youth of the defendant, or in the interests of morals or good order in the court room, or to prevent the causing of undue harm to parties or witnesses by holding public precedings, or to prevent the hindering of investigations in a criminal matter by holding meetings in public.

[1] Danish text in *Lovtidenden A* No. 28, of 22 June 1951, received through the courtesy of Professor Max Sørensen, University of Aarhus. English translation received through the courtesy of Professor Max Sørensen, University of Aarhus.

CHAPTER V

PROCEDURE IN CRIMINAL CASES

B. *Investigation*

. . .

Art. 9. If protest is made against a seizure, report shall be made without undue delay by the police to the district judge.

The person concerned shall be informed that the case will be submitted to the district judge, and that he will be permitted to make a submission to the judge orally or in writing.

The question whether a seizure shall be maintained shall be decided by the district judge.

Art. 10. The police shall be entitled to search dwellings or other rooms, receptacles or persons, in order to ascertain the existence of an offence or to trace objects which are subject to seizure.

. . .

Art. 11. If the person concerned does not consent, search may, as a general rule, be made only by order of the district court.

. . .

Art. 14. Any person arrested shall within twenty-four hours be produced before a judge or magistrate unless such person has been previously released.

If a court cannot be held within the said term of twenty-four hours due to the absence of the judge, or if the accused has been apprehended at such a distance

from the seat of the court that he cannot be produced before the judge within twenty-four hours, he shall be so produced as soon as possible and not later than twenty-four hours after the removal of the obstacle preventing his production. Likewise the accused shall, if he has been arrested outside of the place where the court has its seat, be taken there without undue delay . . .

C. *Initiation of the Prosecution*

Art. 20. Prosecution is initiated by an indictment drawn up and signed by the police. The indictment is served upon the accused and handed in to the district judge.

Art. 22. If the accused, when the indictment is served upon him, so requests, or if the district judge deems that the alleged crime may entail sentence of imprisonment, counsel shall be assigned to the accused.

. . .

D. *Proceedings in Court*

. . .

Art. 35. The district judge shall inform the accused of the offence with which he is charged and also that he is not obliged to speak; the judge shall then ask him whether he is willing to speak . . .

Art. 36. No compulsion must be brought to bear against an accused who refuses to answer. If his refusal may cause delay of the proceedings or hamper the defence, the judge shall draw his attention to that fact.

FRANCE

TERRITORIES UNDER THE SUPERVISION OF THE MINISTRY OF FRANCE OVERSEAS

ACT No. 51-586 RELATING TO THE ELECTION OF DEPUTIES TO THE NATIONAL ASSEMBLY IN THE TERRITORIES COMING UNDER THE SUPERVISION OF THE MINISTRY OF FRANCE OVERSEAS[1]

dated 23 May 1951

TITLE I

GENERAL

Art. 1. The territories under the supervision of the Ministry of France Overseas shall be represented in the National Assembly by deputies whose number shall be determined in accordance with the table[2] appended to this Act.

Art. 2. The electors shall be arranged either into a single college or into two colleges (citizens with French civil status and citizens who have retained their personal status) according to the nature of the territories and in conformity with the said table.

TITLE II

ROLLS OF ELECTORS

Art. 3. The following persons shall have the right to vote:

(1) Any person whose name appears on the roll of electors on the date of the promulgation of this Act;

(2) Any citizen, of either sex, who possesses French civil status and has attained the age of twenty-one;

(3) Any citizen, of either sex, who, having retained his personal status, has attained the age of twenty-one and either belongs to one of the categories specified in article 40 of the Act of 5 October 1946, as amended by Act No. 47-1606 of 27 August 1947,[3] or to one of the following categories, that is to say if he or she:

Is the head of a family or household and, on 1 January of the current year, was responsible, on his own account or on account of the members of his family, for paying the tax known as the *minimum fiscal* or any similar tax;

Is the mother of two children who are alive or who have died in the service of France;

Is in receipt of a civil or military pension.

The penalties by reason of which a person may not be placed on the roll of electors shall be those specified by the legislation in force in the metropolitan country.

Art. 4. A number of administrative commissions shall be set up each year in every administrative district (*cercle*, region, province or department), in conformity with article 1 of the Act of 7 July 1874, with instructions to review the roll of electors. Any elector may claim as of right to be placed on the roll of electors. Entries shall be made on the roll of electors by or under the supervision of the chief officer of the administrative district.

. . .

[Articles 5 and 6 deal with the composition of the administrative commission responsible for reviewing the rolls of electors and fix the dates between which electoral rolls are to be reviewed each year. Title III deals with the election procedure; one of the provisions of this title, article 13, lays down that no person may be a candidate in more than one electoral district or appear as candidate on more than one list in the same district; article 14 provides that in each commune and in each administrative district one polling station is to be installed for every 1,500 or more electors. Article 16 is reproduced below.]

Art. 16. The candidates on any list, and any candidate shall be entitled to appoint one of their number or a duly authorized agent to supervise all the voting, returning and counting operations wheresoever carried out, and also to require that the official account of the election shall mention any observations, protest, or challenge relating thereto, whether before or after the results have been published. The official account shall be signed by the duly authorized agents.

The names of the said agents must appear on the roll of electors of the district. They may not be removed except in the case of a disturbance caused by them; in that they shall be replaced immediately by substitute agents.

Every candidate shall have free access to all the polling offices in the electoral district in which he is standing for election.

[Title IV contains miscellaneous provisions.]

[1] French text in *Journal officiel* No. 121, of 24 May 1951. English translation from the French text by the United Nations Secretariat.

[2] Not reproduced in this *Yearbook*. Forty-three seats are allotted to the electoral districts of the territories coming under the supervision of the Ministry of France Overseas.

[3] See *Yearbook on Human Rights for 1948*, p. 317.

ACT No. 51-1093 EXTENDING TO THE OVERSEAS TERRITORIES, TOGOLAND AND THE CAMEROONS THE PROVISIONS OF ACT No. 48-1979 OF 31 DECEMBER 1948 TO AMEND ARTICLE 13 OF THE IMPRISONMENT FOR DEBT ACT OF 22 JULY 1867[1]

dated 14 September 1951

Single article. The provisions of Act No. 48-1979 of 31 December 1948, the object of which is to amend article 13 of the Act of 22 July 1867 and to make it unlawful to imprison for debt any minor who was under the age of eighteen years at the time when the events leading to the prosecution took place, shall henceforth apply to the overseas territories, Togoland and the Cameroons.

[1] French text in *Journal officiel* No. 218, of 15 September 1951. English translation from the French text by the United Nations Secretariat.

FRENCH WEST AFRICA

DECREE No. 51-1092 TO AMEND THE PROVISIONS OF THE DECREE OF 14 APRIL 1904 RELATING TO THE PROTECTION OF PUBLIC HEALTH IN FRENCH WEST AFRICA[1]

dated 12 September 1951

Art. 1. Article 1 of the decree of 14 April 1904 shall be supplemented as follows:

"The above provisions[2] shall not prevent the mayor or the local administrative authority from issuing any orders or decisions the object of which is to make any arrangements that the said mayor or authority considers necessary in the particular commune or administrative unit for the protection of public health."

Art. 2. Article 2 of the decree of 14 April 1904 shall be supplemented as follows:

"After the governor general, acting on the advice of the director general of public health, has issued an order declaring a state of chronic endemicity to exist, the governor, acting on the advice of the local directors of public health or of the director of the general mobile hygiene or prophylactic service, may take any action with a view to isolating the areas where the said endemicity occurs.

"The governor general shall determine, after consultation with the higher committee for hygiene and public health of French West Africa, whatever measures are likely to facilitate the attendance of the population at specified places with a view to the detection of the disease, the treatment of sick persons and possibly the isolation of especially contagious cases, and, generally, make whatever arrangements are considered indispensable for effective action against the endemic diseases in question.

"Any person who violates local orders issued in pursuance of this general order shall be liable to the penalties set forth in the decree of 3 May 1945. However, no fine shall exceed five hundred francs and no term of imprisonment shall exceed eight days."

Art. 3. Article 5 of the decree of 14 April 1904 is hereby repealed and superseded by the following provisions:

"Vaccination against smallpox and yellow fever shall be compulsory for all persons. These vaccinations shall be renewed every four years.

"Parents and guardians are held personally answerable for compliance with this measure.

"The governor general, acting on the advice of the higher committee for hygiene and public health of French West Africa, shall lay down the general conditions under which these vaccination operations shall be carried out in the territory.

"Any person who violates local orders issued in pursuance of this general order shall be liable to the penalties set forth in the decree of 3 May 1945. However, no fine shall exceed five hundred francs and no term of imprisonment shall exceed eight days."

Art. 4. The President of the Council of Ministers and the Minister of Overseas France shall be responsible for giving effect to this decree, which shall be published in the *Journal officiel* of the French Republic and in the *Journal officiel* of French West Africa and inserted in the *Bulletin officiel* of the Ministry of Overseas France.

[1] French text in *Journal officiel* No. 217, 14 September 1951. English translation from the French text by the United Nations Secretariat.

[2] The provisions of article 1 of the decree of 14 April 1904 establish the duties of the mayor or local administrative authorities to apply strictly all regulations designed, by precautionary measures, to prevent or to eradicate certain contagious diseases and to ensure the salubrity of dwellings, food, water, etc.

DECREE No. 51-1100 CONCERNING CERTAIN FORMALITIES OF MARRIAGE BETWEEN PERSONS WITH PERSONAL STATUS IN FRENCH WEST AFRICA, FRENCH EQUATORIAL AFRICA, TOGOLAND AND THE CAMEROONS[1]

dated 14 September 1951

Art. 1. In French West Africa, French Equatorial Africa, the Cameroons and Togoland, the marriage of citizens who have retained their personal status shall be governed by their own customary law, subject to the provisions of the decree of 15 June 1939 and to those contained in the following articles.

Art. 2. Even in the countries where the dowry is a customary institution, women over the age of twenty-one years and women whose previous marriages have been legally dissolved may freely marry, and no person may claim a material advantage by reason of the marriage, either in connexion with the betrothal or during the marriage.

Art. 3. In the said countries, the absence of the parents' consent, if due to excessive demands on their part, shall be no impediment to the marriage of a woman under the age of twenty-one years.

A demand shall be held to be excessive whenever the rate of the dowry claimed exceeds the figure laid down for the several regions by the chief of the territory.

Art. 4. The courts of first degree shall be competent to try disputes arising out of the application of article 3. In any case where they rule that the parents have made an excessive demand, they shall be bound to issue to the applicant a certificate to that effect without charge.

The said certificate will enable the applicant to cause his marriage to be registered by the registrar without the consent of the bride's parents.

Art. 5. Any citizen who has retained his personal status may, at the time of his marriage, request the registrar to note on the marriage certificate his express declaration to the effect that he will not marry another woman for so long as the marriage he is contracting is not duly dissolved.

This declaration shall constitute the special certificate referred to in article 339, paragraph 2, of the Penal Code applicable in French West Africa, French Equatorial Africa, the Cameroons and Togoland.

Art. 6. The Minister of Overseas France shall be responsible for giving effect to this decree, which shall be published in the *Journal officiel* of the French Republic and in the *Journal officiel* of each of the territories concerned and inserted in the *Bulletin officiel* of the Ministry of Overseas France.

[1] French text in *Journal officiel* No. 220, of 17 and 18 September 1951. English translation from the French text by the United Nations Secretariat.

FRENCH EQUATORIAL AFRICA

NOTE

Decree No. 51-1100 of 14 September 1951 concerning certain details of marriage between persons who retain their personal status in French West Africa, French Equatorial Africa, Togoland and the Cameroons.[1]

[1] See the preceding text.

TUNISIA

DECREE CONCERNING ADMISSION TO POSTS IN THE PUBLIC ADMINISTRATIVE DEPARTMENTS OF THE REGENCY[1]

dated 8 February 1951

Art. 1. Admission to posts in the public administrative departments of the Regency specified in article 1, paragraph 1, of our aforesaid decree of 8 February 1951[2] shall henceforth be governed by the following provisons:

Art. 2. French and Tunisian candidates, divided

[1] French text in *Journal officiel tunisien* No. 12, of 9 February 1951. English translation from the French text by the United Nations Secretariat.

[2] Article 1, paragraph 1, of this decree enumerates the departments (Ministries, Directorates and a Commissariat) of the Central Administration of the Kingdom.

into two groups, shall take the same examination and shall be marked by the same examination boards. The order determining the examination conditions shall state the minimum average mark required to pass.

Art. 3. The places to be filled by competitive examination shall be allotted to each group of candidates on a proportional basis. If the number of candidates in each or either group who obtain the average mark required to pass is less than the number of places allocated to the group, the remaining places shall not be filled but a further examination shall be held to fill them, and any new vacancies that may occur, in the proportions specified in article 4 below.

Art. 4. The proportions referred to in article 3 above shall be as follows:

For candidates of French nationality, one-half of the places in examinations for admission to posts in categories A and B, one-third of the places in examinations for admission to posts in category C, and one-quarter of the places in examinations for admission to posts in category D.

For candidates of Tunisian nationality, one-half of the places in examinations for admission to posts in categories A and B, two-thirds of the places in examinations for admission to posts in category C, and three-quarters of the places in examinations for admission to posts in category D.

Art. 5. Examinations for admission to posts in categories C and D shall include an optional Arabic language test. A candidate who does not take his test, or who takes it and fails to obtain a mark at least equal to the average mark, may not be confirmed in his appointment until he proves that he has sufficient elementary knowledge of the Arabic language to carry on a simple conversation on current topics relating, in particular, to the duties of his post.

Art. 6. For the purposes of this decree, posts shall be classified in categories A, B, C and D, as defined in article 104 of the aforesaid Decree of 23 May 1949,[1] on the basis of the coefficient applicable to the initial grade of the *cadre* which for this purpose shall be compared with the initial coefficient of the said categories.

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[1] Article 104 of this decree contains a scale applicable to civil servants' salaries in accordance with their duties and posts.

NETHERLANDS

NEW GUINEA

ORDER OF THE GOVERNOR OF NEW GUINEA ESTABLISHING A BOARD OF EDUCATION[1]

dated 12 August 1950

SUMMARY

By an order of 12 August 1950 a Council for Popular Education has been established. The Board shall advise the Government of New Guinea, when requested or otherwise, on important social and educational questions connected with the intellectual and material welfare of the indigenous population. The Board began its activities in 1951.

[1] Dutch text in the *Register of Orders* of the Governor of New Guinea, No. 66, received through the courtesy of Dr. A. A. van Rhijn, Secretary of State for Social Affairs. English translation from the Dutch text by the United Nations Secretariat.

NEW ZEALAND

COOK ISLANDS AND TOKELAU ISLANDS

OFFICIAL SECRETS ACT, 1951

NOTE

See the summary on p. 255 of this *Yearbook*. The Act is applicable in these islands.

COOK ISLANDS (including NIUE)

CONVENTION CONCERNING THE RIGHTS OF ASSOCIATION AND COMBINATION OF AGRICULTURAL WORKERS

adopted by the General Conference of the International Labour Organisation on 12 November 1921, as amended by the Final Articles Revision Convention 1946

Declaration by New Zealand of application to the Cook Islands (including Niue) registered on 26 October 1951. In force for the Cook Islands since the same date.

PORTUGAL

POLITICAL CONSTITUTION OF THE PORTUGUESE REPUBLIC

of 19 March 1933 as amended up to 11 June 1951

NOTE

See Title VII of the Constitution—"Portuguese Overseas Possessions"—on p. 301 of this *Yearbook*.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

ADEN

EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN ORDINANCE OF 1938 AS AMENDED BY THE EMPLOYMENT OF WOMEN, YOUNG PERSONS AND CHILDREN (AMENDMENT) ORDINANCE OF 1951 [1]

[7 February 1951]

SUMMARY

The Employment of Women, Young Persons and Children (Amendment) Ordinance came into force on 1 March 1951. It amends sub-section (1) of section 4 of the principal ordinance[2] by adding the following provision:

"For the purpose of this sub-section, an industrial undertaking shall, notwithstanding the provisions of paragraph (*d*) of article 1 of part I of the schedule to this Ordinance, be deemed to include the carrying of coal by hand to or from lighters or ships."

[1] English text of the Amendment Ordinance in Legal Supplement No. 1 to the *Aden Colony Gazette* No. 7, of 8 February 1951. Summary prepared by the United Nations Secretariat.

[2] English text of the Employment of Women, Young Persons and Children Ordinance of 1938 in Michael Joseph Hogan, *The Laws of Aden*, London, 1948, Vol. 1, pp. 624–629; sub-section (1) of section 4 of the ordinance provides:

"Subject to the provisions of paragraph 2 of Article 2, and of Article 3 of the Convention set out in Part I of the Schedule to this Ordinance, no child shall be employed in any industrial undertaking."

The principal ordinance[3] was promulgated to give effect to the Conventions adopted by the International Labour Organisation at Washington on 28 November 1919, at Genoa on 9 July 1920, and at Geneva on 11 November 1921, on 19 June 1934 and on 22 June 1937. The conventions adopted contain (together with other provisions) the provisions set out in parts I–VI of the schedule appended to the principal ordinance. It regulates and forbids, with certain exceptions, the employment of children, young persons or women in any industrial undertaking or on board ships, except to the extent permitted under the conventions as set out in parts I–VI of its schedule. The ordinance, further, provides for medical examination of young persons employed at sea, penalties, power of duly authorized officer to enter place of employment, presumption of age and authority for prescribing age of admission to dangerous employments.

[3] The Employment of Women, Young Persons and Children Ordinance of 1938.

MINIMUM WAGE AND WAGES REGULATION ORDINANCE OF 1951 [1]

[10 July 1951]

SUMMARY

This ordinance revokes the Government Notice No. 68 of 18 April 1951, fixing the minimum daily wage and prescribes the minimum daily wage under section 4 (1) of the Minimum Wage and Wages Regulation Ordinance of 1945[2] for skilled tradesmen, semiskilled tradesmen, skilled labourers and young persons under eighteen years of age. The latter ordinance provides that the Governor in Council, if satisfied that the wages paid to employees in any particular occupation in the colony are unreasonably low, may by order fix a minimum wage to be paid to the employees. Such an order fixing the minimum wage is not subject to abatement by the employers and employees by individual agreement, nor, except with the general or particular authorization of the Governor, by collective agreement. It provides, *inter alia*, for liability of the employer and his agent for infringement of the obligation to pay minimum wages, procedure and penalties.

[1] English text of the ordinance in Legal Supplement No. 2 to the *Aden Colony Extraordinary Gazette* No. 32, of 10 July 1951. Summary prepared by the United Nations Secretariat.

[2] English text of the ordinance in Michael Joseph Hogan, *The Laws of Aden*, London, 1948, Vol. 2, pp. 1423–1437.

CYPRUS

TURKISH FAMILY COURTS LAW OF 1951 [1]

Law No. 3 of 1951

A LAW TO MAKE PROVISION FOR THE ESTABLISHMENT OF TURKISH FAMILY COURTS

[29 January 1951]

PART I

DEFINITIONS

2. In this law, unless the context otherwise requires:

"Heir under disability" means every heir who shall not have completed the age of eighteen years or is a lunatic, idiot, imbecile or otherwise mentally incapacitated from the management of his affairs or is absent from the colony;

"Judge" means a judge of a Turkish family court established under the provisions of this law;

"Religious matters" means the following matters and no others concerning persons of Moslem faith:

(*a*) Betrothal, marriage and divorce and matters incidental thereto;

(*b*) Maintenance in relation to marriage and divorce including the maintenance of the children of the marriage;

(*c*) The registration of *vakfiehs*; and

(*d*) Administration of infants' estates.

PART II

TURKISH FAMILY COURTS, JUDGES AND OFFICERS

3. There shall be established in the colony Turkish family courts to take exclusive cognizance of, and deal with, religious matters concerning persons of the Moslem faith:

Provided that the Turkish family courts shall take exclusive cognizance of any of the matters referred to in paragraphs (*a*) and (*b*) of the definition of "religious matters" in section 2, notwithstanding that one of the parties to a betrothal or marriage is a non-Moslem woman who has betrothed or married a Moslem man.

[Sections 4–8 deal with the power of the Governor to fix the number and local jurisdiction of Turkish family courts; the appointment of judges and other officers; and the oath of allegiance and the judicial oath.]

9. Every Turkish family court, in taking cognizance of, or dealing with, any religious matter under this law or any other law in force for the time being, and the Supreme Court on appeal, shall apply:

(*a*) The Sheri law, save as other provision has been or shall be made by any law;

(*b*) Any law or public instrument dealing with any religious matter, which provides that it shall be applied by a Turkish family court.

10. Every decision of a Turkish family court shall be liable to appeal to the Supreme Court and such appeal shall be heard and determined in accordance with any law or rules of court in force for the time being relating to appeals to the Supreme Court in civil cases.

. . .

[Part III contains miscellaneous provisions, such as the power of the court to exempt paupers from the payment of fees and the power of the Governor to make rules. Whenever in any law or public instrument, reference is made to Sheri tribunals or to Mehkeme-i-Sherié or to a Mussulman religious tribunal or to a tribunal as meaning a Mussulman religious tribunal, it shall be deemed to be reference to the Turkish family courts.]

[1] English text in Supplement No. 2 to the *Cyprus Gazette* No. 3541, of 31 January 1951, pp. 37–42.

WORKMEN'S COMPENSATION (AMENDMENT) LAW, 1951 [1]

Law No. 14 of 1951

SUMMARY

This law adds to and amends the principal law,[2] which excluded, *inter alia*, from the definition of "workman" and the application of the law, persons employed for manual labour or otherwise, whose remuneration exceeded a certain amount per year, domestic servants and persons employed as clerical workers or shop assistants. The amendment makes the law applicable without an income limit to labourers; in the case of persons employed otherwise than as labourers, the upper income limit has been raised. The law has more-

[1] English text of the law in Supplement No. 2 to the *Cyprus Gazette* No. 3550, of 28 March 1951. Summary prepared by the United Nations Secretariat.

[2] Workmen's Compensation Laws, 1942 to (No. 2) 1944. English text of the principal law in the *Statute Laws of Cyprus 1949*, Vol. 2, pp. 1633–1658.

over been made applicable to clerical workers and shop assistants; domestic servants are excluded only when they are employed in private dwelling houses. Subject to certain exceptions, the workmen employed by the Crown are placed on an equal basis with other workmen as regards the application of the Workmen's Compensation Laws, 1942 to 1951.

The definition of employment which makes an employer liable for injuries suffered by his workmen has been extended. An accident resulting in the death or permanent incapacity of a workman shall be deemed to arise out of and in the course of his employment, notwithstanding that the workman was, at the time when the accident happened, acting in contravention of any orders given by or on behalf of his employer or that he was acting without instructions from the employer, if such act was done by the workman for the purposes of and in connexion with his employer's trade or business. Compensation in fatal cases and in case of permanent total incapacity has been increased. The law of 1951 also amends the provisions of the principal law relating to compensation in case of temporary incapacity and provides for the appointment by the Governor of medical practitioners to be medical referees for the purposes of this law. The amended law is made applicable, furthermore, in the case of certain industrial diseases and substitutes for the previous schedule two new schedules which describe injuries and determine the degree of incapacity in each case, list and describe industrial diseases which entitle the workmen to compensation, and define the processes through which certain industrial diseases can be contracted.

GOLD COAST

LOCAL GOVERNMENT ORDINANCE, 1951 [1]

No. 29 of 1951

AN ORDINANCE TO MAKE PROVISION FOR LOCAL GOVERNMENT IN THE GOLD COAST AND FOR PURPOSES CONNECTED THEREWITH

[Parts I and II (articles 1–8) deal with interpretation, and the establishment of district, urban and local councils.]

PART III

COMPOSITION OF COUNCILS AND ELECTIONS

9. Subject to the provisions of this ordinance, representative members of urban and local councils shall be elected by registered voters whose names appear on the register of voters for the council at such time and in such manner as may be specified in the instrument.

10. Subject to the provisions of this ordinance, traditional members of urban and local councils shall be appointed by such traditional authorities having authority within the area of the council concerned at such time and in such manner as may be specified in the instrument.

11. (1) Subject to the provisions of this ordinance, the representative and traditional members of a district council shall be elected respectively from among the representative and traditional members of the urban and local councils within the area of authority of the district council concerned at such time and in such manner as may be specified in the instrument.

(2) Notwithstanding the provisions of sub-section(1) of this section, the Minister may, in any particular case, in lieu of a representative or traditional member, as the case may be, of the council concerned, authorize the election of a person other than a member of an urban or local council as a member of a district council.

(3) Of the members to be elected to a district council under this section, such number of each category shall be elected by each urban and local council within the area of authority of the district council as may be specified in the instrument.

(4) In the case of a district council within the Northern Territories, if the Governor in Council is satisfied that it would not be practicable or appropriate to apply the provisions of sub-sections (1), (2) and (3) of this section, or any of them, such other provision relating to the election or appointment of members of such council may be made in the instrument as he may deem expedient.

12. Subject to the provisions of section 14 of this ordinance, every person who:

(*a*) Has attained the age of twenty-one years; and

(*b*) Either owns immovable property within, or has, for a period of not less than six months out of the twelve months immediately preceding the date of his application to register, resided within the area of an urban or local council; and

(*c*) Is liable to pay to such urban or local council, or to the district council having authority over the area

[1] English text in *Supplement to the Gold Coast Gazette* No. 92, of 15 December 1951, pp. 1056–1126.

of such urban or local council, as the case may be, any rate imposed under this ordinance, or who would be liable to pay such rate but has been specifically exempted therefrom under sub-section (2) of section 94 of this ordinance;

shall be entitled to be registered as a voter for the area of such urban or local council, as the case may be, and, when so registered, to vote at the election of a representative member of such council.

13. For the purpose of effecting the registration of voters for the area of an urban or local council before the first elections under this ordinance have been held in respect of such council, every person shall, subject to the provisions of sub-section (1) of section 14 of this ordinance, be deemed to be qualified for registration as a voter and to vote at such elections who has attained the age of twenty-one years and, being liable thereto, has paid the local rate or levy, as the case may be, for the current or preceding year, to a native authority constituted within the area designated as the area of authority of such council.

If, in any place or area, no local rate or levy has been imposed either for the current or the preceding year, the instrument relating to the council concerned may prescribe the persons, being persons who have attained the age of twenty-one years, within such area who shall be deemed to be qualified for registration as voters before, and to vote at, such first elections.

14. (1) Notwithstanding the provisions of sections 12 and 13 of this ordinance, no person shall be registered as a voter or, being registered, shall be entitled to vote for the election of a representative member of a council who:

(*a*) Has, in any part of His Majesty's dominions, been sentenced to death or to imprisonment (by whatever name called) for a term exceeding twelve months, or has been convicted of any offence involving dishonesty and has been sentenced to imprisonment therefor, and has not been granted a free pardon:

Provided that if five years or more have elapsed since the termination of the imprisonment the person convicted shall not be disqualified from registration as a voter by reason only of such conviction; or

(*b*) Is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law for time being in force in the Gold Coast; or

(*c*) Is disqualified from registering as a voter or voting under any law for the time being in force in the Gold Coast relating to offences connected with elections.

(2) No person shall be entitled to vote for the election of a representative member of a council who has not, at the date of such election, paid all sums which were due three months or more before such date from him in respect of any rate levied by the council.

(3) A voter shall not be entitled to have his name retained on the register of voters for any council area if for a continuous period of twelve months he has ceased to reside or to own immovable property within the area of authority of such council or if he becomes disqualified for voting under the provisions of sub-section (1) of this section.

15. Subject to the provisions of section 16 of this ordinance, a person shall be qualified for election as a representative member of an urban or local council if he is entitled to be a voter and his name is on the register of voters for that council.

16. (1) A person shall be disqualified for election or appointment as a representative, traditional or special member of a council who:

(*a*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of His Majesty's dominions; or

(*b*) Unless authorized to stand for election or accept appointment by the Minister, holds or is acting in any office or place of profit in the gift or disposal of the council; or

(*c*) Has within five years before the date of election or appointment been surcharged under section 116 of this ordinance to an amount exceeding one hundred pounds; or

(*d*) In the case of a representative or traditional member, is a party to, or a partner in a firm, or a director or manager of a company, which is a party to, any subsisting contract with the council concerned for or on account of the public service, and has not, within one month before the day of election, published in the English language in a newspaper circulating within the area of the council a notice setting out the nature of such contract, and his interest or the interest of any such firm or company, therein; or

(*e*) Being a person possessed of professional qualifications, is disqualified (otherwise that at his own request) in any part of His Majesty's dominions from practising his profession by the order of any competent authority made in respect of him personally:

Provided that disqualification under this paragraph shall not exceed a period of five years; or

(*f*) Is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the Gold Coast; or

(*g*) Has, in any part of His Majesty's dominions, been sentenced to death, or to imprisonment (by whatever name called) for a term exceeding twelve months, or has been convicted of any offence involving dishonesty and been sentenced to imprisonment therefor, and has not been granted a free pardon:

Provided that if five years or more have elapsed since the termination of the imprisonment, the person convicted shall not be disqualified from being elected or appointed a member of a council by reason only of such conviction; or

(*h*) Is a member of any of His Majesty's armed forces or of the Gold Coast police force; or

(*i*) Is in the employment of the Government of the Gold Coast and is not in possession of written authority from the head of his department authorizing him to stand for election or accept appointment; or

(*j*) Subject to the provisions of sections 19 and 20 of this ordinance, is the President of the council or, in the case of councils in the Colony or Ashanti, is a paramount chief; or

(*k*) In the case of district councils in the Colony or Ashanti, is unable to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the council; or

(*l*) Is disqualified for membership of a council by any law for the time being in force in the Gold Coast relating to offences connected with elections.

(2) For the purposes of this section and section 17 of this ordinance:

(*a*) A person serving or appointed to serve a committee of a council, including any joint committee appointed under the provisions of section 43 of this ordinance; and

(*b*) A person serving or appointed to serve two or more councils under the provisions of section 124 of this ordinance;

shall be deemed to be a person holding or acting in or appointed to hold or act in an office or place of profit in the gift or disposal of the council concerned, or of each of such councils, as the case may be.

. . .

KENYA

REGULATION OF WAGES AND CONDITIONS OF EMPLOYMENT ORDINANCE No. 1 OF 1951, AS AMENDED[1]

[7 April 1951]

SUMMARY

This ordinance, with certain exceptions, applies to employment under the Crown in the same way and to the same extent as to employment by a private person. It is intended to improve the condition of employees through regulation of wages and terms of employment. Provision is made for appointment and functions of a Wages Advisory Board with a view to fixing a basic minimum wage in appropriate cases. Upon the request of the Governor in Council or the member, the board must conduct an inquiry into the rates of wages and other conditions of employment and submit a report with its recommendations. Provision is also made for the establishment of wages councils in cases where no adequate machinery exists for the effective regulation of remuneration or other conditions of employment in any trade, industry or occupation. The ordinance defines employers' and employees' associations and, *inter alia*, provides for the establishment of joint industrial councils and works or staff councils in order to ensure good industrial relations between employers and employees.

[1] English text of the Ordinance of 1951 in *Official Gazette Supplement* No. 21, 1951, pp. 1–21; of the Amendment Ordinance of 1951: *ibid*, No. 52, 1951, pp. 251–253; and of the Amendment (No. 2) Ordinance of 1951: *ibid*, No. 61, pp. 466–467. Summary prepared by the United Nations Secretariat.

NIGERIA

THE NIGERIA (CONSTITUTION) ORDER IN COUNCIL 1951[1]

[29 June 1951]

CHAPTER III

THE CENTRAL LEGISLATIVE HOUSE—HOUSE OF REPRESENTATIVES

[Chapter III deals with the House of Representatives. Section 67 provides that the House of Representatives in and for Nigeria shall consist of a president, six ex-officio members, 136 elected representative members and such special members, not exceeding six, as may be appointed by the Governor to represent interests or communities which, in his opinion, are not adequately represented in the House.]

71. (1) Sixty-eight of the representative members shall, subject to the provisions of this order, be elected by the Joint Council of the Northern Region from among the members of the Northern House of Chiefs and the Northern House of Assembly in the manner

[1] English text in *Statutory Instruments*, 1951, No. 1172, London, H.M. Stationery Office, 1951. Nigeria, which includes the Trust Territory of the Cameroons under United Kingdom administration, is composed of the following divisions for which varying provisions are made by this Order in Council: Northern Region, Western Region and Eastern Region.

provided by regulations made under section 75 of this order.

(2) The representative members so elected by the Joint Council of the Northern Region shall include in respect of each province of the Northern Region:

(*a*) At least one member of the Northern House of Chiefs who is a first-class chief or a chief[1] exercising his functions as such in that province; and

(*b*) At least one elected member of the Northern House of Assembly who represents that province in the said House . . .

72. (1) (*a*) Three of the representative members shall, subject to the provisions of this order, be elected by the members of the Western House of Chiefs from among their own number in the manner provided by regulations made under section 75 of this order; and

(*b*) Thirty-one of the representative members shall, subject as aforesaid, be elected by the members of the Western House of Assembly from among their own number in the manner provided by such regulations as aforesaid.

(2) The representative members so elected by the members of the Western House of Assembly shall include:

(*a*) In respect of the division which comprises the town of Lagos, at least two elected members of the Western House of Assembly who represent that division in the said House; and

(*b*) In respect of each other division of the Western Region, at least one elected member of the Western House of Assembly who represents that division in the said House.

73. (1) Thirty-four of the representative members shall, subject to the provisions of this order, be elected by the members of the Eastern House of Assembly from among their own number in the manner provided by regulations made under section 75 of this order.

(2) The representative members so elected by the members of the Eastern House of Assembly shall include, in respect of each province of the Eastern Region, at least two elected members of the Eastern House of Assembly who represent divisions or a division of that province in the said House:

Provided that, in respect of the province which includes the township of Calabar, the said elected members shall include at least one person who, at the time of his election to the Eastern House of Assembly, was registered as an elector in that township.

74. No member of a regional legislative house who is a public officer shall be eligible for election as a representative member or shall vote at the election of any representative member.

75. Subject to the provisions of this order, the Governor may by regulation provide for the manner in which representative members shall be elected.

[The members of the House of Representatives are elected indirectly, in the Northern Region by the Joint Council, and in the Western and Eastern Regions by the regional legislative houses, from amongst the members of the regional legislative houses. The qualifications and disqualifications for members elected from the regional assembly houses to the House of Representatives are the same as prescribed for elected members of those houses.]

CHAPTER II

THE REGIONAL LEGISLATIVE HOUSES

Part V

QUALIFICATIONS AND DISQUALIFICATIONS FOR ELECTED MEMBERSHIP OF HOUSES OF ASSEMBLY

41. Subject to the provisions of section 42 of this order and of any regulations made under part 7 of this chapter, a person shall be qualified to be elected as a member of a house of assembly if he:

(*a*) Is a British subject or a British protected person of the age of twenty-one years or upwards and, in the case of the Northern House of Assembly, is a male person; and

(*b*) (i) Is a native of the region in which he seeks election; or

(ii) Has resided in such region for a continuous period, immediately before the date of election, of at least one year in the case of the Western Region or Eastern Region or of at least three years in the case of the Northern Region; and no other person shall be qualified to be so elected, or, having been so elected, shall sit or vote in any such house.

(2) For the purposes of this section a person shall be held to be a native of a region if he was born in that region or if his father was so born.

42. (1) No person shall be qualified to be elected as a member of a house of assembly who:

(*a*) Is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to any foreign Power or State; or

(*b*) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of His Majesty's dominions; or

(*c*) Has been sentenced by a court in any part of His Majesty's dominions to death, or to imprisonment (by whatever name called) for a term exceeding six months, and has not either suffered the punishment to which he was sentenced, or such other punishment as may by competent authority have been substituted therefor, or received a free pardon; or

[1] The terms "first-class chief" and "chief" are explained in section 14 of the Constitution.

(*d*) Holds, or is acting in, any office of emolument under the Crown; or

(*e*) Is, under any law in force in Nigeria, found or declared to be of unsound mind or adjudged to be a lunatic; or

(*f*) Is a member of any other regional legislative house.

(2) (*a*) No person shall be qualified to be elected as a member of a house of assembly if he has, within a period of five years immediately before the date of election, been sentenced by a court in Nigeria to death, or to imprisonment (by whatever name called) for a term exceeding six months upon conviction of any offence which is prescribed for the purposes of this sub-section by the second schedule to this order;

(*b*) The provision of this sub-section shall not apply to any person in respect of an offence for which he has received a free pardon.

. . .

SIERRA LEONE

THE SIERRA LEONE (LEGISLATIVE COUNCIL) ORDER IN COUNCIL, 1951 [1]

[9 April 1951]

PART II

THE LEGISLATIVE COUNCIL

[Sections 4–5 provide that the Legislative Council in and for Sierra Leone shall consist of the Governor who shall be president, a vice-president, seven ex-officio members, twenty-one elected members, and two nominated members. Section 7 makes provision for elected members and divides the Colony into electoral districts.]

10. (1) Subject to the provisions of this order, any person who is a British subject or a British protected person shall be qualified to be an elected member or a nominated member of the Council, and no other person shall be qualified to be elected or appointed thereto, or, having been so elected or appointed, shall sit or vote in the council.

(2) Subject to the provisions of this order, any person qualified to be registered and registered as an elector who:

(*a*) Being a candidate for election as an elected member for any one of the electoral districts mentioned in paragraph (ii) of sub-section (2) of section 7 of this order is at the date of election seised or possessed of property, whether real or personal, of an aggregate value of not less than 250 pounds, or

(*b*) Being a candidate for election and an elected member for any one of the electoral districts mentioned in paragraphs (iii) or (iv) of sub-section (2) of section 7 of this order is at the date of election seised or possessed of property, whether real or personal, of an aggregate value of not less than one hundred pounds,

shall be qualified to be an elected member for such electoral district.

11. No person shall be qualified to be elected as an elected member or appointed as a nominated member of the Council or, having been so elected or appointed, shall sit or vote in the Council, who at the time of election or appointment:

(1) Is, by virtue of his own act, under any acknowledgment of allegiance, obedience, or adherence to a foreign Power or State; or

(2) Is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of His Majesty's dominions; or

(3) Is serving, or has within the immediately preceding five years completed the serving of, a sentence of imprisonment (by whatever name called) of or exceeding twelve months imposed in any part of His Majesty's dominions, and has not received a free pardon; or

(4) Holds, or is acting in, any public office; or

(5) Is a party to, or is a partner in a firm, or a director or manager of a company, which is a party to any subsisting contract with the Government of Sierra Leone for or on account of the public service, and

(*a*) In the case of a nominated member, has not disclosed to the Governor the nature of such contract and his interest or the interest of any such firm or company therein; or

(*b*) In the case of a member elected in accordance with the provisions of paragraph (i) of sub-section (1) of section 7 of this order, has not published, within one month before the day of election, in the *Gazette* and in some newspaper circulating in the area for which he is a candidate, a notice setting out the nature of such contract and his interest, or the interest of any such firm or company, therein; or

(*c*) In the case of a member elected in accordance with the provisions of either paragraph (ii) or paragraph (iii) or paragraph (iv) of sub-section (1) of section 7 of this order, has not disclosed the nature of such contract and his interest, or the interest of any such

[1] English text in *Supplement to the Sierra Leone Royal Gazette*, Vol. LXXXII, No. 4344, of 14 June 1951, pp. 1–17.

firm or company therein, to the appropriate district council or to the unofficial members of the Protectorate Assembly, as the case may be; or

(6) Is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law for the time being in force in Sierra Leone; or

(7) Is unable to speak, or (unless prevented by blindness or other physical cause) to read or write the English language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Council; or

(8) Is disqualified for membership of the Council under any law or regulation for the time being in force in Sierra Leone relating to offences connected with the election of members.

. . .

[Part IV contains miscellaneous provisions, including provisions to make electoral laws under this ordinance for the election of the elected members of the Council.]

ZANZIBAR PROTECTORATE

THE CHILDREN AND YOUNG PERSONS DECREE, 1951 [1]

No. 10 of 1951

[24 August 1951]

SUMMARY

This decree provides for the protection of persons under the age of sixteen years and for the procedure at the trial of such persons on criminal charges. A "child" is defined as a person below the age of fourteen years and a "young person" as a person who is fourteen years or above, but under the age of sixteen years. Juvenile courts have been created and they have jurisdiction to try children and young persons, except when they are charged with murder or manslaughter. Provision is also made for preventing such persons from association with adult persons charged with or convicted of any offence, after the arrest either before, during or after the trial and detention of children and young persons.

No person shall publish the name, address, school, photograph, or anything likely to lead to the identification of the child or young person before the juvenile court, save with the permission of the court or in so far as required by the provisions of this decree. Any person who acts in contravention of the provisions of this proviso shall be liable to a fine.

The decree contains special provisions with regard to bail of children and young persons after their arrest, custody of such persons when discharged on bail, remand or committal to custody in the place of detention, and probation orders. A child cannot be sentenced to imprisonment, but a young person may be so sentenced, provided he cannot be suitably dealt with in any other way whether by probation, fine, corporal punishment, or otherwise. When undergoing a sentence of imprisonment, a young person may at any time be released by the British Resident upon licence.

Protection of children and young persons is also achieved by the provision that any person may bring them before a court when they are found begging or receiving alms, wandering without a fixed abode, frequenting the company of reputed thieves, being persistently ill-treated by their parents, guardians or employers, etc. The court will in such cases commit them to the care of a relative or some other fit person or institution willing to undertake such responsibility.

[1] English text in *Legal Supplement (Part I) to the Official Gazette of the Zanzibar Government*, Vol. LX, No. 3324, of 7 April 1951. Summary prepared by the United Nations Secretariat.

UNITED STATES OF AMERICA

ALASKA

NOTE

Laws on unemployment insurance.[1]
Law on basic maximum weekly benefits.[2]
Law on insurance against occupational diseases.[3]

[1] See p. 371 of this *Yearbook*.
[2] *Ibid.*, p. 372.
[3] *Ibid.*, p. 372.

HAWAII

NOTE

Laws on unemployment insurance.[1]
Law on death benefits.[2]
Law on insurance against occupational diseases.[3]
Housing authorities amendment law.[4]

[1] See p. 371 of this *Yearbook*.
[2] *Ibid.*, p. 372.
[3] *Ibid.*, p. 372.
[4] *Ibid.*, p. 375.

PUERTO RICO

NOTE

Provision for the Constitutional Government of Puerto Rico.[1]
Workmen's compensation law; rehabilitation services.[2]
Provisions on minimum wages.[3]
Housing authorities amendment law.[4]

[1] See p. 367 of this *Yearbook*.
[2] *Ibid.*, p. 372.
[3] *Ibid.*, pp. 373 and 374.
[4] *Ibid.*, p. 375.

VIRGIN ISLANDS

NOTE

Provisions on minimum wages.[1]

[1] See p. 373 of this *Yearbook*.

PART III

INTERNATIONAL TREATIES AND AGREEMENTS AND TEXTS ADOPTED BY SPECIALIZED AGENCIES AND OTHER INTER-GOVERNMENTAL ORGANIZATIONS

AGREEMENTS CONCLUDED UNDER THE AUSPICES OF SPECIALIZED AGENCIES OR BY OTHER INTER-GOVERNMENTAL ORGANIZATIONS

INTERNATIONAL LABOUR ORGANISATION

CONVENTION (No. 100) CONCERNING EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE[1]

(Equal Remuneration Convention 1951)

Adopted by the General Conference of the International Labour Organisation, Geneva, on 29 June 1951

Art. 1. For the purpose of this Convention:

(*a*) The term "remuneration" includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;

(*b*) The term "equal remuneration for men and women workers for work of equal value" refers to rates of remuneration established without discrimination based on sex.

Art. 2. 1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

2. This principle may be applied by means of:

(*a*) National laws or regulations;

(*b*) Legally established or recognized machinery for wage determination;

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

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

Art. 3. 1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.

2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.

3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Art. 4. Each Member shall co-operate as appropriate with the employers' and workers' organizations concerned for the purpose of giving effect to the provisions of this Convention.

Art. 5. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 6. 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Art. 7. 1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of article 35 of the Constitution of the International Labour Organisation shall indicate:

(*a*) The territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

(*b*) The territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

[1] English text of this Convention and the following recommendations in *Sixth Report of the International Labour Organisation to the United Nations*, Geneva, 1952, pp. 160–168.

(*c*) The territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

(*d*) The territories in respect of which it reserves its decisions pending further consideration of the position.

2. The undertakings referred to in sub-paragraphs (*a*) and (*b*) of paragraph 1 of this article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration by virtue of sub-paragraphs (*b*), (*c*) or (*d*) of paragraph 1 of this article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Art. 8. 1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraphs 4 or 5 of article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.

2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Art. 9. 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this article.

Art. 10. 1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Art. 11. The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Art. 12. At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report of the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Art. 13. 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

(*a*) The ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of article 9 above, if and when the new revising Convention shall have come into force;

(*b*) As from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Art. 14. The English and French versions of the text of this Convention are equally authoritative.

RECOMMENDATION (No. 90) CONCERNING EQUAL REMUNERATION FOR MEN AND WOMEN WORKERS FOR WORK OF EQUAL VALUE

(Equal Remuneration Recommendation 1951)

Adopted by the General Conference of the International Labour Organisation, Geneva, on 29 June 1951

Whereas the Equal Remuneration Convention, 1951, lays down certain general principles concerning equal remuneration for men and women workers for work of equal value;

Whereas the Convention provides that the application of the principle of equal remuneration for men and women workers for work of equal value shall be promoted or ensured by means appropriate to the methods in operation for determining rates of remuneration in the countries concerned;

Whereas it is desirable to indicate certain procedures for the progressive application of the principles laid down in the Convention;

Whereas it is at the same time desirable that all Members should, in applying these principles, have regard to methods of application which have been found satisfactory in certain countries;

The Conference recommends that each Member should, subject to the provisions of article 2 of the Convention, apply the following provisions and report to the International Labour Office as requested by the Governing Body concerning the measures taken to give effect thereto:

1. Appropriate action should be taken, after consultation with the workers' organizations concerned or, where such organizations do not exist, with the workers concerned:

(*a*) To ensure the application of the principle of equal remuneration for men and women workers for work of equal value to all employees of central government departments or agencies; and

(*b*) To encourage the application of the principle to employees of State, provincial or local government departments or agencies, where these have jurisdiction over rates of remuneration.

2. Appropriate action should be taken, after consultation with the employers' and workers' organizations concerned, to ensure, as rapidly as practicable, the application of the principle of equal remuneration for men and women workers for work of equal value in all occupations, other than those mentioned in paragraph 1, in which rates of remuneration are subject to statutory regulation or public control, particularly as regards:

(*a*) The establishment of minimum or other wage rates in industries and services where such rates are determined under public authority;

(*b*) Industries and undertakings operated under public ownership or control; and

(*c*) Where appropriate, work executed under the terms of public contracts.

3. (1) Where appropriate in the light of the methods in operation for the determination of rates of remuneration, provision should be made by legal enactment for the general application of the principle of equal remuneration for men and women workers for work of equal value.

(2) The competent public authority should take all necessary and appropriate measures to ensure that employers and workers are fully informed as to such legal requirements and, where appropriate, advised on their application.

4. When, after consultation with the organizations of workers and employers concerned, where such exist, it is not deemed feasible to implement immediately the principle of equal remuneration for men and women workers for work of equal value, in respect of employment covered by paragraphs 1, 2 or 3, appropriate provision should be made or caused to be made, as soon as possible, for its progressive application, by such measures as:

(*a*) Decreasing the differentials between rates of remuneration for men and rates of remuneration for women for work of equal value;

(*b*) Where a system of increments is in force, providing equal increments for men and women workers performing work of equal value.

5. Where appropriate for the purpose of facilitating the determination of rates of remuneration in accordance with the principle of equal remuneration for men and women workers for work of equal value, each Member should, in agreement with the employers' and workers' organizations concerned, establish or encourage the establishment of methods for objective appraisal of the work to be performed, whether by job analysis or by other procedures, with a view to providing a classification of jobs without regard to sex; such methods should be applied in accordance with the provisions of article 2 of the Convention.

6. In order to facilitate the application of the principle of equal remuneration for men and women workers for work of equal value, appropriate action should be taken, where necessary, to raise the productive efficiency of women workers by such measures as:

(*a*) Ensuring that workers of both sexes have equal or equivalent facilities for vocational guidance or employment counselling, for vocational training and for placement;

(*b*) Taking appropriate measures to encourage women to use facilities for vocational guidance or employment counselling, for vocational training and for placement;

(*c*) Providing welfare and social services which meet the needs of women workers, particularly those with family responsibilities, and financing such services from general public funds or from social security or industrial welfare funds financed by payments made in respect of workers without regard to sex; and

(*d*) Promoting equality of men and women workers as regards access to occupations and posts without prejudice to the provisions of international regulations and of national laws and regulations concerning the protection of the health and welfare of women.

7. Every effort should be made to promote public understanding of the grounds on which it is considered that the principle of equal remuneration for men and women workers for work of equal value should be implemented.

8. Such investigations as may be desirable to promote the application of the principle should be undertaken.

RECOMMENDATION (No. 91) CONCERNING COLLECTIVE AGREEMENTS

(Collective Agreements Recommendation 1951)

Adopted by the General Conference of the International Labour Organisation, Geneva, on 29 June 1951

I. COLLECTIVE BARGAINING MACHINERY

1. (1) Machinery appropriate to the conditions existing in each country should be established, by means of agreement or laws or regulations as may be appropriate under national conditions, to negotiate, conclude, revise and renew collective agreements, or to be available, to assist the parties in the negotiation, conclusion, revision and renewal of collective agreements.

(2) The organization, methods of operation and functions of such machinery should be determined by agreements between the parties or by national laws or regulations, as may be appropriate under national conditions.

II. DEFINITION OF COLLECTIVE AGREEMENTS

2. (1) For the purpose of this recommendation, the term "collective agreements" means all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more representative workers' organizations, or, in the absence of such organizations, the representatives of the workers duly elected and authorized by them in accordance with national laws and regulations, on the other.

(2) Nothing in the present definition should be interpreted as implying the recognition of any association of workers established, dominated or financed by employers or their representatives.

III. EFFECTS OF COLLECTIVE AGREEMENTS

3. (1) Collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded. Employers and workers bound by a collective agreement should not be able to include in contracts of employment stipulations contrary to those contained in the collective agreement.

(2) Stipulations in such contracts of employment which are contrary to a collective agreement should be regarded as null and void and automatically replaced by the corresponding stipulations of the collective agreement.

(3) Stipulations in contracts of employment which are more favourable to the workers than those prescribed by a collective agreement should not be regarded as contrary to the collective agreement.

(4) If effective observance of the provisions of collective agreements is secured by the parties thereto, the provisions of the preceding sub-paragraphs should not be regarded as calling for legislative measures.

4. The stipulations of a collective agreement should apply to all workers of the classes concerned employed in the undertakings covered by the agreement unless the agreement specifically provides to the contrary.

IV. EXTENSION OF COLLECTIVE AGREEMENTS

5. (1) Where appropriate, having regard to established collective bargaining practice, measures, to be determined by national laws or regulations and suited to the conditions of each country, should be taken to

extend the application of all or certain stipulations of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement.

(2) National laws or regulations may make the extension of a collective agreement subject to the following, among other, conditions:

(*a*) That the collective agreement already covers a number of the employers and workers concerned which is, in the opinion of the competent authority, sufficiently representative;

(*b*) That, as a general rule, the request for extension of the agreement shall be made by one or more organizations of workers or employers who are parties to the agreement;

(*c*) That, prior to the extension of the agreement, the employers and workers to whom the agreement would be made applicable by its extension should be given an opportunity to submit their observations.

V. INTERPRETATION OF COLLECTIVE AGREEMENTS

6. Disputes arising out of the interpretation of a collective agreement should be submitted to an appropriate procedure for settlement established either by agreement between the parties or by laws or regulations as may be appropriate under national conditions.

VI. SUPERVISION OF APPLICATION OF COLLECTIVE AGREEMENTS

7. The supervision of the application of collective agreements should be ensured by the employers' and workers' organizations parties to such agreements or by the bodies existing in each country for this purpose or by bodies established *ad hoc*.

VII. MISCELLANEOUS

8. National laws and regulations may, among other things, make provision for:

(*a*) Requiring employers bound by collective agreements to take appropriate steps to bring to the notice of the workers concerned the texts of the collective agreements applicable to their undertakings;

(*b*) The registration or deposit of collective agreements and any subsequent changes made therein;

(*c*) A minimum period during which, in the absence of any provision to the contrary in the agreement, collective agreements shall be deemed to be binding unless revised or rescinded at an earlier date by the parties.

RECOMMENDATION (No. 92) CONCERNING VOLUNTARY CONCILIATION AND ARBITRATION

(Voluntary Conciliation and Arbitration Recommendation 1951)

Adopted by the General Conference of the International Labour Organisation, Geneva, on 29 June 1951

I. VOLUNTARY CONCILIATION

1. Voluntary conciliation machinery, appropriate to national conditions, should be made available to assist in the prevention and settlement of industrial disputes between employers and workers.

2. Where voluntary conciliation machinery is constituted on a joint basis, it should include equal representation of employers and workers.

3. (1) The procedure should be free of charge and expeditious; such time limits for the proceedings as may be prescribed by national laws or regulations should be fixed in advance and kept to a minimum.

(2) Provisions should be made to enable the procedure to be set in motion, either on the intiative of any of the parties to the dispute or *ex officio* by the voluntary conciliation authority.

4. If a dispute has been submitted to conciliation procedure with the consent of all the parties concerned, the latter should be encouraged to abstain from strikes and lockouts while conciliation is in progress.

5. All agreements which the parties may reach during conciliation procedure or as a result thereof should be drawn up in writing and be regarded as equivalent to agreements concluded in the usual manner.

II. VOLUNTARY ARBITRATION

6. If a dispute has been submitted to arbitration for final settlement with the consent of all parties concerned, the latter should be encouraged to abstain from strikes and lockouts while the arbitration is in progress and to accept the arbitration award.

III. GENERAL

7. No provision of this recommendation may be interpreted as limiting, in any way whatsoever, the right to strike.

CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE OF EXPERTS ON SOCIAL POLICY IN NON-METROPOLITAN TERRITORIES

Second Session, Geneva, 26 November–8 December 1951 [1]

Introductory Note. The Committee met in Geneva from 26 November–8 December 1951 in accordance with a decision taken by the Governing Body at its 115th session in June 1951. The Committee was composed of twelve experts, and three representatives of the Governing Body were present.

The question of penal sanctions for breaches of contracts of employment by indigenous inhabitants came before the Committee of Experts in the following circumstances.

On 15 November 1949, the General Assembly of the United Nations, by resolution 323 (IV), in taking note of the conclusions and recommendations of the Trusteeship Council, recalled that one of the basic objectives of the International Trusteeship System is to encourage respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion, and decided to recommend to the Trusteeship Council the adoption of suitable measures for solving, in a broad and humanitarian spirit, such important social problems as migrant labour and penal sanctions for breach of labour contracts by indigenous inhabitants.

The Trusteeship Council, at its sixth session (Spring 1950), adopted resolution 127 (VI), which, *inter alia*, took note of the recommendations of the General Assembly contained in resolution 323 (IV) and requested the Secretariat to bring to the attention of the International Labour Organisation the General Assembly's interest in the problems of migrant labour and penal sanctions for breach of labour contracts by indigenous inhabitants and to request the expert advice of the International Labour Organisation on these problems and decided to defer further action until such expert advice can be obtained from the International Labour Organisation or other sources.

The request of the Trusteeship Council was laid before the Governing Body of the International Labour Office at its 112th session in June 1950 and the Governing Body decided, as a first step, to approach States Members concerned with the subject matter of the Penal Sanctions (Indigenous Workers) Convention (No. 65), 1939, with a view to securing details of their current law and practice, together with indications of the difficulties which prevent fuller ratification. The Governing Body subsequently decided, at its 115th session in June 1951, that this information should be laid before the Committee of Experts on Social Policy in Non-Metropolitan Territories for its recommendations.

The Committee reviewed the progress achieved since the adoption of the Penal Sanction (Indigenous Workers) Convention, 1939, exchanged views on various aspects of the question and adopted the conclusions and recommendations printed hereunder:

CONCLUSIONS AND RECOMMENDATIONS OF THE COMMITTEE

The Committee, in the first place, wished to place on record its appreciation of the great advances which have been made towards abolition of penal sanctions for breaches of contracts of employment by indigenous workers which have followed the adoption of the Penal Sanctions (Indigenous Workers) Convention, 1939. Nevertheless, it cannot regard the present position as satisfactory. Penal sanctions, in the view of the Committee, transform the normal civil contractual relationship between an employer and an employee into a form of legalized servitude which is contrary to modern conceptions of personal dignity and the rights of free men. It rejects as unfounded assertions that penal sanctions have an educative value; on the contrary, it considers them to be an obstacle to healthy industrial relations, fruitful of labour unrest, and in practice inefficacious. It rejects as equally unfounded arguments that the abolition of penal sanctions would affect labour stability or lead to industrial unrest or other difficulties. Any suggestions of this kind it considers to have been demonstrated to be without foundation in view of the ease with which the transition from a system of contracts buttressed by penal sanctions to a system involving merely civil obligations has been effected in various non-metropolitan countries. To this, certain members of the Committee were able to testify from their own experience.[2]

The Committee therefore considers that the Governing Body of the International Labour Office should address to States Members of the Organisation concerned a communication:

[1] Text of the conclusions and recommendations in the following document: International Labour Office, *Committee of Experts on Social Policy in Non-Metropolitan Territories* CNT/2/V.

[2] In view of the arguments advanced by him and mentioned earlier in the report, Mr. Smuts (Department of Native Affairs, Pretoria, South Africa) declared that he did not agree with the views expressed in this paragraph.

(1) Calling attention to the terms of the Penal Sanctions (Indigenous Workers) Convention, 1939, and inviting those countries which have not ratified it to give reconsideration to the possibility of doing so at an early date;

(2) Directing attention to the advances which have been made in many territories since the 1939 Convention was adopted and to the evidence which these advances provide that abolition of penal sanctions is now practicable;[1]

(3) Directing attention to the views of the Committee of Experts as to the wrongness of penal sanctions on moral grounds, their ineffectiveness in practice and the very cogent reasons which exist for their immediate and general abolition.

The Committee, while not in any way altering its strong collective opinion that penal sanctions for breaches of contracts of employment as defined in the 1939 Convention can and should be abolished forthwith, suggests further that, while endorsing this, the Governing Body, as a method of giving a lead to governments which still maintain penal sanctions, should consider whether the 1939 Convention might be supplemented by a recommendation which would provide:

(1) For the immediate abolition of sanctions of a penal nature in connexion with:

(*a*) Women workers;

(*b*) Workers having served for a period or periods amounting to more than two years with the same employer;[2]

(*c*) Workers on verbal contracts or on short-term contracts;

(2) For the immediate abolition of sanctions of a penal nature in respect of:

(*a*) Any neglect of duty or lack of diligence on the part of the worker;

(*b*) The absence of the workers without permission or valid reason;[2]

(3) The abolition of all penal sanctions not later than 31 December 1955;

(4) Periodic reports to the International Labour Office as to the progress being made towards abolition of all penal sanctions and statistics as to the annual numbers of workers upon whom penal sanctions have been imposed.

[1] Mr. Smuts declared that he did not regard the complete abolition of penal sanctions at this stage as practicable and therefore did not support this and the remaining conclusions of the Committee.

[2] Colonel Neves da Fontoura (Former Governor of Timor, Professor, School of Higher Colonial Studies, Lisbon, accompanied by Professor Raul Ventura, Faculty of Law, Lisbon), declared that he did not consider abolition of penal sanctions in these cases to be immediately practicable.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION

RESOLUTIONS ADOPTED BY THE GENERAL CONFERENCE AT ITS SIXTH SESSION, IN PARIS, 18 JUNE–11 JULY 1951 [1]

THE PROGRAMME FOR 1952 [2]

1. EDUCATION

1.2 EXTENSION OF EDUCATION

1.21 *Fundamental Education*

1.211 Member States are invited:

To undertake or to develop activities in fundamental education, according to the needs of their national populations and of the peoples of the Non-Self-Governing Territories for which they have responsibility, paying special attention to literacy campaigns; to form on a national basis committees or associations in which women should be widely represented for collaboration with UNESCO in this field.

The Director-General is authorized:

1.212 To give, on request, technical aid to Member States desiring co-operation with UNESCO in the development of fundamental education in their national territories, as well as in Non-Self-Governing Territories for which they have responsibility especially in relation to:

(*a*) The methods of conducting literacy campaigns;

(*b*) The use in education of the vernacular and second languages;

(*c*) The use of audio-visual aids;

(*d*) The training of qualified educators; and

(*e*) The preparation of educational materials for adults who have recently learned to read and write;

1.2121 To continue, in collaboration with the Government of Haiti and with the assistance of the Food and Agriculture Organization and the World Health Organization, the pilot project of Marbial (Haiti);

1.2122 To continue, within the framework of the agreements with the Governments of Mexico and the Organization of American States, the development of the Training and Production Centre for Fundamental Education in Latin America;

1.213 To promote consultation between the United Nations and the specialized agencies, in particular through joint working parties, in relation to projects and activities in fundamental education.

The particular contribution of UNESCO to the work of the United Nations and the specialized agencies should consist in:

(*a*) Perfecting suitable methods of fundamental education to assist the assimilation of skills and ideas and the understanding of rights and duties which condition individual and social progress;

(*b*) Providing specialized personnel with training in the development and improvement of these fundamental education methods.

1.22 *Adult Education*

Member States are invited:

1.221 To undertake and to develop activities in adult education according to the needs of their populations, concentrating particularly on the education of working people of both sexes and, within the framework of their national commissions or in agreement with them, to set up committees, or to encourage the establishment or the activities of associations, for collaboration with UNESCO in this field;

1.222 To organize, with the technical aid of the Secretariat, national or regional seminars to study the problems of adult education and especially those concerning the methods and techniques appropriate to such education.

The Director-General is authorized:

1.223 To establish, in collaboration with the competent international associations and especially with international trade union organizations, an international centre for the training of specialists

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[1] The following texts constitute a selection of those resolutions which are especially important from the point of view of human rights. English text in *Records of the General Conference of the United Nations Educational, Scientific and Cultural Organization*, Sixth Session, Paris, 1951, *Resolutions*.

[2] For the Basic Programme, see *Yearbook on Human Rights for 1950*, p. 405.

and the improvement of methods in workers' education, and for the organization of educational courses for workers, particularly in relation to international understanding.

1.23 *Free and Compulsory Schooling*

1.231 Member States are invited:

To take, as a result of conclusions of the Fourteenth Conference on Public Education, to be jointly organized in 1951 by UNESCO and the International Bureau of Education, the practical measures appropriate to their respective situations for the effective application of the principle of free and compulsory schooling expressed in article 26 of the Universal Declaration of Human Rights.

The Director-General is authorized:

1.232 To organize, in the light of the conclusions of the Fourteenth Conference on Public Education and with the collaboration of interested Member States, a regional conference in South-East Asia to study the problems of the effective and progressive application in that region of the principle of free and compulsory schooling;

1.2321 And to prepare a similar conference to be held in 1953 in the Middle East;

1.233 To send to Member States, upon their request and with their financial participation, missions of experts or technical advisers to examine the problems raised in the countries concerned by the application of the principle of free and compulsory schooling, to propose suitable solutions and, as appropriate, to provide technical assistance for carrying into effect the measures recommended either by the 1952 missions or by those organized in previous years.

1.24 *Education of Women*

1.241 Member States are invited:

To undertake or to develop the education of women for citizenship, especially in countries where women have recently won political rights.

The Director-General is authorized:

1.242 To organize jointly with the International Bureau of Education and in consultation with the competent international organizations, the Fifteenth Conference on Public Education, to be especially devoted to the examination of the problems relating to the access of women to education;

1.2421 To prepare, on the basis of the work of the Fifteenth Conference on Public Education, of the conclusions of the Seminar on Human Rights and of the experience of Member States, and with a view to supplementing the measures taken by the Secretary-General of the United Nations in pursuance of resolution 304 C (XI) of the Economic and Social Council, suggestions as to methods and materials relating to the education of women in citizenship, especially in the countries where they have recently acquired political rights.

. . .

1.3 EDUCATION FOR INTERNATIONAL UNDERSTANDING

1.31 *Curricula and Methods*

1.311 Member States are invited:

To pay the greatest attention to the preparation for the seminars organized by UNESCO in relation to education for international understanding and especially to the selection of participants in consultation with the Director-General;

1.312 To make the fullest use of the work of these seminars and to follow them up wherever possible with regional or national seminars on the same subjects, organized with the technical assistance of the Secretariat.

The Director-General is authorized:

1.313 To undertake, in collaboration with the United Nations and its specialized agencies, the execution of a long-term programme, planned in 1951, to stimulate and encourage the efforts of Member States to develop and improve the education of children of pre-school age and of children in primary schools with a view to a training based on the respect of human dignity and aiming at developing the sense of the intellectual and moral solidarity of mankind.

. . .

1.32 *Teaching about the United Nations and the Specialized Agencies*

1.321 Member States are invited:

To take the necessary educational measures to make children and adults familiar with the aims and activities of the United Nations and its specialized agencies, and in general to introduce into all elementary and secondary schools education for citizenship both from the national and international standpoints.

The Director-General is authorized:

1.322 To prepare for Member States and the international organizations concerned, in association with the United Nations and its specialized agencies and with the collaboration of the competent international organizations, detailed suggestions on the programme and methods appropriate to the mental development of children and young people at different ages, for teaching about the United Nations and its specialized agencies, stressing the twin principles of collective security and mutual assistance in social welfare as the inseparable conditions for maintaining peace.

1.323 And to produce suitable written and audio-visual material for this purpose.

1.33 *Education and Human Rights*

1.331 Member States are invited:

To facilitate the publication, in consultation with the Director-General, of handbooks for teachers at the different levels of education, as well as for tutors in adult education and leaders of youth movements and organizations, with a view to the introduction, in the light of historic experience, of the principles of the Universal Declaration of Human Rights into the curriculum and into educational practice.

The Director-General is authorized:

1.332 To organize a seminar for primary and secondary school teachers and for members of the staff of training colleges of all levels, on the development of active methods for education in world citizenship, especially in relation to the principles of the Universal Declaration of Human Rights.

1.34 *Youth Movements and Organizations*

The Director-General is authorized:

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1.344 To associate youth movements and organizations with the carrying out of the programme of UNESCO, particularly the diffusion of the principles of the Universal Declaration of Human Rights, fundamental education, and international mutual aid.

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2. NATURAL SCIENCES

2.1 DEVELOPMENT OF INTERNATIONAL SCIENTIFIC CO-OPERATION

The Director-General is authorized:

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2.13 To develop the activities of the Field Science Co-operation Offices in Latin America, South Asia, East Asia, South-East Asia and the Middle East, in order to facilitate among the scientists and technologists of the various regions of the world, the exchange of information, personnel and material, as well as the co-ordination of research.

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2.2 CONTRIBUTION TO RESEARCH, PARTICULARLY FOR THE IMPROVEMENT OF THE LIVING CONDITIONS OF MANKIND

The Director-General is authorized, in co-operation with Member States, the United Nations and its specialized agencies and appropriate international organizations:

2.21 To initiate a world survey of research institutes and laboratories, in the field of the natural sciences, with a view to studying the contribution which these institutes and laboratories can bring to the solution of the most important scientific problems of our time, giving priority to the subjects submitted to the Economic and Social Council in the Report of the Committee of Scientific Experts on International Research Laboratories (E/1694 of 19 May 1950).

2.22 To propose, in the light of this survey and bearing in mind the part played by other specialized agencies and international scientific organizations, measures to assist scientific research in already existing national and international institutions and laboratories, and the creation of co-ordinating bodies or of new regional or international research centres on a regional or a world basis.

2.23 To continue studies with a view to the establishment of an international institute of research on the brain and a regional laboratory for the study of high energy particles.

2.24 To organize and establish the International Computation Centre.

2.25 To promote, with the aid of the Advisory Committee on Arid Zone Research, research on scientific and technical problems concerning the arid zone; and to this end,

2.251 To collect and disseminate information on research being carried out on problems of the arid zone and on the organizations, scientists and engineers engaged in such research;

2.252 To assist, financially and otherwise, institutions designated by the Advisory Committee on Arid Zone Research in carrying out specific projects approved or recommended by the Committee and forming part of a co-ordinated programme of fundamental arid zone research;

2.253 To organize, in collaboration with a Member State, a symposium on a specific group of these problems;

. . .

2.3 DISSEMINATION OF SCIENCE

The Director-General is authorized:

2.31 To stimulate and facilitate the teaching and dissemination of the methods, discoveries and application of the natural sciences, especially as regards their influence on the living conditions of mankind, by utilizing the various means of mass communication, particularly exhibitions.

2.32 To continue to encourage discussions on the topics chosen by UNESCO and dealing with the relations of science and society and, to this effect, to continue the publication of *Impact*.

2.4 ACTION IN THE SERVICE OF HUMAN RIGHTS

The Director-General is authorized:

2.41 To arrange for a study of the international projection of the moral and material interests derived by the author of any scientific production, in accordance with article 27, paragraph 2, of the Universal Declaration of Human Rights.

3. SOCIAL SCIENCES

3.2 STUDIES OF TENSIONS IN SOCIAL CHANGE

3.21 Member States are invited:

To ensure, through teaching and information generally, the dissemination of scientific knowledge relating to collective conditions and attitudes, likely to assist in reducing social tensions.

The Director-General is authorized:

3.22 To undertake, in collaboration with Member States concerned, a critical inventory of the methods and techniques employed for facilitating the social integration of groups which do not participate fully in the life of the national community by reason of their ethnical or cultural characteristics or their recent arrival in the country.

3.23 To continue study of the social and cultural aspects of migration, in order to co-operate with Member States, the United Nations and the specialized agencies in the drawing up, or the execution, of plans of emigration or immigration, so as to secure that both contribute not only to the improvement of economic conditions of the countries concerned, but to social progress and to the cultural enrichment of those affected, and also to mutual understanding between peoples.

3.24 To bring together and to diffuse existing knowledge and to encourage studies of the methods of harmonizing the introduction of modern technology in countries in process of industrialization, with respect for their cultural values, so as to ensure the social progress of the peoples.

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3.4 CONTRIBUTION TOWARDS THE IMPLEMENTATION OF HUMAN RIGHTS

3.41 Member States are invited:

To contribute, jointly with the Director-General, to the development of studies relating to conditions likely to promote a better application of the Universal Declaration of Human Rights, in particular as regards non-discrimination against women.

The Director-General is authorized:

3.42 To carry out, in agreement and collaboration with the Member States concerned, a sociological study of the problems involved in the admission of women to the exercise of political rights, in order to arrive at measures most appropriate for facilitating the solution of these problems.

4. CULTURAL ACTIVITIES

4.1 DEVELOPMENT OF INTERNATIONAL CULTURAL CO-OPERATION

The Director-General is authorized:

4.11 To assist, by subventions and services, those international organizations which, within the field of cultural activities, are engaged in the development of co-operation between specialists, documentation services and the diffusion and exchange of information, and to associate them with the work of UNESCO.

4.12 To maintain, in collaboration with Member States and appropriate international organizations, services for documentation and for the diffusion and exchange of information relevant to the cultural activities included in the programme;

4.121 To publish the *Index Translationum*, *Museum*, the *Unesco Copyright Bulletin* and the *Unesco Bulletin for Libraries*, as well as the results of inquiries, studies and symposia, previously undertaken, and information required for the execution of the programme.

4.13 To secure the collaboration of appropriate bodies for organizing round-table discussions between thinkers, scientists, writers and artists from different countries on current cultural problems;

4.14 To organize, in collaboration with national commissions and appropriate international organizations, an international conference of artists, which would be held possibly at Venice on the occasion of the XXVIth Biennial, to study the practical conditions required to ensure the freedom of the artist, and to seek means of associating artists more closely with UNESCO's work.

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4.2 PRESERVATION OF THE CULTURAL HERITAGE OF MANKIND

4.21 Member States are invited:

To develop and improve their services for the protection and preservation of works of art, monuments and other cultural assets, taking into account the experiments carried out in various countries.

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4.3 PROTECTION OF WRITERS AND ARTISTS

4.31 Every Member State is invited:

To encourage a common study by the various interested groups of the ways of improving the protection of literary, artistic and scientific works, both in the domestic and international fields.

The Director-General is authorized:

4.321 To communicate to the governments of all States, whether Member States of UNESCO or not, and to the Berne Bureau and the Pan-American Union, the preliminary draft of a Universal Copyright Convention prepared by the Committee of Copyright Specialists at the Sixth Session of the General Conference, as well as the comments received;

4.322 To invite, in conjunction with the government of a Member State, the above-mentioned governments to an inter-governmental conference, to be held within the territory of the said State, for the purpose of preparing and signing such a Convention.

4.4 DISSEMINATION OF CULTURE

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4.44 Member States are invited:

To develop their national system of public libraries and to improve the organization of these libraries, for service to fundamental and adult education, especially by means of travelling libraries.

To help Member States to this end, the Director-General is authorized:

4.441 In co-operation with the Government of India, to continue the pilot project started in 1950, and to initiate a similar project in Latin America, as the outcome of the Conference to be held in this region in 1951.

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4.5 ACTION IN THE SERVICE OF HUMAN RIGHTS

The Director-General is authorized:

4.51 To invite the International Council for Philosophy and Humanistic Studies to study the concept of the rule of law in contemporary political and social philosophies as a fundamental factor in human co-operation in international affairs and in the activities of the United Nations;

4.52 To convene a meeting of experts appointed in consultation with Member States and the United Nations to analyse the philosophical and legal contents and the principal means of practical application of man's right "freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits" in accordance with article 27, paragraph 1, of the Universal Declaration of Human Rights and in the light of any further development in the United Nations concerning this right.

4.53 To invite qualified scholars, through the good offices of the International Permanent Committee of Linguists, to describe the structure of languages spoken in certain limited areas of Africa, Oceânia, India and America. Such research should serve as a basis for the study of cultural differences and modes of thinking, as a part of UNESCO's programme in the fields of human rights and racial problems.

5. EXCHANGE OF PERSONS

5.2 PROMOTION OF EXCHANGE OF PERSONS

5.21 Member States are invited:

To promote, particularly by study and travel grants, the international exchange of persons for educational, scientific and cultural purposes, both by encouraging and facilitating educational travel abroad for their nationals and also by increasing and improving study facilities offered in their own countries to persons from abroad, including refugees and displaced persons.

The Director-General is authorized:

5.22 To assist Member States on request by suitable documentation or by expert advice, to determine their needs for study abroad.

5.23 To promote, in co-operation with the Member States concerned and the appropriate international organizations, international educational exchange, particularly of young persons and workers.

. . .

6. MASS COMMUNICATION

6.2 REMOVAL OF OBSTACLES TO FREE FLOW OF INFORMATION

Member States are invited:

6.21 To establish national consultative committees, preferably under the sponsorship of national commissions, to study the relation of provisions of internal legislation to the objectives of UNESCO in this field as defined in resolutions of the General Conference, and to make suggestions for necessary amendments of such internal legislation.

6.22 To take legislative and administrative measures to reduce the obstacles to the international movement of persons and the international circulation of materials serving to promote education, science and culture.

The Director-General is authorized:

6.23 To take the measures incumbent upon the Organization in the application of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific and Cultural Character and of the Agreement on the Importation of Educational, Scientific and Cultural Materials;

6.231 To inform Member States of administrative arrangements in operation in some countries for the safe and expeditious transit of delicate physical standards between approved scientific laboratories, which might usefully be given wider application, and to perform such functions as the wider application of these arrangements may require.

6.24 To submit for the consideration of Member States, a first draft of an international instrument formulated in consultation with the United Nations, the specialized agencies and competent international organizations, with a view to removing obstacles to the movement between countries of persons travelling for educational, scientific or cultural purposes;

6.241 To submit this draft, with the comments of Member States, to a committee of government experts entrusted with establishing a text for submission to the General Conference, in accordance with prescribed procedure.

6.25 To co-operate with the United Nations, the specialized agencies and appropriate international organizations, with a view to promoting in their respective fields technical studies and practical measures designed to facilitate the removal of obstacles to the free flow of information.

6.3 USE OF THE MEANS OF COMMUNICATION

6.31 Member States are invited:

To stimulate and facilitate, within the framework of their national laws and customs, the use of the means of communication, in order to contribute to international understanding, based upon respect for human rights, by obtaining support of and participation in the programme of UNESCO by the general public.

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7. REHABILITATION SERVICE

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7.15 To continue and intensify, in collaboration with the United Nations Relief and Works Agency, the activities already undertaken on behalf of Palestine refugees.

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9. MISCELLANEOUS RESOLUTIONS

9.1 INCLUSION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

The General Conference,

After consideration of the Report of the Director-General concerning the inclusion of economic, social and cultural rights, into a Draft International Covenant on Human Rights (6C/PRG/18 and Addenda),

9.11 *Approves* the action by the Director-General to give effect to resolution 9.22 adopted at the Fifth Session, and in particular the collaboration of the Secretariat of UNESCO with the Commission on Human Rights in the preparation of provisions of the Draft Covenant concerning the right to education and the right to culture;

Having furthermore examined the request transmitted by the Secretary-General of the United Nations which invites UNESCO to present its observations upon the Draft Covenant adopted by the Commission on Human Rights at its Seventh Session (6C/PRG/18 Add.2);

Considering that the Constitution of UNESCO places upon the Organization special responsibilities for the advancement of education, science and culture, and that it is therefore incumbent on the Organization to collaborate closely with the United Nations in order to define and put into operation the right to education and the right to culture;

Considering that the Draft Covenant adopted by the Commission on Human Rights refers to matters of the utmost importance to UNESCO;

Considering that the General Conference, at its present session, unfortunately, has not had sufficient time to study, as their importance warrants, the various aspects of the provisions adopted by the Commission, and that while expressing general approval of the principles underlying these provisions, the Conference cannot at present supply the comments required by the Secretary-General of the United Nations.

9.12 *Declares itself* prepared to assume, as regards the implementation of the right to education and the right to culture, the responsibilities which would devolve upon the specialized agencies under chapter V of the Draft Covenant adopted by the Commission on Human Rights;

9.121 *Instructs* the Director-General to communicate to Member States the text of the Draft Covenant on Human Rights and to invite them to submit to him, within three months, their observations upon the provisions concerning the right to education and the right to culture and their implementation;

9.122 *Instructs* the Director-General to submit to the Executive Board the observations transmitted by Member States on this subject;

9.123 *Invites* the Executive Board to formulate, in the light of these consultations, observations which the Director-General might be called upon to make in the name of UNESCO upon the Draft Covenant, to the next session of the General Assembly of the United Nations and at any subsequent meeting of the appropriate organs of the United Nations;

9.124 *Instructs* the Director-General to report to the Seventh Session of the General Conference upon the progress made towards the adoption of the International Covenant on Human Rights, and to present to the Conference a study of the measures which it may be necessary to adopt to enable UNESCO to participate fully in the implementation of the right to education and the right to culture as defined in the Covenant;

9.125 *Instructs* the Director-General to communicate the text of the present resolution to the Economic and Social Council.

9.2 Charter on the Duties of the State

The General Conference,

Noting: The progress made by the Human Rights Commission at its last session in formulating educational, social and cultural rights for inclusion in the Draft Covenant of Human Rights;

The emphasis on human rights in the UNESCO programme in the fields of education, natural science, social science and culture; and

The necessity of giving detailed consideration to the language in annex I, document 6C/PRG/17, preliminary Draft Charter proposed by the Norwegian National Commission for UNESCO and to the implications of the adoption of such a charter in view of the extension of the Draft Covenant on Human Rights into the fields of economic, social and cultural rights,

9.21 *Instructs* the Director-General to draw the attention of Member States, national commissions, the United Nations, the specialized agencies and non-governmental organizations to the preliminary draft proposed by the Norwegian National Commission.

9.3 Establishment of a World Network of International Fundamental Education Centres

9.31 *The General Conference,*

Believing fundamental education to be at the heart of the work of UNESCO, and convinced that the general plan outlined in document 6C/PRG/3 constitutes a first attempt on a world-wide basis to combat through education the problems of ignorance, poverty and disease,

9.311 *Resolves*

That this project shall be put into effect forthwith, with such modifications as are indicated below or as may be necessitated later in the light of experience in carrying out the plan;

9.312 That everything possible shall be done by UNESCO, in association with the United Nations and interested specialized agencies, to promote the project as the first stage in a continuing campaign;

. . .

9.32 *The General Conference,*

Moved by the fact that more than half mankind can neither read nor write, and therefore live in conditions inimical to democracy and the progress of civilization and to the intellectual and moral solidarity of men, which constitutes the surest basis of peace,

9.321 *Approves* the project for a world network of international fundamental education centres, designed to remedy this crucial malady of ignorance,

9.322 *Registers* its satisfaction that, without in any way constituting an exhaustive list; ten Member States, namely: Bolivia, Brazil, Colombia, Egypt, France (for its African territories), Lebanon, Pakistan, the Philippines, Thailand and Turkey, have at once made known their desire to contribute to the establishment and operation in their territory of an international fundamental education centre, within the world network which it has been decided to create,

9.323 *Authorizes* the Director-General to undertake forthwith, in collaboration with those Governments and with such others as may make subsequent offers, the preliminary research necessary for setting up such centres,

9.324 *Authorizes* the Executive Board, in the light of this preliminary research and on the basis of a report by the Director-General, to decide on the place where a second international centre shall be established in 1952.

Considering:

That the unanimous vote of the Member States of UNESCO meeting at this Sixth Session, and the urgency with which a growing number of States are demanding the creation of a centre on their territory, demonstrate the vital and immediate need for such a project conceived on a world-wide scale to combat a world-wide evil;

That, for the first time, nations of every continent have declared themselves ready, in order to bring this project to fruition, to entrust an important part of their educational activity to an international organization dedicated to the cause of human understanding;

That this project is one which will arouse among the peoples of the world a hope that must not be aroused in vain, nor extinguished once it has been aroused;

Realizing that the decisions taken for the first year's execution of the project permit of the opening, in 1952, of only one new international centre, of limited scope, and financed in part by exceptional reductions in the normal budget of the Organization as a whole;

And that the number of demands made upon UNESCO far exceed the modest resources at its disposal for satisfying them,

9.33 *Addresses* to the governments of Member States, to national commissions, to the international non-governmental organizations, to leading institutions, and to the peoples of the world themselves an urgent and solemn appeal to make the gesture of solidarity whereby those who have enjoyed a full education shall give proof of their refusal to consider education as a privilege incurring no obligation of their determination to break down the unjust barrier which still condemns half of mankind to silence and privation and of their decision to take up the immemorial challenge of ignorance.

9.6 Production and Distribution of Newsprint

The General Conference,

Considering that the difficulties being experienced by a large number of countries in the supply of newsprint and printing paper constitute a danger to the development of education, culture and freedom of information and that the problem calls both for immediate measures and long-term solutions;

Taking note with satisfaction of the creation, by the International Raw Materials Conference, of a Wood Pulp and Paper Committee which is empowered by its terms of reference to "recommend or report to governments concerning specific action which should be taken, in the case of each commodity, in order to expand production, increase availability, conserve supplies and ensure the most effective distribution and utilization of supplies among consuming countries";

Taking note, however, of the fact that this committee, which does not maintain a permanent secretariat, is not constituted as a permanent organization and has as its principal task to meet the most urgent needs;

Being convinced that the long-term solutions which are also essential to meet a lasting crisis must be sought through the co-ordination of the action of the competent international organizations, working if need be in liaison with the professional associations of producers and consumers;

Believing therefore that the solution of the various problems raised by the conditions of production and distribution of paper for newspapers and books call for a threefold parallel action;

Decides:

9.61 To urge the States members of the Wood Pulp and Paper Committee:

9.611 To take all necessary steps to ensure that the Committee takes into account not only immediate emergency needs for newsprint and printing paper, but also long-term needs resulting chiefly from the advance of education and the necessity of ensuring the maximum dissemination of information in order to promote international understanding by laying particular emphasis on suitable means to increase world production of newsprint and printing paper, including the use of substitute raw materials;

9.612 To draw to the attention of the Committee the desirability of co-operating with the appropriate organizations of the United Nations;

9.613 To inform the Committee of UNESCO's readiness to co-operate in its work by evaluating the present and future needs in newsprint and printing paper of the peoples of the world from the point of view of education, freedom of information and international understanding.

. . .

Authorizes the Secretary-General:

. . .

9.632 To warn public opinion of the serious danger which results from a decrease in the means of information, education and culture at a time when the peoples of the world stand most in need of them.

9.9 Directions for the Preparation of UNESCO's Programme for 1953–54

9.92 *Human Rights*

9.921 *The General Conference*

Wishes to congratulate the Director-General on the enlargement of UNESCO's total programme

in the field of human rights as requested by the General Conference of UNESCO at the Fifth Session at Florence;

9.9211 *Instructs* the Director-General to bring about the greatest possible co-operation among the various divisions of UNESCO, with a view to developing, in this field, a unified long-range programme and making it still more effective.

9.922 *The General Conference*

Instructs the Executive Board and the Director-General to consider for inclusion in the Draft Programme for 1953–1954, the following resolution:

To assist in the organization of national and regional seminars for teachers in secondary schools and for members of the staffs of training colleges of all levels, in co-operation with Member States, on the development of active methods for education in world citizenship, especially in relation to the principles of the Universal Declaration of Human Rights.

PUBLICATIONS

1. In the series "The Race Question in Modern Science":
   - (i) Michel Leiris—*Race and Culture* 45 pp.
   - (ii) Arnold M. Rose—*The Roots of Prejudice* 41 pp.
   - (iii) Otto Klineberg—*Race and Psychology* 39 pp.
   - (iv) Juan Comas—*Racial Myths* 51 pp.
   - (v) L. G. Dunn—*Race and Biology* 48 pp.
2. *Human Rights.* Exhibition album—110 plates and explanatory text. A short history of human rights 35 pp.

WORLD HEALTH ORGANIZATION

RESOLUTIONS ADOPTED BY THE EXECUTIVE BOARD AT ITS SEVENTH SESSION AND BY THE WORLD HEALTH ASSEMBLY AT ITS FOURTH SESSION

REFUGEE PHYSICIANS AND WORLD SHORTAGE OF MEDICAL PERSONNEL

1. Resolution adopted by the Executive Board on 26 January 1951[1]

Having considered a communication from the International Refugee Organization pointing out the obstacles to the professional resettlement of refugee physicians because of national legislation or, in some cases, of the lack of national legislation,

The Executive Board

1. *Draws the attention* of its Member States to the existence of these anomalies;

2. *Recommends* to Member States the adoption of such legislation as would enable the services of duly qualified medical personnel acceptable to them to be satisfactorily utilized; and furthermore

3. *Points out* that a medical register has been prepared by the IRO which gives personal details and qualifications of each refugee screened as medically qualified by the IRO.

2. Resolution adopted by the World Health Assembly on 25 May 1951[2]

The Fourth World Health Assembly,

Having considered the problem of refugee physicians in the light of the world shortage of medical personnel, and resolution EB7.R.22 of the Executive Board on this subject,

1. *Invites* the attention of Member States to the anomalies that exist;

2. *Points out* that a medical register has been prepared by the International Refugee Organization which gives personal details and qualifications for each refugee screened as medically qualified by IRO;

3. *Requests* the World Medical Association to consider measures to facilitate the resettlement of refugee physicians and the problems arising from the lack of reciprocity in medical licensure for these physicians, and to submit its suggestions to the Executive Board of the World Health Organization; and

4. *Recommends* to Member States and their medical associations the adoption of such measures as would enable the services of duly qualified medical personnel acceptable to them to be satisfactorily utilized.

[1] Resolution EB7.R.22. Text in *Official Records of the World Health Organization* No. 32, Executive Board, Seventh Session, Part I, p. 7.

[2] Resolution WHA4.21. Text in *Official Records of the World Health Organization* No. 35, Fourth World Health Organization Assembly, p. 24.

DRAFT COVENANT ON HUMAN RIGHTS[3]

Resolution of the Executive Board adopted on 7 June 1951

The Executive Board

1. *Notes* the report of the Director-General on co-operation with the United Nations Commission on Human Rights in respect to the Draft Covenant on Human Rights;

2. *Recalls* the obligations assumed by the States Parties to the Constitution of WHO which recognizes that "The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being . . ." and "Governments have a responsibility for the health of their peoples which can be fulfilled only by the provision of adequate health and social measures";

3. *Confirms* that recommendations and international action in the field of health which are directed toward the implementation of the provisions of the International Covenant on Human Rights fall within the obligations placed upon WHO by its Member Governments and recognized by the United Nations in its agreement with WHO;

4. *Invites* Member Governments which have not already achieved full co-ordination of their policies in the various organs of the United Nations and in the specialized agencies to undertake such co-ordination, especially in respect of measures to implement the provisions of the Draft International Covenant on Human Rights;

5. *Requests* the Director-General:

(1) To propose to the Economic and Social Council at its Thirteenth Session revision of the Draft Inter-

[3] Resolution EB8.R.50. Text in *Official Records of the World Health Organization* No. 36, Executive Board, Eighth Session, p. 16.

national Covenant on Human Rights in accordance with the suggestions approved by the Board at this session;[1]

(2) To report to the Board at an early session on co-operation with the United Nations in respect to the Draft Covenant on Human Rights.

[1] These suggestions are published in the following document: *World Health Organization*, Executive Board, Eighth Session, EB8/39, 2 June 1951. Among these suggestions the following, submitted by the Director-General of the World Health Organization (see also United Nations document E/CN.4/544, 18 April 1951), may be cited:

"When the question arose of including economic, social and cultural rights in the Covenant on Human Rights, the Director-General of the World Health Organization felt it was imperative that the enjoyment of the highest obtainable standard of health should be included among the fundamental rights of every human being, and desirable for provision to be made for an undertaking by Governments that adequate health and social measures should be taken to that end, with due allowance for their resources, their traditions and for local conditions. Some Governments with immense financial resources can concentrate on highly specialized problems and provide measures which only benefit a very small number of people, while others have still to create a medical profession and health services before they can contemplate action of any kind.

"In case the Commission should feel that it ought to adopt this dual principle, and purely for information, the Director-General of the World Health Organization ventures to suggest the following clauses in the hope that they may be of assistance to the Commission.

"Every human being shall have the right to the enjoyment of the highest standard of health obtainable, health being defined as a state of complete physical, mental and social well-being.

"Governments, having a responsibility for the health of their peoples, undertake to fulfil that responsibility by providing adequate health and social measures.

"Every Party to the present Covenant shall therefore, so far as its means allow and with due allowance for its traditions and for local conditions, provide measures to promote and protect the health of its nationals and in particular:

"To reduce infant mortality and provide for healthy development of the child;

"To improve nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;

"To control epidemic, endemic and other diseases;

"To improve standards of medical teaching and training in the health, medical and related professions;

"To enlighten public opinion on problems of health;

"To foster activities in the field of mental health, especially those affecting the harmony of human relations."

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS

SIXTH SESSION OF THE CONFERENCE OF THE FOOD AND AGRICULTURE ORGANIZATION [1]

19 November–6 December 1951

Introductory Note. The Food and Agriculture Organization contributes to human rights substantially, but indirectly. Freedom from want is perhaps one of the most basic of human rights. FAO is dedicated to the principle that the alleviation of hunger is the primary basis for all social endeavour. The right of every one of the two thousand five hundred million people who populate this earth is to have what modern man knows as an adequate diet. The Food and Agriculture Organization is consecrated to the purpose of providing enough to eat by growing more food, and raising the living standards of rural populations and farmers, thereby contributing towards an expanding world economy. This purpose is laid down in the Preamble of the Constitution of FAO.[2]

RESOLUTION NO. 8

REFORM OF AGRARIAN STRUCTURES

The Conference,

Having examined the Report on "Defects in Agrarian Structures as Obstacles to Economic Development", the resolution of ECOSOC thereon, and the Director-General's "Statement on Reform of Agrarian Structures" (C 51/I–3),

Considers,

(*a*) That in many countries the agrarian structure has most serious defects, in particular the uneconomic size of farms, the fragmentation of holdings, the maldistribution of landed property, excessive rents, inequitable systems of taxation, insecurity of tenure, perpetual indebtedness or the lack of clear titles to land and water;

(*b*) That these defects prevent a rise in the standard of living of small farmers and agricultural labourers, and impede agricultural development;

(*c*) That reform of agrarian structure in such countries is essential to human dignity and freedom, and to the achievement of the aims of FAO;

Endorses the resolution of ECOSOC of 7 September [3] in so far as it applies to FAO; and

Urges Member Governments

(*a*) To take immediate steps to implement that resolution, and to co-operate with FAO in supplying information and participation in such investigations as FAO may undertake;

(*b*) To request the assistance of FAO to carry out reform of their agrarian structure;

Requests the Director-General to:

1. Assemble in co-operation with other appropriate organizations on a continuing basis at FAO Headquarters information on land tenure, land reform and allied subjects, with a view to analysing and making it available to interested Member Governments and institutions;

2. Co-operate with Member Nations in the appraisal of the effectiveness of past and current measures of reform of agrarian structure;

3. Take the leadership in organizing with other entities of the United Nations such inter-agency arrangements as may be useful and appropriate to enable each United Nations agency to make its fullest contribution to implementing the EOSOC resolution, to provide assistance to governments on all aspects of reform of agrarian structure, and to arrange for the preparation of reports on progress achieved as called for in the ECOSOC resolution;

4. Review the Programme of Work of FAO with a view to ensuring a high priority and an integrated approach to those projects in the various divisions which are related to the problems of reform of agrarian structure in the broadest sense in order to keep Member Nations informed of all aspects of the problem under review and to be fully prepared to give assistance to governments in the development of their programmes;

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[1] Text in Report of the *Sixth Session of the Conference of the Food and Agriculture Organization*, Rome, March 1952.

[2] See the text of the Preamble in *Yearbook on Human Rights for 1948*, p. 413.

[3] Resolution 370 (XIII). Land reform (See: *Economic and Social Council, Official Records, Sixth Year, Thirteenth Session, 30 July–21 September 1951, Resolutions*, p. 10).

5. Be prepared to assist governments by provision of technical assistance on programmes designed to promote desirable reforms including land tenure, agricultural credit, agricultural co-operatives, and agricultural extension services and rural industries;

6. Seek the co-operation of other international organizations, Member Governments and private bodies on investigations of problems of reform of agrarian structure including the analysis and promotion of methods of external and internal financing of agrarian reform programmes;

7. Promote the organization of regional conferences or training centres combined with demonstration projects on reform of agrarian structures in co-operation with other national and international organizations and governments of the regions concerned; and

8. Report to the Council, as soon as practicable, on initial progress made in implementing those recommendations, on obstacles encountered, and on further possibilities uncovered, and subsequently to report fully to the next regular conference on progress achieved.

RESOLUTION No. 15

FOOD SHORTAGES AND FAMINE

The Conference,

Resolves

1. That on receiving intimation from a Member Nation or region that a serious food shortage or famine exists or is likely to develop, which it is unable to cope with from its own resources, the Director-General shall depute one or more FAO officials to investigate the nature of the problem with the consent of the government concerned and to report on the extent, if any, of international assistance needed and communicate the report to the United Nations and the interested specialized agencies;

2. That when, in the opinion of the Director-General, there is an emergency requiring international relief measures, he shall at his discretion convene forthwith a meeting of the Council or of interested governments to devise the most practical lines of action which may be required to bring about prompt, concerted and effective assistance by governments as well as by voluntary agencies; and that the Director-General shall thereupon report the action taken to the Secretary-General of the United Nations for transmission to the Economic and Social Council.

RESOLUTION No. 36

CHILD WELFARE

The Conference,

Having considered the essential importance of good nutrition and good home management to child welfare,

Recommends that governments should give increasing attention to appropriate measures to improve the food and nutrition of children and mothers and their general living conditions, and that FAO should provide, to the greatest extent possible, technical assistance in developing these measures; that FAO should continue to draw the attention of governments and of the United Nations and its specialized agencies to the vital importance of such measures as part of integrated long-term programmes for the improvement of child welfare, and should co-operate fully with governments and United Nations organizations in the planning and execution of these programmes.

RESOLUTION No. 37

MALNUTRITION IN TIMES OF DISASTER

The Conference,

Having considered the report on "Prevention and Treatment of Severe Malnutrition in Times of Disaster",

Notes with satisfaction that FAO has co-operated with WHO in preparing the report and records its appreciation of the work accomplished by the experts consulted;

Requests the Director-General of FAO to call the attention of governments to this document; and

Recommends that countries undertake the studies needed to draw up appropriate emergency programmes and obtain, if necessary, the help and co-operation of FAO and WHO in these studies.

REGIONAL AND OTHER MULTILATERAL TREATIES AND AGREEMENTS

THE GENEVA CONVENTIONS OF 12 AUGUST 1949

NOTE[1]

The *Yearbook on Human Rights for 1949* contains extracts from the four Geneva Conventions of 12 August 1949.[2] Fifty-four governments signed the Geneva Conventions before 31 December 1949. One State (Ceylon) before that date signed the three Conventions other than that for the protection of civilians in time of war. Between 1 January 1950 and 12 February 1950, the date on which the time-limit for the signing of the Conventions expired, six other States, namely Australia, New Zealand, Portugal, Romania, Venezuela and Yugoslavia, signed the Conventions. The number of States signatories to the four Conventions was thereby raised to sixty.

During 1950, the Conventions were ratified, in order of date, by Switzerland (31 March), Yugoslavia (21 April), Monaco (5 July), Liechtenstein (21 September), Chile (12 October), India (9 November), and Czechoslovakia (19 December). In the course of the year 1951, the following States ratified or adhered to the Conventions: The Holy See (22 February), Philippines[3] (7 April), Lebanon (10 April), Jordan (29 May), Pakistan (12 June), Denmark (27 June), France (28 June), Israel (6 July), Norway (3 August), and Italy (17 December). By the end of the year 1951, therefore, the number of States bound by these Conventions reached seventeen.

In the course of the year 1951, the Geneva Conventions were translated into the following languages: English, German, Spanish, Italian, Korean, Serbian, Polish, Arabic, Indonesian, Russian and Hebrew.

Moreover, during the same year, the International Committee of the Red Cross made available a brief summary of these Conventions for members of the armed forces and the general public.[4] These summaries were published in English, French and Spanish.

[1] This note is based on the *Report on the Work of the International Committee of the Red Cross* (1 January to 31 December 1951), Geneva, 1952, pp. 32–33 and on information received through the courtesy of Mr. Claude Pilloud, Chief, Legal Department of the International Committee of the Red Cross, Geneva.

[2] See pp. 299–309 of that *Yearbook*.

[3] The Philippines ratified the First Convention (Wounded and Sick) only.

[4] *The Geneva Conventions of August 12, 1949, Brief Summary for Members of the Armed Forces and the General Public*, Geneva, International Committee of the Red Cross, 1951.

TREATY OF PEACE WITH JAPAN[1]

Done at the City of San Francisco on 8 September 1951

Whereas the Allied Powers and Japan are resolved that henceforth their relations shall be those of nations which, as sovereign equals, co-operate in friendly association to promote their common welfare and to maintain international peace and security, and are therefore desirous of concluding a Treaty of Peace which will settle questions still outstanding as a result of the existence of a state of war between them;

Whereas Japan for its part declares its intention to apply for membership in the United Nations and in all circumstances to conform to the principles of the Charter of the United Nations; to strive to realize the objectives of the Universal Declaration of Human Rights; to seek to create within Japan conditions of stability and well-being as defined in Articles 55 and 56 of the Charter of the United Nations and already initiated by post-surrender Japanese legislation; and in public and private trade and commerce to internationally accepted fair practices;

Whereas the Allied Powers welcome the intentions of Japan set out in the foregoing paragraph;

. . .

[1] Treaty of Peace with Japan in English, French and Spanish texts in *Conference for the Conclusion and Signature of the Treaty of Peace with Japan*, Record of Proceedings, San Francisco, September 4–8, 1951, p. 313 (Department of State Publication 4392, U.S.A., International Organization and Conference Series II, Far Eastern 3). The "Allied Powers" which concluded this Treaty of Peace with Japan are Argentina, Australia, Belgium, Bolivia, Brazil, Cambodia, Canada, Ceylon, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, Indonesia, Iran, Iraq, Laos, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Saudi Arabia, Syria, Turkey, Union of South Africa, United Kingdom, United States of America, Uruguay, Venezuela, Vietnam.

AGREEMENT BETWEEN THE PARTIES TO THE NORTH ATLANTIC TREATY REGARDING THE STATUS OF THEIR FORCES[1]

Signed at London on 19 June 1951

The Parties to the North Atlantic Treaty signed in Washington on 4 April 1949,

Considering that the forces of one Party may be sent, by arrangement, to serve in the territory of another Party;

Bearing in mind that the decision to send them and the conditions under which they will be sent, in so far as such conditions are not laid down by the present Agreement, will continue to be the subject of separate arrangements between the Parties concerned;

Desiring, however, to define the status of such forces while in the territory of another Party;

Have agreed as follows:

. . .

Art. VII. 1. Subject to the provisions of this article,

(*a*) The military authorities of the sending State shall have the right to exercise within the receiving State all criminal and disciplinary jurisdiction conferred on them by the law of the sending State over all persons subject to the military law of that State;

(*b*) The authorities of the receiving State shall have jurisdiction over the members of a force or civilian component and their dependants with respect to offences committed within the territory of the receiving State and punishable by the law of that State.[2]

8. Where an accused has been tried in accordance with the provisions of this article by the authorities of one Contracting Party and has been acquitted, or has been convicted and is serving, or has served, his sentence or has been pardoned, he may not be tried again for the same offence within the same territory by the authorities of another Contracting Party. However, nothing in this paragraph shall prevent the military authorities of the sending State from trying a member of its force for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the authorities of another Contracting Party.

9. Whenever a member of a force or civilian component or a dependant is prosecuted under the jurisdiction of a receiving State he shall be entitled:

(*a*) To a prompt and speedy trial;

(*b*) To be informed, in advance of trial, of the specific charge or charges made against him;

(*c*) To be confronted with the witnesses against him;

(*d*) To have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the receiving State;

(*e*) To have legal representation of his own choice for his defence or to have free or assisted legal representation under the conditions prevailing for the time being in the receiving State;

(*f*) If he considers it necessary, to have the services of a competent interpreter; and

(*g*) To communicate with a representative of the government of the sending State and, when the rules of the court permit, to have such a representative present at his trial.

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[1] English text: Miscellaneous No. 5 (1951) *Agreement regarding the Status of Forces of Parties to the North Atlantic Treaty*, Cmd. 8279, London, 1951. The agreement was signed by Belgium, Canada, Denmark, France, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, the United Kingdom and the United States of America. Article XVIII provides that thirty days after four signatory States have deposited their instruments of ratification the present agreement shall come in force between them. For each other signatory State it shall come into force thirty days after the deposit of its instrument of ratification.

[2] According to article I, the expression "force" means the personnel belonging to the land, sea or air armed services of one Contracting Party when in the territory of another Contracting Party in the North Atlantic Treaty area in connexion with their official duties, provided that the two Contracting Parties concerned may agree that certain individuals, units or formations shall not be regarded as constituting or included in a "force" for the purpose of the present Agreement; "civilian component" means the civilian personnel accompanying a force of a Contracting Party who are in the employ of an armed service of that Contracting Party, and who are not stateless persons, nor nationals of any State which is not a Party to the North Atlantic Treaty, nor nationals of, nor ordinarily resident in, the State in which the force is located; "dependant" means the spouse of a member of a force or of a civilian component, or a child of such member depending on him or her for support; "sending State" means the Contracting Party to which the force belongs; "receiving State" means the Contracting Party in the territory of which the force or civilian component is located, whether it be stationed there or passing in transit ...

THE EUROPEAN CONVENTION ON HUMAN RIGHTS

NOTE[1]

When the European Convention on Human Rights was signed at Rome in November 1950, during the Sixth Session of the Committee of Ministers of the Council of Europe, consideration was given to the question of adding to the Convention three additional rights proposed by the Consultative Assembly of the Council of Europe. These were the right of property, the right of parents to choose the education to be given to their children and the guarantee of free elections.

As reported in the *Yearbook on Human Rights for 1950*[2] the Committee of Ministers decided, in order to lose no time, to sign the Convention without these three rights and to examine the possibility of incorporating them in a Protocol to the Convention for signature at a later date. A series of meetings of governmental experts was held during the first half of 1951 to draft such a Protocol. The results of their work were approved by the Committee of Ministers at its Ninth Session in August 1951 and transmitted to the Consultative Assembly for its opinion. The Committee on Legal and Administrative Questions of the Consultative Assembly met in Brussels in October 1951 to examine the draft prepared by the governmental experts and made certain proposals for its revision. These proposals were considered by the governmental representatives in the following month and the results of their deliberations communicated to the Consultative Assembly, when it met in Strasbourg for the second part of its Third Ordinary Session from 26 November to 11 December 1951.

On this occasion the Committee on Legal and Administrative Questions, and subsequently the Assembly itself, accepted the text proposed by the governments, with the exception of the article on education, the revision of which was recommended.

The three texts originally proposed by the Consultative Assembly in 1950 were as follows:

Right of Property

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. Such possessions cannot be subjected to arbitrary confiscation. The present measures shall not however be considered as infringing, in any way, the right of a State to pass necessary legislation to ensure that the said possessions are utilised in accordance with the general interest."

Education

"Every person has the right to education. The function assumed by the State in respect of education and of teaching may not encroach upon the right of parents to ensure the religious and moral education and teaching of their children in conformity with their own religious and philosophical convictions."

Free Elections

"The High Contracting Parties undertake to respect the political liberty of their nationals and, in particular, with regard to their home territories, to hold free elections at reasonable intervals by secret ballot under conditions which will ensure that the government and legislature shall represent the opinion of the people."

The first two sentences of the text on the right of property were based, very broadly, on article 17 of the Universal Declaration of Human Rights. An additional sentence was added, however, in order to protect the principle of nationalization.

The governmental experts elaborated this provision somewhat. They also changed considerably the sentence "Such possessions cannot be subjected to arbitrary confiscation", since the phrase "arbitrary confiscation" was of very uncertain meaning without further definition. They substituted the text: "No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law." These last words were intended to incorporate by reference the principle of international law entailing the obligation to pay compensation to non-nationals in cases of expropriation.

The Assembly's text on the right of education was based broadly on the first and last sentence of article 26 of the Universal Declaration, but developed the idea further by speaking of "the religious and moral education and teaching" of children in conformity with the parents' "religious and philosophical convictions". The governmental experts felt unable to agree to this formulation for two reasons. One was the fact that discrimination on religious grounds still exists in the constitution or legislation of certain States which are Members of the Council of Europe. Another reason was the lack of precision in the term "philosophical convictions". The governmental experts therefore proposed, and the Committee of Ministers accepted, a text providing that "the State shall have regard to

[1] Note and text received through the courtesy of Mr. A. Struycken, Political Director at the Secretariat-General of the Council of Europe, Strasbourg. The note was prepared by Mr. A. H. Robertson, member of the Political Directorate.

[2] See p. 417 of that *Yearbook*.

the right of parents to ensure the religious education of their children in conformity with their own creeds".

The Consultative Assembly, however, did not consider this acceptable and in December 1951 adopted a recommendation to the Committee of Ministers proposing the following:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

The Assembly's text on free elections corresponded broadly to paragraph 3 of article 21 of the Universal Declaration. The governmental experts varied the proposed drafting somewhat in order to avoid any apparent commitment to a system of proportional representation. Their revised draft was accepted by the Consultative Assembly in December 1951.

As a result, agreement on the draft Protocol had been reached between the two organs of the Council of Europe by December 1951, with the exception of article 2 relating to education. It was anticipated that the governmental experts would meet again early in 1952 in order to take a decision on the Assembly's counter-proposal for article 2. The revised draft, on which agreement had been reached except for article 2, is reproduced hereafter.

DRAFT PROTOCOL TO THE CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

The Governments signatory hereto, being Members of the Council of Europe,

Being resolved to take steps to ensure the collective enforcement of certain rights and freedoms other than those already included in section I of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4th November 1950 (hereinafter referred to as "the Convention"),

Have agreed as follows:

Art. 1. Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest, and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

Art. 2.[1] No person shall be denied the right to education. In the exercise of any functions which it may assume in relation to education and to teaching, the State shall have regard to the right of parents to ensure the religious education of their children in conformity with their own creeds and, where schools have been established by the State, to send their children to any other school of their choice, provided that such school conforms with the requirements of the law.

Art. 3. The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

Art. 4. Any High Contracting Party may at the time of signature or ratification or at any time thereafter communicate to the Secretary-General of the Council of Europe a declaration stating the extent to which it undertakes that the provisions of the present Protocol shall apply to such of the territories for the international relations of which it is responsible as are named therein.

Any High Contracting Party which has communicated a declaration in virtue of the preceding paragraph may from time to time communicate a further declaration modifying the terms of any former declaration or terminating the application of the provisions of this Protocol in respect of any territory.

A declaration made in accordance with this article shall be deemed to have been in accordance with paragraph 1 of article 63 of the Convention.

Art. 5. As between the High Contracting Parties the provisions of articles 1, 2, 3 and 4 of this Protocol shall be regarded as additional articles to the Convention and all the provisions of the Convention shall apply accordingly.

Art. 6. This Protocol shall be open for signature by the Members of the Council of Europe, who are the signatories of the Convention; it shall be ratified at the same time as or after the ratification of the Convention. It shall enter into force after the deposit of ten instruments of ratification. As regards any signatory ratifying subsequently, the Protocol shall enter into force at the date of the deposit of its instrument of ratification.

The instruments of ratification shall be deposited with the Secretary-General of the Council of Europe, who will notify all Members of the names of those who have ratified.

RATIFICATION OF THE CONVENTION

During the year 1951 the only ratification received of the Convention itself was that of the Government

[1] Article 2 as adopted corresponds to the text recommended to the Consultative Assembly to the Committee of Ministers.

of the United Kingdom. This was deposited with the Secretary-General of the Council of Europe in February 1951. It did not contain a declaration recognizing the competence of the Human Rights Commission to receive petitions from individuals nor a declaration recognizing as compulsory the jurisdiction of the European Court of Human Rights, as permitted by articles 25 and 46 of the Convention.

The fact that no further ratifications of the Convention were received during the year immediately following its signature was due, at least in part, to the fact that several governments were awaiting the signature of the Protocol before submitting the Convention itself to their parliaments for ratification. In this way they hoped to submit to the legislature at one time the two instruments, which would complete each other, and thus obtain more readily the approval of the national parliaments.

DOCUMENTS ADOPTED BY THE FOURTH MEETING OF CONSULTATION OF MINISTERS OF FOREIGN AFFAIRS OF THE AMERICAN STATES[1]

Introductory Note. In accordance with the provisions of the Charter of the Organization of American States, the Meeting of Consultation of Ministers of Foreign Affairs is held in order to consider problems of an urgent nature and of common interest to the American States, as well as to serve as an Organ of Consultation under the terms of the Treaty of Reciprocal Assistance signed at Rio de Janeiro in 1947.[2]

On 18 December 1950, the Government of the United States addressed a communication to the Chairman of the Council of the Organization of American States proposing convocation of a Meeting of Consultation in view of the critical world situation resulting from the aggressive policy of international Communism. The Meeting was held in Washington, 26 March–7 April, and its proceedings were directed against three separate objectives: political and military co-operation for the defence of the Americas, the strengthening of the internal security of the American States, and emergency economic co-operation. In the course of a number of resolutions looking to the attainment of these objectives the Meeting of Consultation made frequent reference to the protection of human rights as a fundamental condition of resistance to the aggressive policy of international Communism. These references may be found in the following declarations and resolutions:

I. "Declaration of Washington". The preamble recites that "in any action for the defense of the Continent and its institutions, the essential rights of man, solemnly proclaimed by the American Republics, should not be lost sight of"; and the Declaration itself proclaims the faith of the American Republics in the principles set forth in the Charter of the Organization of American States,[3] including "respect for the fundamental freedoms of man and the principles of social justice as the bases of their democratic system".

VII. "The Strengthening and Effective Exercise of Democracy". The preamble points out that as a condition of strengthening the internal security of the American Republics "it is essential that each government, as the mandatory of its people, have their confidence and support", and that in order to achieve this identification of the people with their government it is imperative that each country have "an effective system of representative democracy that will put into practice both the rights and duties of man and social justice". The declaration which follows proclaims "That the solidarity of the American Republics requires the effective exercise of representative democracy, social justice, and respect for and observance of the rights and duties of man . . ."

VIII. "Strengthening of Internal Security". The preamble recites that in the concern of the American States "to combat the subversive action of international communism, they are deeply conscious of their desire to reaffirm their determination to preserve and strengthen the basic democratic institutions of the peoples of the American Republics, which the agents of international communism are attempting to abolish, utilizing for this purpose the exploitation and the abuse of these selfsame democratic liberties . . ." The resolution itself, among other things, calls upon the Department of International Law of the Pan American Union "to make technical studies of general measures by means of which the American Republics may better maintain the integrity and efficacy of the rights of the human person and of the democratic system of their institutions, protecting and defending them from treason and any other subversive acts instigated or directed by foreign powers or against the defense of the Americas".

IX. "Improvement of the Social, Economic, and Cultural Levels of the Peoples of the Americas". The preamble refers to the "historic mission" of America to offer to man a land of liberty and a favourable environment for the development of his personality and the realization of his just aspirations, and declares that "It is a right of man to obtain the satisfaction of the economic, social and cultural needs essential to his dignity and to the free development of his personality". The resolution itself recom-

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[1] This note was prepared by Professor Charles G. Fenwick, Director, Department of International Law and Organization, Pan American Union, Washington.

[2] See the preamble in *Yearbook on Human Rights for 1947*, p. 389; a complete English text in *Department of State Bulletin*, Washington, Vol. XVII, No. 429, of 21 September 1947, pp. 565–567.

[3] See *Yearbook on Human Rights for 1948*, p. 437. The complete text of the Charter of the Organization of American States in: Pan American Union, *Law and Treaty Series*, No. 231, Washington, 1948.

mends to the American Republics that "in order to strengthen their internal security, they undertake with the required devotion the great task of raising the social, economic, and cultural levels of their own peoples, taking care that, to the greatest degree possible, they satisfy the rights recognized in this regard by the American Declaration of the Rights and Duties of Man,[1] the Universal Declaration of Human Rights, and the Inter-American Charter of Social Guarantees".[2]

XI. "Betterment of the American Worker". The preamble makes reference to the numerous occasions in which the American Republics "have manifested the great concern of the Governments to raise the level of living of their peoples"; and this is followed by a recommendation that the American States adopt appropriate legislative measures "to give effect within each such country to the principles contained in the Inter-American Charter of Social Guarantees", approved at Bogotá in 1948.

XII. "Economic Development". The preamble notes that "one of the most serious factors in social decline, one that best suits the purposes of aggression, is the existence of low standards of living in many countries that have been unable to attain the benefits of modern techniques"; and the resolution goes on to plan the measures of economic co-operation needed to increase productive capacity and general economic development as a means of continental defence.

XXIII. "Study on the Shortage and Distribution of Newsprint". The preamble states that "the security of newsprint gravely affects the normal development of the organs of the Press in the American countries, the foundation on which freedom of the Press must rest".

The Meeting recommended the preparation of a technical report on this question, the conclusions of which shall be submitted to the American States for consideration and governmental measures for the distribution and transportation of newsprint to be applied with due regard for the social function of journalism, a fundamental sense of general sacrifice and without preference or limitation that would affect the freedom of the Press.

I

DECLARATION OF WASHINGTON[3]

Whereas: The present Meeting was called because of the need for prompt action by the Republics of this Hemisphere for common defense against the aggressive activities of international communism;

Such activities, in disregard of the principle of non-intervention, which is deeply rooted in the Americas, disturb the tranquility of the peoples of this Continent and endanger the liberty and democracy on which their institutions are founded;

All the said Republics have stated, in solemn acts and agreements, their will to cooperate against any threat to or aggression against the peace, security, and territorial integrity or independence of any one of them;

It will be impossible for such cooperation to be effective unless it is carried out in a true spirit of harmony and conciliation;

In view of the common danger, the present moment is deemed propitious for a reaffirmation of inter-American solidarity;

That danger is aggravated by certain social and economic factors;

In this last connection the need for the adoption of measures designed to improve the living conditions of the peoples of this Continent is now greater than ever; and,

Nevertheless, in any action for the defense of the Continent and its institutions, the essential rights of man, solemnly proclaimed by the American Republics, should not be lost sight of,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

Declares: 1. The firm determination of the American Republics to remain steadfastly united, both spiritually and materially, in the present emergency or in the face of any aggression or threat against any one of them.

2. Once more the faith of the American Republics in the efficacy of the principles set forth in the Charter of the Organization of American States and other inter-American agreements to maintain peace and security in the Hemisphere, defend themselves against any aggression, settle their disputes by peaceful means, improve the living conditions of their peoples, promote their cultural and economic progress, and ensure respect for the fundamental freedoms of man and the principles of social justice as the bases of their democratic system.

3. Its conviction that the strengthening of the action of the United Nations is the most effective way to maintain the peace, security, and well-being of the peoples of the world under the rule of law, justice, and intellectual cooperation.

[1] See *Yearbook on Human Rights for 1948*, pp. 440–442.

[2] *Ibid.*, p. 446.

[3] This text and the following documents are taken from *Fourth Meeting of Consultation of Ministers of Foreign Affairs*, 26 March–7 April 1951, *Final Act*, published by the Pan American Union, Washington, D.C., 1951, and received through the courtesy of Professor Charles G. Fenwick, Director, Department of International Law and Organization, Pan American Union, Washington.

VII

THE STRENGTHENING AND EFFECTIVE EXERCISE OF DEMOCRACY

Whereas: Topic II of the program of the Meeting is "Strengthening of the internal security of the American Republics", and, for the achievement of that purpose and the application of the proper measures, it is essential that each government, as the mandatory of its people, have their confidence and support;

In order to achieve such identification of the people with their government, it is imperative that each country have an effective system of representative democracy that will put into practice both the rights and duties of man and social justice; and

The American Republics had their origin and reason for being in the desire to attain liberty and democracy, and their harmonious association is based primarily on these concepts, the effectiveness of which it is desirable to strengthen in the international field, without prejudice to the principle of non-intervention,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

Declares: That the solidarity of the American Republics requires the effective exercise of representative democracy, social justice, and respect for and observance of the rights and duties of man, principles which must be increasingly strengthened in the international field and which are contained in Article 5 (*d*) of the Charter of the Organization of American States and in Resolution XXXII (The Preservation and Defense of Democracy in America) and XXX (American Declaration of the Rights and Duties of Man)[1] adopted by the Ninth International Conference of American States; and

Resolves: 1. To suggest that the Tenth Inter-American Conference consider, within the framework of Articles 13 and 15 of the Charter of the Organization of American States, the measures necessary in order that the purposes stated in Resolutions XXX and XXXII of the Ninth International Conference of American States may acquire full effect in all the countries of America.

2. To assign to the Inter-American Council of Jurists the task of drawing up, as a technical contribution to the objectives indicated in the preceding paragraph, drafts of conventions and other instruments; and, to that end, also to assign to the Inter-American Juridical Committee the task of undertaking the pertinent preliminary studies, which it shall submit to the said Council at its next meeting.

3. To urge the Governments of America, pending the adoption and entry into force of the above-mentioned measures, to maintain and apply, in accordance with their constitutional procedures, the precepts contained in the said Resolutions XXX and XXXII of the Ninth International Conference of American States.

[1] See the text (with introductory note) in *Yearbook on Human Rights for 1948*, pp. 440–442.

IX

IMPROVEMENT OF THE SOCIAL, ECONOMIC, AND CULTURAL LEVELS OF THE PEOPLES OF THE AMERICAS

Whereas: In the name of their peoples, the States represented at the Ninth International Conference of American States declared their conviction that the historic mission of America is to offer to man a land of liberty and a favorable environment for the development of his personality and the realization of his just aspirations, and for that reason they set forth in the Charter of the Organization of American States as one of the essential purposes of the Organization that of promoting, through cooperative action, their economic, social and cultural development;

The aforesaid Charter entrusts to the Inter-American Economic and Social Council and to the Inter-American Cultural Council the promotion of well-being in their respective fields, and these Councils, in turn, should carry out the activities assigned to them by the Meeting of Consultation of Ministers of Foreign Affairs;

It is a right of man to obtain the satisfaction of the economic, social, and cultural needs essential to his dignity and to the free development of his personality;

The failure to satisfy this right produces a discontent that may mistakenly lead men to accept doctrines incompatible with their own interests and with the rights of others, the security of all, the general well-being, and democratic ideals,

Resolves: 1. To recommend to the American Republics that, in order to strengthen their internal security, they undertake with the required devotion the great task of raising the social, economic, and cultural levels of their own peoples, taking care that, to the greatest degree possible, they satisfy the rights recognized in this regard by the American Declaration of the Rights and Duties of Man, the Universal Declaration of Human Rights, and the Inter-American Charter of Social Guarantees.

2. To entrust to the Inter-American Economic and Social Council and to the Inter-American Cultural Council, the preparation within their respective spheres, as soon as possible, of plans and programs of action for promoting effective cooperation among the American Republics in order to raise the economic, social and cultural levels of their peoples. These Councils shall present periodically to the General Secretariat of the Organization of American States, for the same ends, a report on the execution of the aforesaid plans and programs, together with an opinion regarding any changes that might be made therein.

3. The aforesaid plans, programmes, and reports shall also be transmitted to the American Governments through the Secretary-General of the Organization of American States.

XI

BETTERMENT OF THE AMERICAN WORKER

Whereas: Many resolutions adopted by the American Republics at the Seventh, Eighth, and Ninth International Conferences of American States, as well as resolution LVIII of the Inter-American Conference of Problems of War and Peace, have manifested the great concern of the Governments to raise the level of living of their peoples;

The objective proposed is of transcendental importance because the internal security of the American Republics, based on the proper functioning of a representative democracy, cannot be permanently strengthened unless it is based on an increasing production, the yields from which are distributed equitably among the members of the community; and

The Inter-American Charter of Social Guarantees, approved at Bogotá, establishes, in general terms, the minimum standards governing the conditions under which American workers shall carry out their work,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

Recommends: 1. That those American nations that have not already done so, and within the limitations imposed by their respective Constitutions, adopt in their respective legislations appropriate measures to give effect within each such country to the principles contained in the Inter-American Charter of Social Guarantees approved at Bogotá.

2. That each American nation inform the Inter-American Economic and Social Council annually of any legislative and administrative measures it has put into effect towards that end.

XXIII

STUDY ON THE SHORTAGE AND DISTRIBUTION OF NEWSPRINT

Whereas: The scarcity of newsprint gravely affects the normal development of the organs of the Press in the American countries, the foundation on which freedom of expression must rest; and

It is necessary to join forces to give every possible facility to the newspapers of America, in order that they may participate in the struggle to perfect the democratic system in America,

The Fourth Meeting of Consultation of Ministers of Foreign Affairs

Recommends: 1. That the Secretariat of the Organization of American States prepare, with the advice of the newspaper organizations of the Western Hemisphere, a technical report on the difficulties presently existing to obtain newsprint and containing recommendations for facilitating the access of newspaper publishers to the sources of production and distribution of newsprint under price conditions that are equitable for all the American countries, with no discrimination whatsoever. The conclusions of the said study shall be submitted to the American States for consideration.

2. That governmental measures for the distribution and transportation of newsprint must be applied with due regard for the social function of journalism and with the same fundamental sense of general sacrifice as that governing the system of allocations and priorities, and without preference or limitation that would affect the freedom of the press.

TEXTS ADOPTED BY THE SEVENTH ASSEMBLY OF THE INTER-AMERICAN COMMISSION OF WOMEN[1]

held in Santiago, Chile, 30 May–16 June 1951

NOTE

The Seventh Assembly of the Inter-American Commission of Women was held in Santiago, Chile, from 30 May to 16 June 1951. From the Final Act (published by the Department of International Law of the Pan American Union, Washington, 1951), it results that this Assembly approved twenty-five resolutions and motions. Several of these resolutions are reproduced in this *Yearbook*; others refer to the question of equal pay for equal work (III), marriage laws in the various American countries (X), the economic status of working women (XIV), etc.

II

RATIFICATION OF THE INTER-AMERICAN CONVENTION ON THE GRANTING OF POLITICAL RIGHTS TO WOMEN

Whereas:

At the Ninth International Conference of American States, held at Bogotá, 14 of the 21 countries that compose the Organization of American States signed the Inter-American Convention on the Granting of Political Rights to Women;

The first concern of the Inter-American Commission of Women has been to use every available means to obtain the full political rights sanctioned in the Charter of the United Nations and in the Universal Declaration of Human Rights; and

In spite of the foregoing, political rights have not been granted to women in Colombia, Paraguay, Honduras, or Nicaragua, and the granting of municipal rights only has been contemplated in Haiti, Bolivia, Mexico, and Peru,

The Seventh Assembly of the Inter-American Commission of Women

Resolves:

To ask the Secretary-General of the Organization of American States to request, through the respective representatives on the Council of the Organization of American States:

(*a*) That the Governments of Paraguay, Honduras, Bolivia, Nicaragua, Haiti, and Mexico adhere to and ratify the Inter-American Convention on the Granting of Political Rights to Women, signed at the Ninth Conference, at Bogotá;

(*b*) That the Governments of Uruguay, Argentina, Chile, the United States, Guatemala, Colombia, Venezuela, and Peru ratify the said Convention, to which their countries are signatories; and

(*c*) That the Governments of Colombia, Paraguay, Honduras, Nicaragua, Haiti, Bolivia, Mexico, and Peru incorporate in their national laws full political rights for women.

V

EQUALITY IN CIVIL RIGHTS

Whereas:

At the Ninth International Conference of American States, held in Bogotá, 20 countries signed the Inter-American Convention on the Granting of Civil Rights to Women, and of these countries only six—Ecuador, the Dominican Republic, Cuba, El Salvador, Panama, and Costa Rica—have ratified the Convention;

Notwithstanding the aforesaid Convention of Bogotá, some American countries have not yet granted equality in civil rights to women;

In resolution II of the Assembly held at Buenos Aires in 1949, the Inter-American Commission of Women voted to request the governments of this Hemisphere, through the Council of the Organization of American States, "to include the declaration sanctioning [equal] civil rights for men and women, in their Constitutions, Codes and fundamental laws, wherever it is not so included as yet"; and

It is advisable to formulate a declaration of principles that will facilitate future reforms, since the expression "civil rights" is a broad term covering different legal matters,

The Seventh Assembly of the Inter-American Commission of Women

Resolves:

To request the Secretary-General of the Organization of American States to address the various American governments with the purpose of asking them

[1] Texts in *Seventh Assembly of the Inter-American Commission of Women*, held in Santiago, Chile, 30 May–16 June, 1951, *Final Act*, Washington, D.C., 1951. Texts received through the courtesy of Professor Charles G. Fenwick, Director, Department of International Law and Organization, Pan American Union, Washington.

to keep in mind the fact that, with reference to the granting of civil rights, the criterion of the Inter-American Commission of Women might be defined as including, among other points, the following principles:

(*a*) That recognition should be given to the capacity of women to engage freely in any industry, business, profession, employment, or occupation;

(*b*) That women may serve as guardians, administratices, executrices, or witnesses, under the same conditions as men;

(*c*) That women do not lose their legal capacity because of marriage and that they should, consequently, retain their full capacity to engage in the activities and to carry out the duties referred to in sections (*a*) and (*b*) of this resolution;

(*d*) That every married woman has, jointly with her husband, the right of representation and administration in regard to the property of their common children; that, in the event of disagreement and in cases of judicial or actual separation, such representation and administration should be exercised by the person selected jointly by the husband and wife, or, if there is no agreement in this respect, by a person appointed in accordance with the decision of the competent judge;

(*e*) That the custody or guardianship of children should be exercised in common by the father and mother; that this responsibility, in case of judicial or actual separation, should be entrusted to the mother with respect to minor children until they are ten years of age at least, and regardless of age with respect to daughters, although it is understood that such arrangements may subsequently be altered by the competent judicial authorities, with special consideration for the material and moral interests of the minor children;

(*f*) That a widow or divorced woman who re-marries may retain her parental authority and the guardianship of her children by a previous marriage; and

(*g*) That, in marriage, the legal property regime consists of sharing equally in property earned during the marriage, whereby the woman retains her control over her property and her dowry, and over the profits therefrom and earnings from her own activities; that real estate acquired during the marriage in the name of either the husband or wife, or of both, and commercial, industrial, agricultural, or livestock enterprises, cannot be transferred or mortgaged without the express consent of both the husband and the wife, or judicial authorization in lieu thereof; and that, upon the dissolution of the marriage or the termination of the property regime, the net amount of the property acquired during marriage shall be divided equally between the husband and the wife or their respective heirs. The foregoing shall be without prejudice to the right of the husband and the wife to agree, before their marriage, to any other property regime or to revise, during the period in which it is in force, the system that has been established.

VIII

EQUAL TREATMENT FOR MEN AND WOMEN IN LABOUR LEGISLATION

Whereas:

The protective measures governing the work of women have resulted in limiting the possibilities of employment for them;

Consequently, the opportunities for women to work in the economic field on a basis of equality with men have been restricted;

The urgent need to enlarge the field of opportunity for women's work is emphasized by the conditions now existing in America countries with respect to the industrialization programmes that will presently be intensified, as a result of Point Four of President Truman's programme and the Expanded Programme of Technical Assistance sponsored by the United Nations Economic and Social Council;

Men and women are equally able to work at night, or in unhealthful and hazardous industries, provided that adequate measures are taken to prevent injury to health, and that medical examinations have shown the workers to be in good physical conditions; and

Nothing in the foregoing provisions precludes the full protection for mothers that is intended primarily to safeguard the health and well-being of children and to provide them with maximum protection in the development of normal lives,

The Seventh Assembly of the Inter-American Commission of Women

Resolves:

That the Chairman of the Inter-American Commission of Women shall request the Secretary-General of the Organization of American States to address the International Labour Office, informing it that this Commission has gone on record in favour of equal treatment for men and for women in labour laws and that, therefore, the foregoing principles are recommended to the Member States for inclusion in their legislation.

XII

LITERACY CAMPAIGN AND TRAINING PROGRAMME FOR RURAL WOMEN

Whereas:

In those countries, particularly, where rural workers constitute a high percentage of the population, adult women are not sufficiently literate or educated;

Rural mothers play a role of great importance in the family, since the matriarchal system prevails in the majority of rural homes; and

It is of primary importance for the future of rural communities that adult women be literate and well trained,

The Seventh Assembly of the Inter-American Commission of Women

Resolves:

To request the Secretary-General of the Organization of American States to recommend to those countries in which the rural population is in the majority, that they increase the number of special schools established for the promotion of literacy among female adults and for their training in accordance with the requirements of civilized society; and to recommend, also, that the education of such women be intensified by means of cultural brigades.

XV

CONSIDERATION OF THE RESULTS OF THE STUDY ON WORKING WOMEN IN AMERICA WITH REGARD TO PROTECTION DURING THE MATERNITY PERIOD

Whereas:

Resolution XXII, on "Protection of Mothers", was approved at the Sixth Regular and First Special Assembly of the Inter-American Commission of Women, held in Buenos Aires in 1949; and

The study that is to be made by the specialists in compliance with resolution XXIII of the Ninth Conference, held at Bogotá, on the "Economic Status of Working Women", is to include the following points:

(*a*) The right of women to a 6-week period of rest before childbirth and a 6-week rest period after childbirth, with full payment of wages from social welfare funds, and the right to have pregnancy and the nursing period considered as one of the conditions that should be provided for under the laws of preventive medicine;

(*b*) The obligation of workers of both sexes to contribute on an equal basis, and in conjunction with employers and with the State, towards the formation of social welfare funds destined for maternity cases;

(*c*) The possibility of perfecting legal provisions relative to day nurseries and playrooms, so that these institutions may be of practical aid to mothers and to children of pre-school age; and

(*d*) The desirability of enabling women to retain their positions during periods of absence from their regular work, whenever proof is given that they are indispensable for the care of their sick children,

The Seventh Assembly of the Inter-American Commission of Women

Resolves:

That the Chairman of the Inter-American Commission of Women should request the Secretary-General of the Organization of American States to give preferential consideration to the results of the study and survey on working women in America, in so far as those results relate to protection for mothers, in order that this important aspect of the life of American women may be dealt with as effectively as possible.

XVIII

TEACHING OF THE BASIC PRINCIPLES OF THE CONSTITUTION AND THE CIVIL CODE IN SECONDARY AND ADVANCED EDUCATIONAL INSTITUTIONS

Whereas:

The most progressive constitutions of American States grant political and civil rights to all citizens, without distinction as to sex;

Instruction adequate to ensure full understanding of these rights, which carry with them correlative duties, has come to be a necessity; and

There is need to extend such knowledge, so that the rights may be exercised and the duties discharged, for the benefit of the community,

The Seventh Assembly of the Inter-American Commission of Women

Resolves:

To request, through the Secretary-General of the Organization of American States, that the American governments which have not already done so shall include in the curricula of secondary and advanced educational institutions the teaching of the basic principles of the respective constitutions and civil codes, for the greater security of democracy and the more adequate guidance of individual members of society.

AFRICAN LABOUR CONFERENCE

Second session, held at Elisabethville, Belgian Congo, in July 1950[1]

Introductory Note. The African Labour Conference held its first session at Jos, Nigeria, in February–March 1948; this session was attended by delegates from the metropolitan Governments and from the African non-metropolitan territories of Belgium, France and the United Kingdom. Among the conclusions reached at this conference were the following: technical and vocational training of labour; wage-fixing machinery; social security questions and relations with trade unions in Africa; organization and functions of labour departments.

The second session of the African Labour Conference was attended by delegates from the metropolitan Governments and from the African non-metropolitan territories of Belgium, France and the United Kingdom and of delegates from Portugal, Southern Rhodesia and the Union of South Africa. Delegates were mainly government officials, but also included employers and workers, African and European. The International Labour Organisation was represented at the Elisabethville Conference.

Conclusions were adopted in the course of the second session on the efficiency of workers; housing of workers; workmen's compensation; settlement of labour disputes; the stabilization and migration of workers and floating urban manpower. The conclusions relating to efficiency of workers, housing of workers and workmen's compensation are reproduced hereunder.

AGREED CONCLUSIONS CONCERNING EFFICIENCY OF WORKERS

adopted by the African Labour Conference, 1950

I

To increase the efficiency of the African worker, regard must be had to his physical condition and to his standard of vocational training. These are essential factors conditioning his ability to realize his desire for higher wages.

A. Physical examination gives a general assessment of a man's ability, but the object of selection must be to obtain men capable of performing duties requiring particular skill or demanding certain determined reactions. This requires recourse to a system of ability tests by which the worker can be guided towards the trade or group of trades which suits him best. This method of approach has given encouraging results in the French Cameroons and the Belgian Congo.

B. The great mass of African workers are still learners. To acquire technical qualifications, a degree of incentive is needed. To achieve this, there should be a number of grades of qualifications, because the African's progress must be gradual owing to his lack of industrial background. His sense of responsibility will grow as he moves from grade to grade. It is important that the technical standard of each grade shall be clearly defined, if possible by means of trade tests. These tests should have regard to speed and output.

II

Generally speaking, it is necessary, in order to achieve greater efficiency in labour, to promote conditions in which workers can be stabilized. This can be achieved if the following conditions obtain:

(*a*) Reasonable housing;

(*b*) A proper diet;

(*c*) Encouragement of normal family life;

(*d*) Attractive social surroundings;

(*e*) At least the same social security as he would have in his country of origin;

(*f*) The level of wages of skilled workers should be comparable to that of clerical workers.

III

Good relations between the worker and the employer will affect output. To produce these good relations, it is necessary:

(*a*) To remember that in certain parts of Africa the artisan was formerly high in the social order, but in any case, whatever has been his social state in the past, it is necessary today to stress the value of manual work;

(*b*) That the employer should help the African to adapt himself to his new way of life; this adaptation must be progressive and should keep pace with the increase in his technical skill;

(*c*) That, wherever possible, the employer should provide highly skilled workmen to help and work alongside the worker. This constant example of efficiency will develop the worker's desire to emulate his work and also his sense of pride;

[1] The following texts are taken from the *International Labour Code*, 1951, published by the International Labour Office, Vol. II, pp. 1070–1084. The introductory note is based on the same publication.

(*d*) That the employer should see that work is well organized in his workshops and, particularly, that the right tools are available, and the best use made of them;

(*e*) That the employer should see that his workmen thoroughly understand the technical and social purpose of the work demanded of them;

(*f*) That supervisors and foremen should be trained to teach the trade in which they hold a position of responsibility.

IV

In order to promote the efficiency of the worker, provision must be made for his education and also for the education of his family.

(*a*) Where possible, classes for adults should be held at regular intervals and such classes should have a vocational bias. If the teaching is carried out by the employer with his skilled workers, co-operation in business will be strengthened. The education of adults in this way will maintain the respect due by the younger to the older;

(*b*) It is essential to raise the wife of the worker parallel with her husband in the social scale by education of a practical nature, and the teaching of the young girl should take the same form as that of her mother;

(*c*) As the overriding need of Africa is good workers, it is necessary that elementary schoolchildren are given a high respect of manual work, in order to diminish the wrong sense of superiority of the clerical worker. This should not prejudice the best pupils from having the opportunity to advance to secondary and higher education.

V

With regard to the agricultural worker it is necessary to stress the following points:

(*a*) Agricultural workers need much supervision in order that they may learn the correct way to carry out their various tasks;

(*b*) It is as important to provide social centres in rural areas as it is in industrial areas;

(*c*) There should be provided sufficient schools for the children in rural areas. The teaching in these schools should have an agricultural bias;

(*d*) Social welfare workers should be provided for rural areas;

(*e*) In order to promote proper relations between the new employer and his African agricultural employee, each country should ensure that such employer is made fully aware of his responsibility and of the way he should discharge them.

VI

The Conference took note from a study of the papers submitted by the various delegations that most territories have adopted measures to guarantee minimum wages; it expresses the hope that those territories which have not adopted such measures will do so as soon as possible, on the basis of the periodic study of "minimum needs". It is understood that the "minimum wage" will be higher than the absolute "minimum needs".

VII

The Conference has not addressed itself to the question of promoting output of efficiency by means of bonus schemes in different industries and in different territories. The study of such schemes should be encouraged in each country.

AGREED CONCLUSIONS CONCERNING HOUSING OF WORKERS

adopted by the African Labour Conference, 1950

I

1. In every township or trading centre there should be sufficient land provided for the housing of African workers.

2. Such areas should be zoned to provide land for:

(*a*) Housing to be constructed by employers for their African workers; these should be taken over by public authorities as soon as practicable;

(*b*) Housing to be built for Africans or by Africans for their own occupation or for the accommodation of other Africans;

(*c*) Houses to be constructed by public authorities for letting to employers at economic rents or for accommodation to be let to individual Africans; or where any area is set aside for use of public authorities there should be land for the construction of houses of the family type with a view to allowing the African occupant to purchase on easy terms.

3. The Conference expresses the hope that as many Africans as possible will become the owners of their own homes as soon as is practicable.

II

1. In the allocation of areas for African housing, good building land should be chosen where possible in order to keep the cost of construction and development as low as possible.

2. Wherever possible, any need for land for the purpose of garden produce should be met by setting aside a suitable area for allotments.

III

1. During the first years of construction, suitable officers should be appointed to supervise development schemes.

2. One of the essential duties of the officers should be to supervise and assist the African in building his own home to a proper standard.

IV

Plans should be made with a view to the training of African assistants to understudy these officers.

V

The rights of occupation of the African living in his own house constructed under such scheme should be protected.

VI

1. Communal services (roads, water supplies, drainage, lighting, etc.) should as far as possible be installed prior to or parallel with the development of the scheme.

2. Suitable regulations should be made as to the construction for observance by the builder of African houses under this scheme.

VII

1. It is proper that the African householder should make a reasonable contribution towards the bettering of services provided for him.

2. Since the need for African housing is so great, the training of building artisans should receive the highest priority. Youth organizations should be also directed towards this sphere of social endeavour.

VIII

Arrangements should be made to afford the supply of necessary materials of good quality at cheap rates to Africans building their own houses.

IX

The principle should be accepted of financing by way of loan, advance of materials, or by way of a system of tenant purchase for Africans building under the scheme.

X

The building of an adequate fence or of a temporary fence pending the planting and growth of a hedge, should be made a condition of all grants of plots for the erection of individual houses.

XI

1. As an emergency measure, in areas where it is found necessary, a sub-zone should be created where Africans could build their own houses in temporary materials. Such houses should not be let.

2. Where possible the plinth, at least, should be in permanent materials.

3. Reconstruction of, or addition to such buildings should only be carried out in permanent materials.

XII

The search for cheap methods of construction should be continued.

XIII

Governments should take steps to reduce the duty of materials imported for use in the building of houses for African workers.

AGREED CONCLUSIONS CONCERNING WORKMEN'S COMPENSATION

adopted by the African Labour Conference, 1950

A

The Inter-African Labour Conference, having considered the general principles which should be applied to the fixing of allowances, compensation and pensions, the provision of medical care and of drugs, the specifying of persons entitled to claim compensation, the means of substantiating claims and the method of insurance, recommends:

1. *Fixing of Allowances, Compensation and Pensions*

(*a*) With a view to guaranteeing the worker who has met with an accident a reasonable purchasing power to enable him to obtain the means of subsistence not only for himself, but for his family, he should be paid compensation calculated on a daily basis. This compensation should be based on the wages which he was receiving at the time of injury and should continue during the period of his incapacity.

(*b*) When temporary incapacity becomes permanent, the daily allowance should be replaced by a periodical payment, calculated in proportion to the wages and degree of incapacity of the injured worker.

(*c*) In determining the periodical payment for permanent incapacity, regard should be had to the principle that compensation should be paid irrespective of whether the disability results in loss of earning capacity or not.

(*d*) Until the injury is stable, the worker should be the subject of periodical medical examination and, if necessary, periodical payments should be revised according to the progress of the injury.

(*e*) In case of death, periodical payments should be made to dependants, and, in determining dependency, the competent authority should pay due regard to local custom with respect to family relationships.

(*f*) Compensation may be paid wholly or partly in a lump sum only when considered expedient by the competent authority.

2. *Medical Care and Provision of Drugs*

(*a*) An injured worker should be given reasonable medical aid, including drugs, artificial aid and hospitalization, for as long as may be necessary.

(*b*) The scale of charges for medical and surgical aid and drugs should be determined in consultation with the medical authorities of the territory.

(*c*) Employers should be required to provide free transport for the removal of the injured worker from the place where the accident occurred to the place where medical care will be given.

3. *Persons entitled to Claims*

Notwithstanding the difficulty of applying workmen's compensation law to workers in certain employments, it should be an aim of policy to provide compensation to all workers disabled by accidents arising out of and in the course of employment. In case of death, compensation should be paid to dependants as defined in recommendation 1 (*e*).

4. *Means of Substantiating Claims*

(*a*) All accidents occurring in the course of work should be regarded as arising out of work.

(*b*) It should therefore be sufficient to prove that the accident occurred in the course of work to establish the right to compensation.

(*c*) The proof of the accidents should be provided by the compulsory reporting of all accidents resulting in death or incapacity of a prescribed period. The report should be submitted by the employer to the competent authority and insurance organization.

(*d*) The refusal of compensation should follow only when it is proved that the facts are contrary to those contained in the report.

(*e*) An accident should not be considered as occurring in the course of and arising out of employment, if it is proved that the victim wilfully injured himself with the object of claiming compensation. Furthermore, the right to compensation may be contested in case of gross and wilful negligence, except when the accident causes death or serious incapacity.

5. *Method of Insurance*

(*a*) It is recommended that insurance against workers' compensation risks should be compulsory because:

(1) Insurance is a guarantee that the liability to pay compensation will be met;

(2) It provides an economic method of balancing good and bad risks between undertakings.

(*b*) Exceptions to compulsory insurance should be permitted only under such conditions and supervision as are prescribed by law.

(*c*) The Conference, being of the opinion that State insurance or any other similar system of insurance can best ensure the effective application of a policy of prevention, confirms the principle accepted at Jos and recommends that industrial accident insurance should be, as soon as is practicable, put on a non-commercial basis.

B

The Inter-African Labour Conference, having reaffirmed the necessity for making adequate provision for compensation for industrial accidents, records its opinion that it is equally important to take all possible steps to prevent accidents and industrial diseases with their unnecessary human suffering, waste of manpower and economic loss.

To this end, it recommends to the consideration of member territories:

(*a*) The encouragement of industrial hygiene, safety, first aid, occupational re-education and rehabilitation generally;

(*b*) The institution of financing of subsidiary bodies including joint works committees whose duties will be to encourage accident prevention and first-aid services in individual areas or establishments, and furnishing the necessary technical and other advice and assistance to such bodies;

(*c*) The development of education, propaganda and publicity techniques, including the necessary documentation, on the subject of hygiene, safety, first aid and industrial medicine, including the training of personnel for propaganda and educative purposes;

(*d*) Generally taking any other steps, in consultation with the factory inspectorate, public bodies, organizations of employers, trade unions, etc., in the interests of industrial safety.

C

The Inter-African Labour Conference, having noted with appreciation the steps taken by territories represented at the Jos Conference to put into effect the recommendations made thereat concerning workmen's compensation, hereby reaffirms the principles then enunciated.

CONVENTION BETWEEN DENMARK, FINLAND, ICELAND, NORWAY, AND SWEDEN CONCERNING RECIPROCAL ASSISTANCE TO INDIGENT PERSONS[1]

signed at Stockholm on 9 January 1951

Art. 1. Each of the contracting countries undertakes to afford relief to indigent nationals of the other countries in conformity with the provisions of this Convention.

A person who was formerly a national of one of the countries and has not acquired any other nationality shall for the purposes of this Convention be treated as a national of that country. The same rule shall apply to a person who is a national of one of the countries and, without losing that nationality, acquires the nationality of another country.

Art. 2. For the purposes of this Convention, relief means assistance granted under the public assistance act in force, or any corresponding law concerning relief to indigent persons.

Art. 3. Relief shall be afforded by the competent authority of the country of residence in the same manner and according to the same principles as apply to nationals of that country.

Art. 4. The cost of relief under this Convention shall be borne entirely by the country of residence.

Art. 5. Where the relief afforded is of a permanent nature, the country of residence may, as further provided in this Convention, demand that the indigent person be repatriated.

Where the relief is of a temporary nature, repatriation may be demanded only if the indigent person himself so requests.

Art. 6. For the purposes of this Convention, public assistance which in the opinion of the authorities both of the country of residence and of the country of origin will be necessary for at least one complete year reckoned from the commencement of the assistance, or which has in fact been necessary for at least one year, shall be regarded as permanent relief. Temporary interruptions in the course of the year shall not, however, affect the permanent nature of the assistance.

All other public assistance granted under this Convention shall be regarded as temporary.

Art. 7. If a national of one of the contracting countries has resided continuously for at least five years in another of the contracting countries, the latter country may not demand his repatriation on the ground of relief which may be granted to him while he continues to reside in the country. No account shall be taken in this regard of any temporary absence from the country in which he resides.

Art. 8. If during the period referred to in article 7 an indigent person has received permanent relief in the country of residence or has served a term of imprisonment of not less than sixty days, the period in question shall be deemed to have been interrupted. The date on which the relief terminates or the term of imprisonment is completed shall be taken as the starting point for a further such period.

Art. 9. When article 7 applies to a married man, his wife, if resident in the same country, shall enjoy the same status as her husband with regard to the Convention.

She shall retain that status in the event of her husband's death or of divorce, or if her husband leaves the country. If article 7 was not applicable to the husband, but the wife's status with regard to the Convention would, taken by itself, call for the application of that article to her, she shall be brought under the provisions of that article.

Art. 10. A legitimate child who has not attained the age of sixteen years shall have the same status with regard to this Convention as his father, or, after his father's death or disappearance, as his mother. After his parents' death he shall retain that status, provided that a child under the said age may subsequently be repatriated if the competent authorities of both countries agree that such repatriation will be in the child's interest. The same shall apply in a case where article 7 was not applicable to the parents of the child, but the child's status with regard to the Convention would, taken by itself, call for the application of that article to the child.

If the parents' marriage is dissolved by divorce, the child shall have the same status as the parent who has, or most recently had, custody of him.

The status of an illegitimate child shall be determined solely by that of the mother.

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[1] Swedish text in *Svensk Författningssamling* No. 124, of 20 March 1951. The help of the Governments and correspondents concerned in providing the original texts is gratefully acknowledged. English text in *Study on Assistance to Indigent Aliens* (published by the United Nations, Department of Social Affairs), New York, 1951.

When a child has attained the age of sixteen years, his status shall be decided in accordance with the number of years during which he has resided continuously in the country, and without taking into account any public assistance granted before the attainement of that age.

Art. 11. If a widow, a divorced woman or a woman whose husband has disappeared is, or at the time of her marriage was, a national of the country of residence, neither she nor the children whose status is determined by hers under article 10 can be repatriated on the ground that public assistance has been granted.

Art. 12. Even if there is nothing under the preceding articles that would prevent an indigent person's repatriation, it shall nevertheless be considered whether the circumstances make repatriation inadvisable.

In deciding on this point, considerations of humanity shall be given chief weight. Repatriation shall ordinarily be dispensed with if it would entail a separation of near relatives, or if the indigent person has reached an advanced age and has long resided in the country or he cannot be repatriated without injury to his health.

Art. 13. If the country of residence desires to repatriate an indigent person on the ground that public assistance has been granted, it shall as soon as possible make written application for that purpose to the country of origin.

The application shall be made by the competent ministry of social affairs and shall be addressed to the corresponding ministry of the country of origin.

The application shall, if possible, contain accurate and reliable particulars of the name and date and place of birth of the indigent person, the name, date and place of birth, and place of residence of his parents, the date of his entry into the country of residence, the reason why relief was required and the nature and extent of the relief, and shall be accompanied by certified copies of documents that may serve to determine the nationality of the indigent person, or failing these, by other information on this point.

If relief has been afforded owing to illness, the application shall also be accompanied by a medical certificate concerning the nature and probable duration of the illness.

Art. 14. Within sixty days of the receipt of the application, the authority of the country of origin to whom the application has been made shall have informed the competent authority of the country of residence whether the indigent person will be repatriated.

If in the course of the correspondence between the said authorities it appears advisable to do so, the matter may be referred for settlement through the diplomatic channel.

Art. 15. The country of residence shall be responsible for repatriation to a frontier point designated by the competent authority of the country of origin. This point shall be so chosen as to save the country of residence unnecessary expense. At least eight days before the repatriation takes place, the authority carrying out the repatriation shall send information regarding the method of repatriation and the time of arrival in the country of origin direct to the authority to whom the person is to be handed over as specified by the country of origin.

Repatriation shall in every case be postponed until such time as it may be carried out without danger to the health or safety of the indigent person or of other persons.

Art. 16. Agreements between the contracting countries concerning mutual assistance and the repatriation of indigent seamen shall not be affected by this Convention.

Art. 17. This Convention shall not restrict the right of the contracting countries to apply freely the general provisions in force in those countries regarding the right of aliens to reside there, but the said provisions shall not be applied as to circumvent this Convention.

Art. 18. This Convention shall not apply to the Faroe Islands or Greenland or to Svalbard (Spitzbergen), except that for the purposes of article 7 residence in Svalbard shall be regarded as equivalent to residence in Norway.

Art. 19. This Convention shall be ratified and the instruments of ratification shall be deposited as soon as possible with the Swedish Ministry of Foreign Affairs.

The Convention shall enter into force on the first day of the month next following a period of one calendar month reckoned from the date on which the instruments of ratification are deposited.

On the entry into force of this Convention, the Mutual Relief Convention of 25 October 1928 between Denmark, Finland, Norway and Sweden shall cease to have effect. No compensation shall be granted under that Convention for relief afforded on or after 1 January 1950.

Art. 20. If one of the contracting countries wishes to denounce this Convention, written notice to that effect shall be given to the Swedish Government, which shall forthwith inform the other contracting countries of such notice and of the date on which it was received.

The denunciation shall be valid only for the country by which it was made and shall take effect as from the first day of the month next following a period of six calendar months reckoned from the date on which the Swedish Government receives notice of the denunciation.

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CONVENTION BETWEEN FINLAND, ICELAND, NORWAY AND SWEDEN CONCERNING RECIPROCAL PAYMENT OF CHILDREN'S ALLOWANCES[1]

signed on 28 August 1951

Art. 1. Each contracting country undertakes to grant, in accordance with the provisions of this Convention, family allowances in respect of children who are nationals of one of the other contracting countries or whose father or mother is a national of one of the said countries.

The following shall be treated as nationals of one of the contracting countries for the purpose of this Convention: persons who were previously nationals of such country and have not acquired any other nationality and persons who are nationals of one of the contracting countries and became nationals of another country without losing their previous nationality.

Art. 2. For the purpose of this Convention, "family allowances" shall mean:

In Finland, the allowances provided for under the Act of 22 July 1948, respecting child allowances;

In Iceland, the family allowances provided for under the Act of 7 May 1946 respecting social insurance (sections 30 to 33 of chapter II) and under Act No. 51 of 20 March 1951 (sections 5, 9 and 25);

In Norway, the Act of 24 October 1946 respecting family allowances;

In Sweden, the allowances provided for under the Act of 26 July 1947, respecting child allowances.

Art. 3. Entitlement to receive family allowances shall be subject to the following conditions:

1. In Finland, the child must have resided in Finland for at least six months without interruption, must be registered on a parochial register or similar register in Finland and must be brought up by a person resident in Finland and registered in the register of population in Finland;

2. In Iceland, the child and its father or mother or person maintaining the child must be resident in Iceland and registered in the register of population in Iceland and must have resided for at least six months without interruption in Iceland before payment of the family allowances commenced;

3. In Norway, the child must have been domiciled in Norway and have resided in Norway for at least six months without interruption;

4. In Sweden, the child must be domiciled in Sweden and must be registered on a parochial register in Sweden and be maintained by a person resident and registered on the register of population in Sweden.

The national law respecting the grant of family allowances to nationals of the country concerned shall likewise apply.

Where the family allowance provided for in this Convention has been granted to a child in the country where it has its place of residence, absence not exceeding two months shall not be deemed to be interruption of residence.

This Convention shall not apply to children of members of the diplomatic or consular service of one of the contracting countries nor to children maintained by such persons.

Art. 4. In the case of the grant or withdrawal of a family allowance referred to in this Convention, the appropriate authority of the country where the person concerned has his place of residence shall inform, as soon as possible, the appropriate authority of the country which the child or its parents have left or the country where they are taking up residence, as the case may be. The appropriate authority shall be, in Sweden, the General Directorate of Social Welfare and, in the other contracting countries, the Ministry of Social Affairs.

Art. 5. The cost of family allowances granted under this Convention shall be defrayed by the country where the recipient has his place of residence.

Art. 6. This Convention shall not impose any restriction on the right of each contracting country to amend its legislation respecting family allowances, but no amendment shall have the effect of applying to the nationals of one of the other contracting countries less favourable conditions than those applying to the nationals of the country concerned; nor shall it affect the right of each contracting country to make general legislation respecting the residence of aliens, but such legislation shall not be made in such a manner as to evade the provisions of this Convention.

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[1] English text in: International Labour Office, *Legislative Series*, 1951—Int. 3. The help of the Governments concerned in providing the original texts is gratefully acknowledged. See also Iceland, "Note on the Development of Human Rights", p. 135 of this *Yearbook*. The instruments of ratification were deposited by all the contracting parties on 26 October 1951.

Art. 7. This Convention shall be ratified and the instruments of ratification shall be deposited as soon as possible in the Ministry of Foreign Affairs of Finland.

This Convention shall come into operation on the first day of the month following the expiry of a period of two calendar months after the date on which the instruments of ratification are deposited.

Art. 8. Any one of the contracting parties wishing to terminate the Convention shall give notice in writing to this effect to the Government of Finland, which shall give notice thereof to the other contracting parties without delay, indicating the date of reception of the notice.

Notice of termination shall affect only the party giving such notice and shall take effect as from the first day of the calendar year immediately following the expiry of a period of six months from the date of reception by the Government of Finland of the said notice of termination.

BILATERAL TREATIES AND AGREEMENTS

GENERAL AGREEMENT FOR TECHNICAL COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND ECUADOR[1]

signed at Quito, 3 May 1951

ARTICLE I

ASSISTANCE AND CO-OPERATION

1. The Government of the United States of America and the Government of Ecuador undertake to co-operate with each other in the interchange of technical knowledge and skills and in related activities designed to contribute to the balanced and integrated development of the economic resources and productive capacities of Ecuador. Particular technical cooperation programs and projects will be carried out pursuant to the provisions of such separate written agreements or understandings as may later be reached by the duly designated representatives of Ecuador and the Technical Cooperation Administration of the United States of America, or by other persons, agencies, or organizations designated by the governments.

2. The Government of Ecuador through its duly designated representatives in cooperation with representatives of the Technical Cooperative Administration or other duly designated representatives of the United States of America, and representatives of appropriate international organizations will endeavor to coordinate and integrate all technical cooperation programs being carried on in Ecuador.

3. The Government of Ecuador will cooperate in the mutual exchange of technical knowledge and skills with other countries participating in technical co-operation programs associated with that carried on under this Agreement.

4. The Government of Ecuador will endeavor to make effective use of the results of technical projects carried on in Ecuador in cooperation with the United States of America.

5. The two governments will, upon the request of either of them, consult with regard to any matter relating to the application of this Agreement to project agreements heretofore or hereafter concluded between them, or to operations or arrangements carried out pursuant to such agreements.

ARTICLE II

INFORMATION AND PUBLICITY

1. The Government of Ecuador will communicate to the Government of the United States of American in a form and at intervals to be mutually agreed upon:

(*a*) Information concerning projects, programs, measures and operations carried on under this Agreement including a statement of the use of funds, materials, equipment, and services provided thereunder;

(*b*) Information regarding technical assistance which has been or is being requested of other countries or of international organizations.

2. Not less frequently than once a year, the Governments of Ecuador and of the United States of America will make public in their respective countries periodic reports on the technical cooperation programs carried on pursuant to this Agreement. Such reports shall include information as to the use of funds, materials, equipment and services.

3. The Governments of the United States of America and Ecuador will endeavor to give full publicity to the objectives and progress of the technical cooperation program carried on under this Agreement.

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[1] For complete text of the agreement, see *United States Department of State Publication 4247, Treaties and Other International Acts Series 2249*. The agreement entered into force on the day of its signature. See also the chapter "International Agreements" in the Note "Human Rights in the United States in 1951", p. 380 of this *Yearbook*.

ANNEX TO THE AGREEMENT OF 5 MAY, 1951, BETWEEN THE UNITED STATES OF AMERICA AND ICELAND, RELATING TO THE DEFENSE OF ICELAND PURSUANT TO THE NORTH ATLANTIC TREATY,[1]

signed at Reykjavik, 8 May 1951

Article 2

9. Whenever a member of the United States force or a dependent of a member thereof is prosecuted under the jurisdiction of Iceland, he shall be entitled:

(*a*) To a prompt and speedy trial;

(*b*) To be informed in advance of trial of the specific charge or charges made against him;

(*c*) To be confronted with the witnesses against him;

(*d*) To have compulsory process for obtaining witnesses in his favor, if within the jurisdiction of Iceland;

(*e*) To defence by a qualified advocate or counsel of his own choice, or, failing such choice, appointed to conduct his defence;

(*f*) If he considers it necessary, to have the services of a competent interpreter; and

(*g*) To communicate with a representative of his government and, when the rules of the court permit, to have such a representative present at his trial.

[1]For the texts of the Agreement and Annex, see *United States Department of State Publication 4294 and 4351, Treaties and Other International Acts Series 2266 and 2295.* The agreement entered into force on the day of its signature. See also the chapter "International Agreements" in the Note "Human Rights in the United States in 1951", p. 380 of this *Yearbook.*

AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND DENMARK FOR CREATION OF THE UNITED STATES EDUCATIONAL FOUNDATION IN DENMARK AND FOR FINANCING CERTAIN EDUCATIONAL EXCHANGE PROGRAMS[1]

signed at Copenhagen, 23 August 1951

Article 1

The funds made available under the present agreement within the conditions and limitations hereinafter set forth, shall be used by the Foundation or such other instrumentality as may be agreed upon by the Government of the United States of America and the Government of Denmark, for the purpose, as set forth in section 32 (*b*) of the United States Surplus Property Act of 1944, as amended,[2] of

(1) Financing studies, research, instruction, and other educational activities of or for citizens of the United States of America in schools and institutions of higher learning located in Denmark, or of the citizens of Denmark in United States schools and institutions of higher learning located outside the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico, and the Virgin Islands, including payment for transportation, tuition, maintenance, and other expenses incident to scholastic activities; or

(2) Furnishing transportation for citizens of Denmark who desire to attend United States schools and institutions of higher learning in the continental United States, Hawaii, Alaska (including the Aleutian Islands), Puerto Rico and the Virgin Islands and whose attendance will not deprive citizens of the United States of America of an opportunity to attend such schools and institutions.

[1] For complete text of the agreement, see *United States Department of State Publication 4424, Treaties and Other International Acts Series 2324.* The agreement entered into force on the day of its signature. See also the chapter "International Agreements" in the note "Human Rights in the United States in 1951", p. 380 of this *Yearbook.*

[2] 60 Stat. 754.

PROCLAMATION OF THE PRESIDENT OF THE UNITED STATES OF AMERICA MADE IN ACCORDANCE WITH THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND ITALY, RELATING TO COPYRIGHT[1]

effected by exchange of notes signed at Washington, 12 December 1951

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas the President is authorized, in accordance with the conditions prescribed in section 9 of title 17 of the United States Code, which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

Whereas the President of Italy has issued a decree, effective from this day, by the terms of which treatment substantially equal to that authorized by the aforesaid section 9 of title 17 is accorded in Italy to literary and artistic works first produced or published in the United States of America during the period commencing on September 3, 1939, and ending one year after the date of this decree; and

Whereas the aforesaid decree is annexed to and is part of an agreement embodied in notes exchanged this day between the Government of the United States of America and the Government of Italy; and

Whereas, by virtue of a proclamation by the President of the United States of America dated April 9, 1910 (36 Stat. 2685), citizens of Italy are, and since July 1, 1909, have been entitled to the benefits of the aforementioned act of March 4, 1909, other than the benefits of section 1 (*e*) of that act; and

Whereas, by virtue of a proclamation by the President of the United States of America, dated May 1, 1915 (39 Stat. 1725), the citizens of Italy are, and since May 1, 1915, have been, entitled to the benefits of section 1 (*e*) of the aforementioned act of March 4, 1909:

NOW, THEREFORE, I, Harry S. Truman, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid title 17, do declare and proclaim:

That with respect to (1) works of citizens of Italy which were first produced or published outside the United States of America on or after September 3, 1939, and subject to copyright under the laws of the United States of America, and (2) works of citizens of Italy subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, there has existed during several years of the time since September 3, 1939, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of the aforesaid title 17, and that, accordingly, the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid title 17, no liability shall attach under the said title for lawful uses made or acts done prior to the effective date of this proclamation in connection with above-described works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully entered into prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

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[1] For the complete text of the proclamation see *United States Department of State Publication 4510, Treaties and Other International Acts Series 2382.* A copy of this proclamation was annexed to the American note. The agreement entered into force on the day of its signature. See also the chapter "International Agreements" in the Note "Human Rights in the United States in 1951", p. 380 of this *Yearbook.*

GENERAL CONVENTION BETWEEN FRANCE AND YUGOSLAVIA CONCERNING SOCIAL SECURITY[1]

signed in Paris on 5 January 1950

Instruments of ratification exchanged in Belgrade on 30 March 1951

PART I

GENERAL PRINCIPLES

Article 1

1. French and Yugoslav employed persons or persons treated as employed persons under the social security laws set out in article 2 of this convention shall be subject to the said legislation applying in France and Yugoslavia respectively and shall enjoy the benefits thereof, together with the persons entitled through them, under the same conditions as the nationals of each country.

The employed persons or persons treated as employed persons referred to in this convention shall include, within the meaning of Yugoslav legislation, persons who are party to a contract of employment and persons treated as such for the purpose of the social insurance scheme.

2. French and Yugoslav nationals who are not covered by section 1 of this article shall be subject to the laws concerning family benefits referred to in article 2 applying in France and Yugoslavia, and shall enjoy the benefits thereof subject to the same conditions as the nationals of each country.

3. French and Yugoslav nationals residing in France or Yugoslavia shall be entitled to be admitted to the continued voluntary or optional insurance scheme under the laws mentioned in article 2 subject to the same conditions as the nationals of the country where they reside, account being taken in appropriate cases of insurance periods completed in France and Yugoslavia.

Article 2

1. The social security laws to which this convention applies are:

(1) In France:

(*a*) The general legislation organizing social security;

(*b*) The general legislation governing the system of social insurance for insured persons employed in non-agricultural occupations, and concerning insurance against sickness, invalidity, old age, death and the covering of maternity expenses, but not Act No. 48–1473 of 23 September 1948, to extend the scope of certain provisions of ordinance No. 45–2454 of 19 October 1945 (respecting the social security scheme applicable to insured persons in non-agricultural occupations) so as to include students;

(*c*) The social insurance legislation applying to employed persons and persons treated as employed persons in agricultural employment and concerning the covering of the same risks and expenses;

(*d*) The legislation concerning family benefits;

(*e*) The legislation for the prevention of, and compensation for, industrial accidents and occupational diseases;

(*f*) The special social security schemes in so far as they relate to the risks or benefits covered by the laws listed in the preceding paragraphs (in particular, the social security scheme in the mining industry).

(2) In Yugoslavia:

(*a*) The Act respecting the social insurance of wage-earning and salaried employees and State employees, and the provisions for the application of the same;

(*b*) The Act respecting the organization and procedure of the social insurance tribunal.

2. This convention shall also apply to all legislative or administrative enactments amending or supplementing, or which may in the future amend or supplement, the laws listed in section 1 of this article:

Provided that this convention shall only apply:

(*a*) To legislative or administrative enactments covering a new branch of social security if the contracting countries have made an arrangement to that effect;

(*b*) To legislative or administrative enactments extending the existing schemes to new categories of beneficiaries if the government of the country con-

[1] The Yugoslav decree ratifying this convention is published in *Sluzbeni Vjesnik* (Official Journal) of the Presidium of the People's Assembly of the Federal People's Republic of Yugoslavia, No. 4, of 15 February 1951. French text *ibid.* and in *Journal officiel de la République française* No. 98, of 23–24 April 1951. The complete English text of the convention is published in: International Labour Office, *Legislative Series*, 1950—Int. 4. The convention came into operation on 1 April 1951.

cerned does not object to the government of the other country within three months of the date of the official publication of the said enactments.

Article 3

1. All employed persons, or persons treated as such under the laws applying in each of the contracting countries, who are employed in one of the said countries shall be subject to the legislation in force at the place of their employment.

2. The principle laid down in section 1 of this article shall apply subject to the following exceptions:

(*a*) Employed persons and other persons treated as such who are employed in the country which is not their country of normal residence by an undertaking having in the said country of residence an establishment in which they are regularly employed, shall continue to be subject to the legislation applying in the country of their regular place of employment if their employment in the territory of the second country does not last more than six months; where the said employment is prolonged for unforeseen reasons beyond the period originally intended and exceeds six months, the application to them of the laws in force in the country of regular employment may be continued by way of exception with the agreement of the government of the country where they are temporarily employed;

(*b*) Employed persons and other persons treated as such who are in the service of public transport undertakings of one of the contracting countries and are employed in the other country, either temporarily or as travelling personnel, shall be subject only to the provisions in force in the country where the undertaking has its principal place of business;

(*c*) Employed persons and persons treated as such in official administrative services of one of the contracting countries who are assigned to posts in the other contracting country shall be subject to the laws in force in the country which they serve;

(*d*) Diplomatic and consular officers *de carrière*, including State officials attached to the chancelleries, shall not be subject to the provisions in force in the country where they reside.

3. French and Yugoslav nationals other than employed persons or employed persons treated as such shall be subject to the legislative respecting family benefits applying in their principal place of business. If they do not carry on any business, they shall be subject to the laws respecting family benefits in their place of normal residence.

4. The supreme administrative authorities of the contracting States may, by mutual agreement, provide for exceptions to the rules given in sections 1 and 3 of this article; they may also agree that the exceptions provided for in section 2 shall not apply in certain individual cases.

Article 4

Subject to the exceptions provided for in (*c*) and (*d*) of section 2 of article 3, the provisions of section 1 of the said article 3 shall apply to all employed persons and persons treated as such employed in French or Yugoslav diplomatic or consular missions or who are in the personal employ of diplomatic or consular representatives.

Employed persons and persons treated as such who are nationals of the country represented by the diplomatic or consular mission, and who are not permanently resident in the country where they are employed shall remain subject to the laws of their country of origin. Nevertheless, they may, if the supreme authority of the country represented by the said diplomatic or consular mission consents thereto, elect to have the provisions of section 1 of article 3 apply in their case.

[Part II contains special provisions on insurance against sickness, maternity, death, invalidity and old age, and provisions common to various risks. Part II contains, moreover, provisions on death allowances for pensioners, family benefits, industrial accidents, and occupational diseases. Part III contains general and miscellaneous provisions. The convention is followed by a special protocol relative to the allocation of benefits to old workers provided for by French legislation.]

NOTE ON CONVENTIONS ON SOCIAL SECURITY[1]

signed and ratified in 1950 or 1951

1. General convention between France and the Netherlands concerning social security. This convention was signed at the Hague on 7 January 1950; instruments of ratification were exchanged in Paris on 23 October 1951. The convention is published in *Journal officiel de la République française* No. 307, of 29 December 1951, and in *Staatsblad van het Koninkrijk der Nederlanden*, 1951, No. 101. A complete English text is published in: International Labour Office, *Legislative Series*, 1950—Int. 5. The Convention came into operation on 1 November 1951.

2. General convention between France and the Federal Republic of Germany concerning social security. This convention was signed in Paris on 10 July 1950. The convention is published in *Journal officiel de la République française* No. 16, of 19 January 1952, and in *Bundesgesetzblatt*, part II, No. 14, of 6 November 1951. A complete English text is published in: International Labour Office, *Legislative Series*, 1950—Int. 3. The convention is followed by four supplementary agreements. Supplementary Agreement No. 3 provides that employed persons or persons treated as such who are refugees or displaced persons and who are or have been employed in the two contracting countries shall enjoy the benefits of the provisions of this general convention and of Supplementary Agreement No. 1 concerning the social security scheme applying to workers in mines and equivalent establishments. The terms "refugees" and "displaced persons" shall be understood to mean those persons who are recognized as such under the provisions of the first part of annex I of the International Convention of 15 December 1946 to constitute the International Refugee Organization.

3. Convention between Austria and Switzerland concerning social insurance. This convention was signed in Berne on 15 July 1950. Instruments of ratification were exchanged in Vienna on 16 August 1951. The convention is published in *Bundesgesetzblatt für die Republik Österreich* No. 53, of 3 November 1951, and *Eidgenössische Gesetzsammlung—Recueil des lois fédérales* No. 33, of 23 August 1951. A complete English text is published in: International Labour Office, *Legislative Series*, 1950—Int. 1. The convention came into operation on 1 September 1951.

4. Convention between the Federal Republic of Germany and Switzerland concerning social insurance. This convention was signed at Bonn on 24 October 1950. It is published in *Bundesgesetzblatt*, part II, No. 11, of 17 July 1951 and *Eidgenössische Gesetzsammlung—Recueil des lois fédérales* No. 40, of 18 October 1951. A complete English text is published in: International Labour Office, *Legislative Series*, 1950—Int. 2. The convention came into operation on 1 July 1951.

[1] For the General Convention between France and Yugoslavia concerning social security, see the preceding text.

DECLARATION CONCERNING EXTRADITION OF PERSONS PROSECUTED FOR OFFENCES COMMITTED AGAINST THE EXTERNAL SECURITY OF THE STATE[1]

Fifth Supplementary Declaration to the Convention between the Kingdom of Belgium and the Grand Duchy of Luxembourg for the Reciprocal Extradition of Offenders

Signed at Luxembourg on 24 August 1948

Instruments of ratification exchanged on 19 November 1951

The Belgian Government and the Government of Luxembourg, considering it desirable in the relations between Belgium and the Grand Duchy of Luxembourg to extend the application of the Belgium-Luxembourg Extradition Convention of 23 October 1872[2] to offences committed against the external security of the State, have agreed on the following provisions:

Art. 1. The Governments of Belgium and Luxembourg undertake, at the request of either Government, to surrender to each other all persons, with the exception of their own nationals, who are being proceeded against, taken into custody or indicted, or convicted as authors or accomplices by the courts of either country for offences committed either during a war waged against a common enemy or during the occupation of the territory of the High Contracting Parties by the same invader or hostilities launched against them by the same aggressor, which have been perpetrated in violation of the provisions here below:

(*a*) Articles 113, 114, 115, 116 to 123 *quater* of the Belgian Penal Code;

(*b*) Articles 113, 114, 115, 116 to 123 *sexies* of the Luxembourg Penal Code.

When the act has been committed wholly or mainly on the territory of the State to which application is made, extradition shall be granted only if the corresponding act is punishable under the laws of that State as a threat to its external security.

Art. 2. Extradition shall be granted in accordance with the procedure laid down in article 3 of the convention of 23 October 1872, as amended by subsequent arrangements.

If there is any doubt as to the identity of the person wanted or any doubt whether the offence for which extradition is requested comes under the terms of the present declaration, additional explanations may be requested from the applicant State.

The additional information shall be produced within thirty days of the notification of the request for information. Upon request based on good reasons, however, the time-limit may be extended for fifteen days by the State to which application is made.

During that period, the extradition procedure shall remain suspended.

Art. 3. In cases of emergency, provisional arrest shall be made on presentation of a warrant for arrest issued by the proper magistrate and subtantiated by an official notice containing a recital of the facts given, by the authorities of the applicant State to the authorities of the State to which application is made.

In such cases, however, the alien shall be released if, within thirty days of his arrest, any one of the documents referred to in the above-mentioned article 3 is not communicated to him.

Art. 4. The extradition by transit through the territory of one of the High Contracting Parties of a person surrendered to the other Party shall be granted upon simple presentation of the original or an authentic copy of one of the documents mentioned in the aforesaid article.

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[1] French text in *Moniteur belge*, No. 325, of 21 November 1951 and in *Mémorial du Grand-Duché du Luxembourg* No. 52, of 11 September 1951. The Declaration came into force on the day of the exchange of the instruments of ratification. It was registered with the Secretariat of the United Nations on 17 December 1951 under No. 1589. Text and information received through the courtesy of Mr. Edmond Lesoir, Secretary-General of the *Institut international des sciences administratives*, and Mr. Ferdinand Wirtgen, Registrar-General and Director of State Lands, Luxembourg.

[2] Convention between Belgium and the Grand Duchy of Luxembourg for the reciprocal extradition of offenders, signed at the Hague on 23 October 1872; first supplementary declaration to that convention, signed at the Hague on 21 June 1877; second supplementary declaration to that convention, signed in Luxembourg on 25 April 1893; third supplementary declaration to that convention, signed in Luxembourg on 16 November 1899; fourth supplementary declaration to that convention, signed in Brussels on 24 August 1926, and fifth supplementary declaration to that convention, signed in Luxembourg on 24 August 1948.

Art. 5. No person who has been extradited may be prosecuted in the applicant State on account of political activities carried out in the interest of the State to which application has been made.

Art. 6. The rogatory commission effecting either a domiciliary visit or the seizure of the *corpus delicti* or of evidence shall execute their functions in respect of the offences referred to in article 1 above and subject to the reservations stated in that article.

Art. 7. All the articles of the convention of 23 October 1872 from which the foregoing provisions do not derogate shall be applicable to extraditions granted in accordance with article 1 above.

In applying the present declaration, article 3 of the declaration of 21 June 1877 is to be interpreted as follows:

When the offence has been committed outside the territory of the applicant Party, the request for extradition may be complied with in cases where the laws of the State to which application is made would authorize prosecution for the same acts had they been directed against the public safety or the external security of that State.

Art. 8. The present supplementary declaration shall remain in force for the same period as the Extradition Convention of 23 October 1872, to which it relates.

It shall be applicable to offences committed prior to its entry into force.

PART IV

A. THE UNITED NATIONS AND HUMAN RIGHTS

B. JUDGMENTS OF THE INTERNATIONAL COURT OF JUSTICE

A. THE UNITED NATIONS AND HUMAN RIGHTS

CHAPTER I

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

SECTION I

PUBLICIZING THE DECLARATION

In 1951, the Secretary-General continued his efforts to collect, reproduce and disseminate new language versions of the Universal Declaration of Human Rights and to increase the quantity and availability of all language versions of the Declaration which had been published previously by the United Nations. Acting under resolution 217 D (III) of the General Assembly, the Secretary-General made the Universal Declaration available in forty languages, an increase of eight over the previous year. The list, at the end of 1951, was as follows: Arabic, Basque, Bengali, Burmese, Chinese, Czech, Danish, Dutch, English, Esperanto, Finnish, French, German, Greek, Hebrew, Hindi, Icelandic, Indonesian, Irish, Italian, Japanese, Korean, Macedonian, Maori, Norwegian, Persian, Portuguese, Pushtu, Russian, Serbo-Croat, Sinhalese, Slovak, Slovene, Spanish, Swedish, Tagalog, Tamil, Thai, Turkish, Urdu.

New publications and other educational and publicity materials by the United Nations, Member States, specialized agencies of the United Nations, non-governmental organizations and private publishing enterprises enlarged the store of general information concerning the Universal Declaration and its significance. The information appeared in such media as newspapers and periodicals, radio and television programmes, films, formal teaching and discussion activities. The United Nations assisted in the planning and execution of a number of conferences, institutes and seminars for the prupose of publicizing the Universal Declaration of Human Rights.

An important meeting of non-governmental organizations having consultative status with the United Nations and with UNESCO was held at UNESCO headquarters immediately prior to the sixth session of the General Assembly in Paris. This conference considered important human rights questions, including ways and means of further publicizing the Universal Declaration and of observing Human Rights Day.

Earlier in 1951, the Fourth Regional Conference of Non-Governmental Organizations in Latin America, meeting in Managua, Nicaragua, under United Nations auspices, recommended to the Ministries of Public Instruction of the countries represented that they recognize the convenience and need for exposition and discussion of the principles of the Universal Declaration of Human Rights and for inclusion of these principles as required subjects in the curricula of schools, public and private, up to and including the universities.

The Second Regional Conference of UNESCO National Commissions, held in Bangkok, Thailand (26 November to 10 December) discussed problems involved in teaching about the United Nations and the Universal Declaration of Human Rights, ending the conference with a celebration of the third anniversary of Human Rights Day.

Also during 1951, the World Federation of United Nations Associations, meeting in Stockholm, Sweden, and the World Assembly of Youth, at Cornell University, Ithaca, New York, called for activities designed to increase knowledge concerning the Universal Declaration and action designed to widen its influence in all parts of the world.

SECTION II

HUMAN RIGHTS DAY

Under General Assembly resolution 423 (V), calling for universal observance of the anniversary of the adoption and proclamation of the Universal Declaration of Human Rights (10 December 1948) as Human Rights Day throughout the world, the Secretary-General addressed letters to all governments recalling the Assembly resolution and its invitation to governments to report to him on national observances of the third and subsequent anniversaries.

At the same time, the Director-General of UNESCO addressed a letter to States Members of UNESCO and to UNESCO national commissions in fifty-five countries calling for observance of Human Rights Day and suggesting appropriate means of celebration, especially in schools and educational institutions.

The United Nations and UNESCO gave wide distribution to a booklet, *Human Rights Day 1951*, in English, French and Spanish, which suggested ways and means of celebrating the anniversary through schools, colleges and universities, libraries, public ceremonies and observances, through the press, radio and television, and through films and visual education. The publication reproduced the text of the Universal Declaration.

Eighty countries reported on the celebration of the anniversary. Many Human Rights Day events involved participation by high officials in national governments, the United Nations and its specialized agencies, and leaders in the public life of the countries concerned.

The Secretary-General of the United Nations and the Directors-General of the International Refugee Organization, the World Health Organization, the International Labour Office, the Universal Postal Union, the International Telecommunication Union, the Food and Agricultural Organization and the United Nations Educational, Scientific and Cultural Organization issued special statements commemorating Human Rights Day and pointing out the importance of the Universal Declaration as a guide in carrying out the responsibilities of their respective organizations.

SECTION III

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND DECISIONS OF THE UNITED NATIONS

Previous editions of the *Yearbook* have reported on the decisions of various organs of the United Nations which have invoked the provisions in the Charter referring to human rights or specifically cited the Universal Declaration of Human Rights. The present section refers to such decisions taken by the sixth session of the General Assembly, which met in Paris from 6 November 1951 to 5 February 1952, and by the twelfth and thirteenth sessions of the Economic and Social Council, which took place during 1951.

1. *General Assembly*

A. *Treatment of People of Indian Origin in the Union of South Africa*

In resolution 511 (VI), the General Assembly repeated the reference to the Universal Declaration which it had made in previous resolutions 265 (III) and 395 (V), in recommending that a commission of three members be established for the purpose of assisting the Governments of India, Pakistan and the Union of South Africa in carrying through appropriate negotiations. The relevant paragraphs of resolution 511 (VI) read:

"*The General Assembly*,

. . .

"*Having* in mind its resolution 103(I) of 19 November 1946 against racial persecution and discrimination, and its resolution 217 (III) of 10 December 1948 relating to the Universal Declaration of Human Rights,

"*Considering* that a policy of 'racial segregation' (*apartheid*) is necessarily based on doctrines of racial discrimination . . ."

B. *Commission on the Status of Women*

By resolution 532 A (VI) the General Assembly decided to request the Economic and Social Council to reconsider its decision in regard to convening the Commission on the Status of Women every two years. The relevant sections read as follows:

"*The General Assembly*,

"*Considering* that the Charter of the United Nations and the Universal Declaration of Human Rights affirm the principle of equal rights of men and women, and aim to promote respect for human rights and fundamental freedoms for all without distinction as to sex . . ."

"Resolves to request the Economic and Social Council to reconsider its resolution 414 (XIII) . . ."

C. *Sub-Commission on the Prevention of Discrimination and Protection of Minorities*

"*The General Assembly*,

"*Noting* that at its thirteenth session the Economic and Social Council decided to discontinue the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities until 31 December 1954 (resolution 414 (XIII), section B, I (*d*)),

"*Recalling* that the functions of the Sub-Commission are:

"(*a*) To undertake studies, with particular reference to the principles of the Universal Declaration of Human Rights, and to submit recommendations to the Commission on Human Rights relating to the prevention of discrimination of any kind incompatible with human rights and fundamental freedoms, and to the protection of racial, national, religious or linguistic minorities, and . . .

"*Emphasizing* that the full application and implementation of the principle of non-discrimination recommended in the United Nations Charter and the Universal Declaration of Human Rights are matters of supreme importance, and should constitute the primary objective in the work of all United Nations organs and institutions,

"*Considering* that the prevention of discrimination and the protection of minorities are two of the most important branches of the positive work undertaken by the United Nations,

"*Invites* the Economic and Social Council:

"(*a*) To authorize the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to continue its work so that it may fulfil its mission, and especially to convene a session in 1952;

"(*b*) To take any practical steps that may be necessary for the continuance, within the framework of the United Nations, of the work on the prevention of discrimination and the protection of minorities."

D. *Observance of Human Rights*

In resolution 540 (VI), the General Assembly cited the Universal Declaration of Human Rights as follows:

"*Considering* that, notwithstanding the proclamation of the Universal Declaration of Human Rights,[1] violations of human rights have continued to occur . . ."

E. *Preparation of two Draft International Covenants on Human Rights*

In resolution 543 (VI) the General Assembly requested the Economic and Social Council to ask the Commission on Human Rights to draft two Covenants on Human Rights, one to contain civil and political rights and the other to contain economic, social and cultural rights. In making this request, the General Assembly cited the Universal Declaration as follows:

" *Whereas* the Economic and Social Council, by resolution 303 I (XI) of 9 August 1950, requested the General Assembly to make a policy decision concerning the inclusion of economic, social and cultural rights in the Covenant on Human Rights,

" *Whereas* the General Assembly affirmed, in its resolution 421 E (V) of 4 December 1950, that 'the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent' and that 'when deprived of economic, social and cultural rights, man does not represent the human person whom the Universal Declaration regards as the ideal of the free man' . . ."

F. *Adoption in Spanish of the term* "derechos humanos" *instead of the term* "derechos del hombre"

In resolution 548 (VI) the General Assembly decided that the Spanish text of the Universal Declaration should be revised as follows:

" *Whereas* in the Spanish text of the United Nations Charter, Articles 1, 13, 55, 62, 68 and 76 refer to '*derechos humanos*' and not to '*derechos del hombre*',

" *Whereas* the content and purpose of the Universal Declaration of Human Rights and of the draft Covenant have a wide significance which is not covered in Spanish by the term '*derechos del hombre*',

"*Taking into account* the fact that, in the general discussion on this matter in the Third Committee during the sixth session of the General Assembly, prominent representatives of Spanish-American countries expressed their preference for the term employed in the Charter,

"*The General Assembly*,

"*Decides* that, in future, in all United Nations working documents and publications in Spanish, and in the Universal Declaration and draft Covenant, the words '*derechos humanos*' shall be used instead of the words '*derechos del hombre*', used at present."

[1] See resolution 217 (III) adopted on 10 December 1948 by the General Assembly.

CHAPTER II

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS AND MEASURES OF IMPLEMENTATION

SECTION I

ECONOMIC AND SOCIAL COUNCIL
(Twelfth Session)

In resolutions 421 (V) and 422 (V), of 4 December 1950, the General Assembly laid down certain directives for the future work of the Commission on Human Rights.[1] The Economic and Social Council, at its twelfth session, adopted resolution 349 (XII), by which it requested the Commission on Human Rights to prepare a revised draft Covenant on the lines indicated by the General Assembly. The text of this resolution is as follows:

The Economic and Social Council,

Taking note of General Assembly resolutions 421 (V) on the future work of the Commission on Human Rights and 422 (V) on the territorial application of the International Covenant on Human Rights, both adopted on 4 December 1950,

Considering the communications from the International Labour Organisation[2] and the United Nations Educational, Scientific and Cultural Organization[3] concerning co-operation between the Commission on Human Rights and the specialized agencies with regard to economic, social and cultural rights,

1. *Transmits* these resolutions to the Commission on Human Rights for appropriate action;

2. *Invites* the Commission to take into consideration in its work on the draft Covenant the records[4] of the discussion at the twelfth session of the Council, the remarks or observations made by members of the Council and by representatives of specialized agencies, as well as the amendments[5] to the draft Covenant presented at that session;

3. *Invites* such of the specialized agencies as feel directly concerned with the proposed economic, social and cultural rights to send representatives to the seventh session of the Commission on Human Rights to participate in the work of the Commission relating to economic, social and cultural rights;

4. *Calls upon* the Commission to take such steps as are necessary to obtain the fullest co-operation of the specialized agencies in the consideration of economic, social and cultural rights, and to consider for this purpose the setting up of one or more joint working groups, consisting of representatives of the Commission and of the interested specialized agencies, which will report to the Commission; and

5. *Requests* the Commission on Human Rights to prepare and submit to the Council at its thirteenth session a revised draft Covenant on the lines indicated by the General Assembly, together with a report on the results of its work.

SECTION II

COMMISSION ON HUMAN RIGHTS
(Seventh Session)

At its seventh session, in the spring of 1951, the Commission undertook the revision of the draft Covenant in the light of the resolutions of the General Assembly and of the Economic and Social Council. The Commission had before it, in addition to those resolutions and the amendments and proposals transmitted thereby, the comments of certain governments[6] which the Secretary-General had requested in accordance with section H of resolution 421 (V) of the General Assembly, and several studies and analyses prepared by the Secretary-General on matters relating to the draft Covenant and the decisions of the General Assembly, the Economic and Social Council and other organs.

The Commission drafted articles on economic, social and cultural rights, including the provisions dealing with the implementation of these rights, and revised the articles on measures of implementation which it had prepared at its sixth session. It also incorporated in the draft Covenant the text of the territorial application clause prepared by the General Assembly. For lack of time it was unable to carry out the full assignment given to it by the General Assembly and the Economic and Social Council.

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[1] See *Yearbook on Human Rights for 1950*, pp. 457–458.

[2] See document E/1880/Add.1.

[3] See document E/1880/Add.7.

[4] See documents E/SR.438 to 442 inclusive.

[5] See document E/L.137.

[6] Australia, Burma, Canada, Chile, Czechoslovakia, Denmark, Egypt, France, India, Israel, Luxembourg, New Zealand, Philippines, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland and United States of America (E/CN.4/515 and addenda and corrigenda).

As revised by the Commission, the draft Covenant consists of a preamble and six parts. In substance, part I deals with certain general obligations of States parties to the Covenant; part II sets forth certain personal and civil rights; part III contains the new articles on economic, social and cultural rights; part IV consists of articles relating to measures of implementation which were revised at the seventh session; part V contains new provisions regarding a system of periodic reports; and part VI includes certain final clauses.

A. *Draft International Covenant on Human Rights*

In drawing up the provisions on economic, social and cultural rights the Commission was assisted by representatives of the International Labour Organisation, the United Nations Educational Scientific and Cultural Organization and the World Health Organization. It had before it, among other documents, a memorandum by the Secretary-General on economic, social and cultural rights (E/CN.4/529), and suggestions and observations on these rights submitted by the International Labour Organisation (E/CN.4/AC.14/1), the United Nations Educational, Scientific and Cultural Organization (E/CN.4/541/Rev.1), and the World Health Organization (E/CN.4/544 and Add.1).

The Commission set up two working groups. One group, composed of members of the Commission and representatives of the specialized agencies, undertook the task of studying the various proposals concerning economic, social and cultural rights. The other group, consisting of the representatives of Australia, Chile, Denmark, France, Lebanon, Pakistan, Sweden and the United States, was asked to elaborate a common draft on measures of implementation relating to these rights.

The Commission drafted fourteen articles on economic, social and cultural rights. In this connexion it discussed the advisability of having separate general clauses relating exclusively to these rights, since there were general provisions of a similar nature, such as articles 1 and 18, which applied to the whole Covenant. The Commission pronounced itself in favour of including a general "umbrella" clause covering these rights, and accordingly drafted a provision (article 19) by which the States parties, *inter alia*, would undertake to take steps to the maximum of their available resources with a view to achieving progressively the full realization of these rights.

The Commission, in a roll-call vote, rejected a proposal recommending that the decision of the General Assembly regarding the inclusion of economic, social and cultural rights in the same Covenant with civil and political rights be reconsidered.[1]

[1] The Economic and Social Council at its thirteenth session took a different stand. See *infra*, p. 527.

B. *Measures of Implementation*

At the beginning of its discussion on the question of implementation, the Commission rejected a proposal to omit from the draft Covenant the articles on measures of implementation on the grounds that they envisaged forms of control which constituted an attempt to intervene in the national affairs of States and violated their sovereignty.

In reviewing the machinery of implementation proposed at its sixth session, the Commission retained the main ideas at the basis of the proposed "Human Rights Committee", but made certain changes and additions. These changes related mainly to the organization and functions of the committee. The Commission placed emphasis upon the importance of the independence and competence of its members. It increased the membership of the committee to nine and proposed that the members be elected, not by States parties, but by the International Court of Justice, which would also appoint the secretary of the committee. It deleted the article providing that a State party concerned in a case might designate a person to participate, with the right to vote, in the deliberations of the case if none of its nationals was on the committee.

Additional articles provided that the committee, at the request of a State party, in serious cases where human life was in danger, would have the power to deal immediately with the case on receipt of the initial communication and after notifying the State concerned; that the committee would not deal with a matter for which any competent organ or specialized agency of the United Nations had established a special procedure by which the States concerned were governed or any matter with which the International Court of Justice was seized;[2] that the committee might recommend that the Economic and Social Council request the International Court of Justice to give an advisory opinion on any legal question connected with a case before it; that the committee would submit an annual report of its activities to the General Assembly; and that States parties to the Covenant would agree not to submit to the International Court of Justice, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the committee's competence.

In a new series of articles (60 to 69) the Commission outlined a system of reporting by States parties on the progress made in achieving the observance of the rights set forth in the Covenant. These reports, which would indicate factors and difficulties affecting the degree of fulfilment of the obligations assumed by States, would be submitted in stages in accordance with a programme to be established by the Economic and Social Council after consultation with the States parties and the specialized agencies concerned.

[2] For full text, see article 53.

In the course of the work on these articles dealing with the system of reporting, the question was raised as to whether they should apply only to economic, social and cultural rights or to all the rights recognized in the Covenant. The Commission did not reach a decision on this point, nor did it decide whether the measures of implementation providing for the establishment of the "Human Rights Committee" should apply to all the rights defined in the Covenant.

The Commission was unable, for lack of time, to consider a proposal for the creation of an Office of United Nations High Commissioner (Attorney-General) for Human Rights which would be vested with functions relating to the implementation of the Covenant and the supervision of its observance.

C. *The Right of Petition*

The Commission discussed the question of petitions from non-governmental organizations and individuals in connexion with a proposed article which would have allowed the "Human Rights Committee" to initiate an inquiry on receipt of complaints from individuals, groups or non-governmental organizations. This proposal was rejected. A separate draft protocol on petitions emanating from individuals and organizations, together with several amendments to it, was before the Commission, but it was not discussed.

D. *Transmission of the Draft International Covenant on Human Rights to the Economic and Social Council*

The Commission recognized that, owing to lack of time, it had not completed its agenda, or complied fully with the instructions of the General Assembly and the Economic and Social Council. It decided, however, to submit the draft Covenant as revised at its seventh session for consideration by the Council, and to request the Secretary-General to transmit the draft Covenant to governments and to specialized agencies with a view to making their observations thereon available to the Council at its thirteenth session.

SECTION III

ECONOMIC AND SOCIAL COUNCIL (*Thirteenth Session*)

At its thirteenth session, the Economic and Social Council discussed the report of the Commission; noted that lack of time had prevented it from undertaking certain of the tasks assigned to it under the resolutions of the Council and the General Assembly; and decided to request it, at its next session, to proceed with these tasks, in particular the revision of the first eighteen articles of the draft Covenant and the preparation of recommendations aimed at securing the maximum tension of the Covenant to the constituent units of federal States and at meeting the constitutional problems of those States.

The Council thought that, although more work was required before a covenant on human rights would be ready for adoption, a stage had been reached where it would be desirable for governments not represented on the Commission or the Council to be given an opportunity of expressing their views upon the work done by the Commission, and in particular its proposals relating to implementation. Accordingly it was decided to transmit to the General Assembly the report of the Commission, together with the records of the Council's own discussions at the thirteenth session and the observations of specialized agencies and governments.

The Council also decided to invite the General Assembly to reconsider its decisions in resolution 421 (V) to include in one covenant articles on economic, social and cultural rights, together with articles on civil and political rights.

The foregoing decisions of the Council were set forth in resolution 384 (XIII), the text of which reads as follows:

The Economic and Social Council

A

1. *Takes note* of the report of the Commission on Human Rights (seventh session);[1]

2. *Expresses its appreciation* to the Commission for its efforts to formulate basic economic, social and cultural rights and measures relating to their implementation;

3. *Notes* that lack of time prevented the Commission from undertaking certain of the tasks assigned it under Council resolution 349 (XII), in pursuance of General Assembly resolutions 421 (V) and 422 (V);

4. *Requests* the Commission on Human Rights, at its next session, to proceed with these tasks, in particular the revision of the first eighteen articles of the draft Covenant and the preparation of recommendations aimed at securing the maximum extension of the Covenant to the constituent units of federal States and at meeting the constitutional problems of those States;

B

Considering the progress made in pursuance of General Assembly resolution 421 (V),

Considering that, though more work will be required before a Covenant on Human Rights is ready for adoption, a stage has been reached where it would be desirable for governments not represented on the Commission on Human Rights or on the Council to be given an opportunity to express their views upon the work done by the Commission, and in particular its proposals relating to implementation; to this end

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[1] See *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9.*

Transmits to the General Assembly for its consideration the report of the Commission on Human Rights (seventh session), the records of the discussions thereon in the Council at its thirteenth session[1] and the observations of specialized agencies[2] and of governments;[3]

C

Having noted General Assembly resolution 421 (V) calling upon the Council to request the Commission on Human Rights to include in the draft Covenant on Human Rights a clear expression of economic, social and cultural rights in a manner which relates them to the civic and political freedoms proclaimed by the previous draft of the Covenant,

Noting that the revised draft Covenant, prepared by the Commission on Human Rights at its seventh session in response to this request, contains provisions relating, *inter alia*, to such rights,

Considering that these provisions provide for two different methods of implementation, without indicating which method or methods are to apply:

(*a*) To political and civic rights,

(*b*) To economic, social and cultural rights,

Conscious of the difficulties which may flow from embodying in one covenant two different kinds of rights and obligations,

Aware of the importance of formulating, in the spirit of the Charter, the Universal Declaration of Human Rights and General Assembly resolution 421 (V), economic, social and cultural rights in the manner most likely to assure their effective implementation,

Invites the General Assembly to reconsider its decision in resolution 421 E (V) to include in one covenant articles on economic, social and cultural rights, together with articles on civic and political rights.[4]

SECTION IV

GENERAL ASSEMBLY

(*Sixth Session*)

The General Assembly at its sixth session discussed the above resolution of the Economic and Social Council and took several important decisions relating to the work of the Commission on Human Rights. It requested the Economic and Social Council to ask the Commission to draft two Covenants on Human Rights to be submitted simultaneously for consideration by the General Assembly at its seventh session, one to contain civil and political rights and the other economic, social and cultural rights (resolution 543 (VI)). It called upon the Council to request the Commission, in revising the text of the articles on economic, social and cultural rights, to take into consideration the views expressed during the discussion of the draft Covenant, as well as the views of governments, specialized agencies and non-governmental organizations (resolution 544(VI)). In resolution 545(VI), the General Assembly decided to include in the Covenant or Covenants on Human Rights an article on the right of peoples and nations to self-determination. It recommended to the Economic and Social Council that it instruct the Commission to prepare, for inclusion in the Covenants, one or more clauses relating to the admissibility or non-admissibility of reservations (resolution 546 (VI)). Furthermore, by resolution 547 (VI), it forwarded through the Council to the Commission a number of basic working papers relating to measures of implementation. By resolution 548 (VI), it decided that in the Spanish texts of United Nations documents and publications and in the Universal Declaration and draft Covenants the words *derechos humanos* should be used instead of the words *derechos del hombre*. Finally, it requested the Council by resolution 549 (VI) to instruct the Commission to give priority to the question of the right of peoples to self-determination.

The resolutions of the General Assembly are as follows:

1. *Preparation of Two Draft International Covenants on Human Rights* (resolution 543 (VI))

Whereas the Economic and Social Council, by resolution 303 I (XI) of 9 August 1950, requested the General Assembly to make a policy decision concerning the inclusion of economic, social and cultural rights in the Covenant on Human Rights,

Whereas the General Assembly affirmed, in its resolution 421 E (V) of 4 December 1950, that "the enjoyment of civic and political freedoms and of economic, social and cultural rights are interconnected and interdependent" and that "when deprived of economic, social and cultural rights, man does not represent the human person whom the Universal Declaration regards as the ideal of the free man",

Whereas the General Assembly, after a thorough and all-round discussion, confirmed in the aforementioned resolution the principle that economic, social and cultural rights should be included in the Covenant on Human Rights,

Whereas the General Assembly, at the request of the Economic and Social Council in resolution 384 (XIII) of 29 August 1951, reconsidered this matter at its sixth session,

The General Assembly

1. *Requests* the Economic and Social Council to ask the Commission on Human Rights to draft two Covenants on Human Rights, to be submitted simultaneously for the consideration of the General Assembly at

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[1] See *Official Records of the Economic and Social Council, Thirteenth Session*, 522nd to 525th meetings.

[2] See documents E/2057 and E/2057/Add. 1 to 5.

[3] See documents E/2059 and E/2059/Add.1 to 9.

[4] See 522nd meeting of the Council.

its seventh session, one to contain civil and political rights and the other to contain economic, social and cultural rights, in order that the General Assembly may approve the two Covenants simultaneously and open them at the same time for signature, the two Covenants to contain, in order to emphasize the unity of the aim in view and to ensure respect for and observance of human rights, as many similar provisions as possible, particularly in so far as the reports to be submitted by States on the implementation of those rights are concerned;

2. *Requests* the Secretary-General to ask Member States and appropriate specialized agencies to submit drafts or memoranda containing their views on the form and contents of the proposed Covenant on economic, social and cultural rights, together with their observations thereon, to reach the Secretary-General before 1 March 1952, for the information and guidance of the Commission on Human Rights at its forthcoming session.

2. *Preparation of Articles on Economic, Social and Cultural Rights* (resolution 544 (VI))

The General Assembly,

Considering that the Commission on Human Rights has, by virtue of General Assembly resolution 421 E (V) of 4 December 1950, prepared various articles on economic, social and cultural rights,[1]

Considering that the wording of those articles, which have been examined during the present session of the General Assembly, should be improved in order to protect more effectively the rights to which they refer,

Calls upon the Economic and Social Council to request the Commission on Human Rights to take into consideration, when revising the relevant articles of the draft Covenant, the views expressed during the discussion of the draft Covenant, and also such views as the governments of Member States, the specialized agencies and non-governmental organizations may think fit to advance.

3. *Inclusion in the International Covenant or Covenants on Human Rights of an Article relating to the Peoples' Right to Self-determination* (resolution 545 (VI))

Whereas the General Assembly at its fifth session recognized the right of peoples and nations to self-determination as a fundamental human right (resolution 421 D (V) of 4 December 1950),

Whereas the Economic and Social Council and the Commission on Human Rights, owing to lack of time, were unable to carry out the request of the General Assembly to study ways and means which would ensure the above-mentioned right to peoples and nations,

Whereas the violation of this right has resulted in bloodshed and war in the past and is considered a continuous threat to peace,

The General Assembly

(i) To save the present and succeeding generations from the scourge of war,

(ii) To reaffirm faith in fundamental human rights, and

(iii) To take due account of the political aspirations of all peoples and thus to further international peace and security, and to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples,

1. *Decides* to include in the International Covenant or Covenants on Human Rights an article on the right of all peoples and nations to self-determination in reaffirmation of the principle enunciated in the Charter of the United Nations. This article shall be drafted in the following terms: "All peoples shall have the right of self-determination", and shall stipulate that all States, including those having responsibility for the administration of Non-Self-Governing Territories, should promote the realization of that right, in conformity with the Purposes and Principles of the United Nations, and that States having responsibility for the administration of Non-Self-Governing Territories should promote the realization of that right in relation to the peoples of such Territories;

2. *Requests* the Commission on Human Rights to prepare recommendations concerning international respect for the self-determination of peoples and to submit these recommendations to the General Assembly at its seventh session.

4. *Inclusion in the Draft International Covenants of Provisions regarding Reservations* (resolution 546)

The General Assembly,

Considering that it is desirable that the two International Covenants on Human Rights should include provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them, in particular with regard to the validity of the Covenants between the reserving State and other States ratifying the Covenant,

Considering that the General Assembly in its resolution 598 (VI) of 12 January 1952 has recommended that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them,

Decides to recommend to the Economic and Social Council that it should instruct the Commission on Human Rights to prepare, for inclusion in the two draft International Covenants on Human Rights, one or more clauses relating to the admissibility or non-admissibility of reservations and to the effect to be attributed to them.

[1] See *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 9*, chapter IV.

5. *Measures for the Implementation of the International Covenants on Human Rights* (resolution 547 (VI))

The General Assembly

Decides to request the Economic and Social Council to forward the following documents on measures for the implementation of the International Covenants on Human Rights: A/C.3/L.191/Rev.3 (Syria), A/C.3/L.193 (Israel), A/C.3/L.195 and A/C.3/L.195/Rev.2 (Guatemala, Haiti and Uruguay), A/C.3/L.196 and A/C.3/L.196/Rev.2 (Guatemala and Uruguay), A/C.3/L.198/Rev.2 (Lebanon) and document A/C.3/L.191/Rev.2, to the Commission on Human Rights as additional basic working papers on the subjects with which they deal, for its consideration in connexion with the drafting of provisions on implementation in the Covenants on Human Rights. The said Commission should also take into consideration the discussion of the General Assembly concerning these documents and submit its recommendations to the General Assembly at its seventh session.

6. *Adoption in Spanish of the Term* "derechos humanos" *instead of the Term* "derechos del hombre" (resolution 548 (VI))

Whereas in the Spanish text of the United Nations Charter, Articles 1, 13, 55, 62, 68 and 76 refer to "*derechos humanos*" and not to "*derechos del hombre*",

Whereas the content and purpose of the Universal Declaration of Human Rights and of the draft Covenant have a wide significance which is not covered in Spanish by the term "*derechos del hombre*",

Taking into account the fact that, in the general discussion on this matter in the Third Committee during the sixth session of the General Assembly, prominent representatives of Spanish-American countries expressed their preference for the term employed in the Charter,

The General Assembly

Decides that, in future, in all United Nations working documents and publications in Spanish, and in the Universal Declaration and draft Covenant, the words "*derechos humanos*" shall be used instead of the words "*derechos del hombre*", used at present.

7. *Special Session of the Economic and Social Council to Precede the Eighth Session of the Commission on Human Rights* (resolution 549 (VI))

The General Assembly,

Bearing in mind the resolution[1] adopted at its present session which relate to the draft International Covenants on Human Rights and measures of implementation,

1. *Requests* the Economic and Social Council to instruct the Commission on Human Rights to give priority to the question of the right of peoples to self-determination which the Commission was forced to defer at its seventh session[2] owing to lack of time;

2. *Requests* the Council, in accordance with its rules of procedure, to hold a special session, to precede the eighth session of the Commission on Human Rights, at which it shall take the necessary action to enable the Commission to complete the work entrusted to it in connexion with the said draft International Covenants on Human Rights and measures of implementation before the end of the Council's fourteenth session, so that the Council may submit the drafts to the General Assembly at its seventh regular session together with its recommendations.

[1] See resolutions 543 (VI), 544 (VI), 545 (VI), 546 (VI), 547 (VI) and 548 (VI).

Annex I[3]

DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

Note: The Commission at its seventh session did not consider the preamble, parts I and II (articles 1–18), or part IV (articles 42–45, present part VI, articles 70 and 73) of the draft Covenant prepared at its sixth session.

The text of the preamble and of parts I and II (articles 1–18) are therefore reproduced from the report of the sixth session of the Commission.

With regard to part VI (part IV of the sixth session), articles 70 and 73 (formerly 42 and 45) are reproduced from the report of the sixth session. Article 71 (federal State article) has no text, and all proposals are presented in annex VI. Article 72 (territorial application clause) reproduces the text of the General Assembly resolution 422 (V) in accordance with the Commission's decision (see chapter III, paragraph 92).

PREAMBLE[4]

The States Parties hereto,

Considering the obligation under the Charter of the United Nations to promote universal respect for, and observance of human rights and freedoms,

Bearing in mind the Universal Declaration of Human Rights,

Recognizing that the rights and freedoms recognized in this Covenant flow from the inherent dignity of the human person,

By this Covenant agree upon the following articles with respect to these rights and freedoms.

[2] See *Official Records of the Economic and Social Council, Thirteenth Session, Supplement No. 10*, chapter V.

[3] The Commission has not taken a final decision on the order of the various parts of the draft Covenant. The order in which they are presented here should therefore be considered as tentative.

[4] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/370, E/CN.4/376, E/CN.4/377, E/CN.4/379, E/CN.4/491, E/CN.4/L.11 and E/CN.4/SR.137, 138, 193, 199.

PART I

ARTICLE 1[1]

1. Each State Party hereto undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in this Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt within a reasonable time such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant.

3. Each State Party hereto undertakes to ensure:

(*a*) That any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(*b*) That any person claiming such a remedy shall have his right thereto determined by competent authorities, political, administrative or judicial;

(*c*) That the competent authorities shall enforce such remedies when granted.

ARTICLE 2[2]

1. In the case of a state of emergency officially proclaimed by the authorities or in the case of public disaster, a State may take measures derogating, to the extent strictly limited by the exigencies of the situation, from its obligations under Article 1, paragraph 1 and Part II of this Covenant.

2. No derogation from Articles 3, 4, 5 (paragraphs 1 and 2) 7, 11, 12 and 13 may be made under this provision. No derogation which is otherwise incompatible with international law may be made by a State under this provision.

3. Any State Party hereto availing itself of the right of derogation shall inform immediately the other States Parties to the Covenant, through the intermediary of the Secretary-General, of the provisions from which it has derogated and the date on which it has terminated such derogation.

PART II

ARTICLE 3[3]

1. Everyone's right to life shall be protected by law.

2. To take life shall be a crime, save in the execution of a sentence of a court, or in self-defence, or in the case of enforcement measures authorized by the Charter.

3. In countries where capital punishment exists, sentence of death may be imposed only as a penalty for the most serious crimes, pursuant to the sentence of a competent court and in accordance with law not contrary to the Universal Declaration of Human Rights.

4. Anyone sentenced to death shall have the right to seek amnesty, or pardon, or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

ARTICLE 4[4]

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected against his will to medical or scientific experimentation involving risk, where such is not required by his state of physical or mental health.

ARTICLE 5[5]

1. No one shall be held in slavery; slavery and the slave trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (*a*) No one shall be required to perform forced or compulsory labour.

(*b*) The preceding sub-paragraph shall not be held to preclude, in countries where imprisonment with "hard labour" may be imposed as a punishment for a crime, the performance of "hard labour" in pursuance of a sentence to such punishment by a competent court.

(*c*) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, other than work performed in pursuance of a sentence of "hard labour" required to be done in the course of detention in consequence of a lawful order of a court;

(ii) Any service of a military character or, in the case of conscientious objectors, in countries where they are recognized, service exacted in virtue of laws requiring compulsory national service;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civic obligations.

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[1] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/374, E/CN.4/380, E/CN.4/495, E/CN.4/L.14, and E/CN.4/SR.138, 193, 194, 195, 199.

[2] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/497, E/CN.4/498, E/CN.4/L.14 and E/CN.4/SR.138, 195, 196, 199.

[3] E/CN.4/353/Add.10 and 11, E/CN.4/365, E/CN.4/371, E/CN.4/378, E/CN.4/383, E/CN.4/384, E/CN.4/385, E/CN.4/386, E/CN.4/387, E/CN.4/393, E/CN.4/398, E/CN.4/413, E/CN.4/417, E/CN.4/L.1, E/CN.4/L.16 and E/CN.4/SR.139, 140, 144, 149, 150, 152, 153, 199.

[4] E/CN.4/353/Add.1 and Corr.2, E/CN.4/365, E/CN.4/381, E/CN.4/471, E/CN.4/472, E/CN.4/473, E/CN.4/L.1, E/CN.4/L.16 and E/CN.4/SR.141, 182, 183, 199.

[5] E/CN.4/353/Add.10, E/CN.4/365. E/CN.4/388, E/CN.4/390, E/CN.4/391, E/CN.4/404, E/CN.4/408, E/CN.4/L.2/Rev.1, E/CN.4/L.16, and E/CN.4/SR.142, 143, 145, 148, 149, 154, 199.

ARTICLE 6[1]

1. No one shall be subjected to arbitrary arrest or detention.

2. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

3. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

4. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. Pending trial, detention shall not be the general rule, but release may be subject to guarantees to appear for trial.

5. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided without delay by a court and his release ordered if the detention is not lawful.

6. Anyone who has been the victim of unlawful arrest or deprivation of liberty shall have an enforceable right to compensation.

ARTICLE 7[2]

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

ARTICLE 8[3]

1. Subject to any general law, consistent with the rights recognized in this covenant:

(*a*) Everyone legally within the territory of a State shall, within that territory, have the right to (i) liberty of movement and (ii) freedom to choose his residence;

(*b*) Everyone shall be free to leave any country, including his own.

2. (*a*) No one shall be subjected to arbitrary exile;

(*b*) Subject to the preceding sub-paragraph, anyone shall be free to enter the country of which he is a national.

ARTICLE 9[4]

No alien legally admitted to the territory of a State shall be expelled therefrom except on established legal grounds and according to procedure and safeguards which shall in all cases be provided by law.

ARTICLE 10[5]

1. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing, by an independent and impartial tribunal established by law. The Press and public may be excluded from all or part of a trial for reasons of morals, public order or national security, or where the interest of juveniles so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interest of justice; but the judgment shall be pronounced publicly except where the interest of juveniles otherwise requires.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(*a*) To be informed promptly of the nature and cause of the accusation against him;

(*b*) To defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case where he does not have sufficient means to pay for it;

(*c*) To examine, or have examined, the witnesses against him and to obtain compulsory attendance of witnesses in his behalf who are within the jurisdiction and subject to the process of the tribunal;

(*d*) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(*e*) No one shall be compelled to testify against himself, or to confess guilt;

(f) In the case of juveniles, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

3. In any case where by a final decision a person has been convicted of a criminal offence and where subsequently a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated. This compensation shall be awarded to the heirs of a person executed by virtue of an erroneous sentence.

ARTICLE 11[6]

1. No one shall be held guilty of any criminal offence on account of any act or omisson which did

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[1] E/CN.4/353/Add.10 and 11, E/CN.4/365, E/CN.4/394, E/CN.4/397, E/CN.4/399, E/CN.4/400, E/CN.4/401, E/CN.4/402, E/CN.4/405/Rev.1, E/CN.4/406, E/CN.4/409, E/CN.4/410, E/CN.4/411, E/CN.4/421, E/CN.4/L.2/Rev.1, E/CN.4/L.16 and E/CN.4/SR.144, 145, 146, 147, 148, 154, 199.

[2] E/CN.4/353/Add.10 and 11, E/CN.4/365, E/CN.4/407, E/CN.4/L.1, E/CN.4/L.16 and E/CN.4/SR.150, 199.

[3] E/CN.4/353/Add.10 and 11, E/CN.4/365, E/CN.4/392, E/CN.4/392/Corr.1, E/CN.4/412, E/CN.4/L.1, E/CN.4/L.16 and E/CN.4/SR.150, 151, 199.

[4] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/392, E/CN.4/392/Corr.1, E/CN.4/420, E/CN.4/423, E/CN.4/L.3, E/CN.4/L.16 and E/CN.4/SR.153, 154, 155 (Part II), 199.

[5] E/CN.4/353/Add.10 and 11, E/CN.4/358, E/CN.4/365, E/CN.4/414, E/CN.4/422/Rev.1, E/CN.4/426, E/CN.4/428, E/CN.4/430, E/CN.4/431, E/CN.4/441, E/CN.4/445, E/CN.4/448, E/CN.4/449, E/CN.4/L.4/Rev.1, E/CN.4/L.16 and E/CN.4/SR.153, 155 (Part II), 156, 157, 158, 159, 166, 167, 199.

[6] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/425, E/CN.4/L.3, E/CN.4/L.16 and E/CN.4/SR.159, 199.

not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for the commission of any act which, at the time when it was committed, was criminal according to the generally recognized principles of law.

ARTICLE 12[1]

Everyone shall have the right to recognition everywhere as a person before the law.

ARTICLE 13[2]

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are pursuant to law and are reasonable and necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.

ARTICLE 14[3]

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The right to seek, receive and impart information and ideas carries with it special duties and responsibilities and may therefore be subject to certain penalties, liabilities and restrictions, but these shall be such only as are provided by law and are necessary for the protection of national security, public order, safety, health or morals, or of the rights, freedoms or reputations of others.

ARTICLE 15[4]

The right of peaceful assembly shall be recognized. No restrictions shall be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary to ensure national security, public order, the protection of health or morals or the protection of the rights and freedoms of others.

ARTICLE 16[5]

1. The right of association shall be recognized.

2. No restrictions shall be placed on the exercise of this right other than those prescribed by law and which are necessary to ensure national security, public order, the protection of health or morals or the protection of the rights and freedoms of others.

3. Nothing in this article shall authorize States Parties to the Freedom of Association and Protection of the Right to Organize Convention, 1948, to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

ARTICLE 17[6]

All are equal before the law; all shall be accorded equal protection of the law without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

ARTICLE 18[7]

1. Nothing in this covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in this covenant.

2. Nothing in this covenant may be interpreted as limiting or derogating from any of the rights and freedoms which may be guaranteed under the laws of any Contracting State or any conventions to which it is a party.

PART III

ARTICLE 19[8]

The States Parties to the present covenant,

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

2. Resolved to combat the scourges, such as famine, disease, poverty, the feeling of insecurity and

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[1] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/L.3, E/CN.4/L.16 and E/CN.4/SR.159, 199.

[2] E/CN.4/353/Add.10, E/CN.4/358, E/CN.4/365, E/CN.4/382, E/CN.4/429, E/CN.4/L.5 and E/CN.4/SR.160, 161, 200.

[3] E/CN.4/353/Add.10 and 11, E/CN.4/360 and Corr.2, E/CN.4/365, E/CN.4/415 and Corr.1, E/CN.4/424, E/CN.4/432, E/CN.4/433/Rev.2, E/CN.4/434, E/CN.4/438/Rev.1, E/CN.4/440, E/CN.4/446, E/CN.4/L.5 and E/CN.4/SR.160, 161, 162, 163, 164, 165, 166, 167, 200.

[4] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/L.6 and E/CN.4/ SR.169, 200.

[5] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/164 and Add.1, E/CN.4/453, E/CN.4/L.6 and E/CN.4/SR.171, 172, 200.

[6] E/CN.4/353/Add.10 and 11, E/CN.4/358, E/CN.4/365, E/CN.4/418, E/CN.4/447, E/CN.4/451, E/CN.4/455/Rev.1, E/CN.4/456, E/CN.4/458, E/CN.4/L.7 and E/CN.4/SR.171, 172, 173, 174, 175, 200.

[7] E/CN.4/353/Add.10 and 11, E/CN.4/365, E/CN.4/416, E/CN.4/454, E/CN.4/461, E/CN.4/468, E/CN.4/L.8 and E/CN.4/SR.175, 181, 200.

[8] E/CN.4/618, E/CN.4/SR.236 and 237, E/CN.4/L.19/Add.6.

ignorance, which take toll of or degrade men, and prevent the free development of their personality;

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

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

ARTICLE 20[1]

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

ARTICLE 21[2]

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

(*a*) Safe and healthy working conditions;

(*b*) Minimum remuneration which provides all workers:

(i) With fair wages and equal pay for equal work, and

(ii) A decent living for themselves and their families; and

(*c*) Reasonable limitation of working hours and periodic holidays with pay.

ARTICLE 22[3]

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

ARTICLE 23[4]

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

ARTICLE 24[5]

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

ARTICLE 25[6]

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

(*a*) To reduce infant mortality and provide for healthy development of the child;

(*b*) To improve nutrition, housing, sanitation, recreation, economic and working conditions and other aspects of environmental hygiene;

(*c*) To control epidemic, endemic and other diseases;

(*d*) To provide conditions which would assure the right of all to medical service and medical attention in the event of sickness.

ARTICLE 26[7]

The States Parties to the Covenant recognize that:

1. Special protection should be accorded to maternity and motherhood; and

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

ARTICLE 27[8]

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

ARTICLE 28[9]

The States Parties to the Covenant recognize:

1. The right of everyone to education;

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

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

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

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[1] E/CN.4/AC.14/2, E/CN.4/AC.14/2/Add.1, E/CN.4/571, E/CN.4/572, E/CN.4/574, E/CN.4/575, E/CN.4/576, E/CN.4/AC.14/SR.3, E/CN.4/SR.216, 217 and 218, and E/CN.4/L.19.

[2] E/CN.4/AC.14/2/Add.2, E/CN.4/577/Rev.1, E/CN.4/578, E/CN.4/579, E/CN.4/580, E/CN.4/SR.218, 219 and 220 and E/CN.4/L.19.

[3] E/CN.4/AC.14/2/Add.3, section IV; E/CN.4/581, E/CN.4/SR.220 and 221, and E/CN.4/L.19.

[4] E/CN.4/AC.14/2/Add.3, section VI; E/CN.4/582, E/CN.4/SR.222, and E/CN.4/L.19/Add.1/Rev.1.

[5] E/CN.4/AC.14/2/Add.3, section VII; E/CN.4/SR.223 and E/CN.4/L.19/Add.1/Rev.1.

[6] E/CN.4/AC.14/2/Add.4, section VIII; E/CN.4/544, E/CN.4/544/Add.1, E/CN.4/583, E/CN.4/589, E/CN.4/SR.223, and E/CN.4/L.19/Add.1/Rev.1.

[7] E/CN.4/AC.14/2/Add.3, section V; E/CN.4/582, E/CN.4/585, E/CN.4/586, E/CN.4/587, E/CN.4/588, E/CN.4/SR.222 and 224, E/CN.4/L.19/Add.2.

[8] E/CN.4/AC.14/2/Add.4, section X; E/CN.4/591/Rev.1, E/CN.4/594, E/CN.4/595/Rev.1, E/CN.4/596, E/CN.4/SR.224, 225 and 226, and E/CN.4/L.19/Add.3.

[9] E/CN.4/AC.14/2/Add.4, section IX; E/CN.4/593, E/CN.4/593/Rev.1, E/CN.4/593/Rev.2, E/CN.4/598, E/CN.4/600, E/CN.4/601, E/CN.4/602, E/CN.4/605, E/CN.4/611, E/CN.4/613/Rev.1, E/CN.4/SR.226, 227, 228, 229 and 230, E/CN.4/L.19/Add.4.

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

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

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

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

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

ARTICLE 29[1]

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

ARTICLE 30[2]

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

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

(*a*) To take part in cultural life;

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

ARTICLE 31[3]

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

[1] E/CN.4/AC.14/2/Add.4, section X; E/CN.4/613/Rev.1, E/CN.4/SR.226, 227, 228, 229, 230 and E/CN.4/L.19/Add.4.

[2] E/CN.4/AC.14/2/Add.4, section IX; E/CN.4/613/Rev.1, E/CN.4/SR.226, 227, 228, 229, 230 and E/CN.4/L.19/Add.4.

[3] E/CN.4/592, E/CN.4/597, E/CN.4/SR.230, E/CN.4/L.19/Add.5.

ARTICLE 32[4]

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

PART IV[5]

ARTICLE 33
(*formerly article 19*)[6]

Note: The Commission decided to postpone the vote on the whole of article 33. The following is the provisional text of the article.

1. With a view to the implementation of the provisions of the International Covenant on Human Rights, there shall be set up a Human Rights Committee, hereinafter referred to as "the Committee", composed of nine members with the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the Covenant who shall be persons of high moral standing and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having a judicial or legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacities.

ARTICLE 34
(*formerly article 20*)[7]

1. The members of the Committee shall be elected from a list of persons possessing the qualifications prescribed in article 33 and specially nominated for that purpose by the States Parties to the Covenant.

2. Each State shall nominate at least two and not more than four persons. These persons may be nationals of the nominating State or of any other State Party to the Covenant.

3. Nominations shall remain valid until new nominations are made for the purpose of the next election under article 39. A person shall be eligible to be re-nominated.

ARTICLE 35
(*formerly article 21*)[8]

At least three months before the date of each election to the Committee, the Secretary-General of the United

[4] E/CN.4/610/Add.2, E/CN.4/SR.234, 235 and 236, E/CN.4/L.19/Add.6.

[5] The Commission did not decide whether this part should relate to the whole Covenant or only to parts of it.

[6] E/1681, annex I, E/CN.4/530, paragraphs 24–30, E/CN.4/552,chapter V, section I, E/CN.4/560/Rev.1, E/CN.4/566, E/CN.4/SR.214, 215 and E/CN.4/L.18.

[7] E/1681, annex I, E/CN.4/530, paragraphs 31–33, E/CN.4/552, chapter V, section I, E/CN.4/560/Rev.1, E/CN.4/SR.215, and E/CN.4/L.18.

[8] E/1681, annex I; E/CN.4/SR.215 and E/CN.4/L.18.

Nations shall address a written request to the States Parties to the Covenant inviting them, if they have not already submitted their nominations, to submit them within two months.

ARTICLE 36

(formerly article 22)[1]

The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, and submit it to the International Court of Justice and to the States Parties to the Covenant.

ARTICLE 37

(formerly article 23)[2]

1. The Secretary-General of the United Nations, on behalf of the States Parties to the Covenant, shall request the International Court of Justice to elect the members of the Committee from the list referred to in article 36 and in accordance with the conditions set out below.

2. On receipt of the list from the Secretary-General of the United Nations, the President of the International Court of Justice shall fix the time of elections for members of the Committee.

ARTICLE 38

(formerly article 24)[3]

1. No more than one national of any State may be a member of the Committee at any time.

2. In the election of the Committee consideration shall be given to equitable geographical distribution of membership and to the representation of the main forms of civilization. The persons elected shall be those who obtain the largest number of votes and an absolute majority of the votes of all the members of the Court.

3. The quorum of nine laid down in article 25, paragraph 3, of the Statute of the Court shall apply for the holding of the elections by the Court.

ARTICLE 39

(formerly article 25)[4]

The members of the Committee shall be elected for a term of five years and be eligible for re-election. However, the terms of five of the members elected at the first election shall expire at the end of two years. Immediately after the first election the names of the members whose terms expire at the end of the initial period of two years shall be chosen by lot by the President of the International Court of Justice.

ARTICLE 40

(formerly article 26)[5]

1. Should a vacancy arise, the provisions of articles 35, 36, 37 and 38 shall apply to the election.

2. A member of the Committee elected to fill a vacancy shall, if his predecessor's term of office has not expired, hold office for the remainder of that term.

ARTICLE 41

(formerly article 27)[6]

A member of the Committee shall remain in office until his successor has been elected; but if the Committee has, prior to the election of his successor, begun to consider a case, he shall continue to act in that case, and his successor shall not act in that case.

ARTICLE 42

(formerly article 28)[7]

The resignation of a member of the Committee shall be addressed to the Chairman of the Committee through the Secretary of the Committee who shall immediately notify the Secretary-General of the United Nations and the International Court of Justice.

ARTICLE 43

(formerly article 29)[8]

The members of the Committee and the Secretary, when engaged on the business of the Committee, shall enjoy diplomatic privileges and immunities.

ARTICLE 44

(formerly article 30)[9]

1. The Secretary of the Committee shall be appointed by the International Court of Justice from a list of three names submitted by the Committee.

2. The candidate obtaining the largest number of votes and an absolute majority of the votes of all the members of the Court shall be declared elected.

3. The quorum of nine laid down in article 25, paragraph 3, of the Statute of the Court shall apply for the holding of the election by the Court.

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[1] E/1681, annex I; E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/568, E/CN.4/SR.215 and E/CN.4/L.18.

[2] E/1681, annex I; E/CN.4/530, paragraphs 34–35; E/CN.4/552, chapter V, section I; E/CN.4/556, E/CN.4/560/Rev.1; E/CN.4/SR.214–215 and E/CN.4/L.18.

[3] E/1681, annex I; E/CN.4/530, paragraphs 34–36; E/CN.4/552, chapter V, section I; E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/567; E/CN.4/215 and E/CN.4/L.18.

[4] E/1681, annex I; E/CN.4/530, paragraph 37; E/CN.4/552, chapter V, section I; E/CN.4/560/Rev.1; E/CN.4/SR.215, and E/CN.4/L.18.

[5] E/1681, annex I; E/CN.4/617, E/CN.4/560/Rev.1; E/CN.4/SR.239; E/CN.4/L.18/Add.1.

[6] E/1681, annex I; E/CN.4/617, E/CN.4/556; E/CN.4/SR.239, E/CN.4/L.18/Add.1.

[7] E/1681, annex I, E/CN.4/617, E/CN.4/560/Rev.I; E/CN.4/SR.239, E/CN.4/L.18/Add.1.

[8] E/1681, annex I, E/CN.4/617, E/CN.4/556, E/CN.4/560/Rev.1, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[9] E/1681, annex I, E/CN.4/617, E/CN.4/560/Rev.1, E/CN.4/620, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

ARTICLE 45

(formerly article 31)[1]

The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.

ARTICLE 46

(formerly article 32)[2]

The Committee shall, at its initial meeting, elect its Chairman and Vice-Chairman for the period of one year.

ARTICLE 47

(formerly article 33)[3]

The Committee shall establish its own rules of procedure, but these rules shall provide that:

(*a*) Seven members shall constitute a quorum;

(*b*) The work of the Committee shall proceed by a majority vote of the members present; in the event of an equality of votes the Chairman shall have a casting vote;

(*c*) All States Parties to the Covenant having an interest in any matter referred to the Committee under article 52 shall have the right to make submissions to the Committee in writing.

The States referred to in article 52 shall further have the right to be represented at the hearings of the Committee and to make submissions orally.

(*d*) The Committee shall hold hearings and other meetings in closed session.

ARTICLE 48

(formerly article 35)[4]

1. After its initial meeting the Committee shall meet:

(*a*) At such times as it deems necessary;

(*b*) When any matter is referred to it under article 52;

(*c*) When convened by its Chairman or at the request of not less than five of its members.

2. The Committee shall meet at the permanent Headquarters of the United Nations or at Geneva.

ARTICLE 49

(formerly article 36)[5]

The Secretary of the Committee shall attend its meetings, make all necessary arrangements, in accordance with the Committee's instructions, for the preparation and conduct of the work, and carry out any other duties assigned to him by the Committee.

ARTICLE 50[6]

The members and the Secretary of the Committee shall receive emoluments commensurate with the importance and responsibilities of their office.

ARTICLE 51

(formerly article 37)[7]

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the Committee and its members.

ARTICLE 52

(formerly article 38)[8]

1. If a State Party to the Covenant considers that another State Party is not giving effect to a provision of the Covenant, it may, by written communication, bring the matter to the attention of that State. Within three months after the receipt of the communication, the receiving State shall afford the communicating State an explanation or statement in writing concerning the matter, which should include, to the extent possible and pertinent, references to domestic procedures and remedies taken, or pending, or available in the matter.

2. If the matter is not adjusted to the satisfaction of both Parties within six months after the receipt by the receiving State of the initial communications, either State shall have the right to refer the matter to the Committee, by notice given to the Secretary of the Committee and to the other State.

3. Subject to the provisions of article 54 below, in serious cases where human life is endangered the Committee may, at the request of a State Party to the Covenant referred to in paragraph 1 of this article, deal forthwith with the case on receipt of the initial communication and after notifying the State concerned.

ARTICLE 53[9]

The Committee shall deal with any matter referred to it under article 52, save that it shall have no power to deal with any matter:

(*a*) For which any organ or specialized agency of the United Nations competent to do so has established a special procedure by which the States concerned are governed; or

(*b*) With which the International Court of Justice is seized other than by virtue of article ... of the present covenant.

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[1] E/1681, annex I, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[2] E/1681, annex I, E/CN.4/530, paragraphs 44–45; E/CN.4/617, E/CN.4/560/Rev.1, E/CN.4/SR.239, E/CN.4/L.18/Add.1.

[3] E/1681, annex I, E/CN.4/530, paragraphs 46–48; E/CN.4/617, E/CN.4/550, E/CN.4/560/Rev.1, E/CN.4/566, E/CN.4/620, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[4] E/1681, annex I, E/CN.4/617, E/CN.4/560/Rev.1, E/CN.4/620, E/CN.4/SR.239 and E/CN.4/L.18/Add.1.

[5] E/1681, annex I, E/CN.4/617, E/CN.4/560/Rev.1; E/CN.4/SR.240 and E/CN.4/L.18/Add.1.

[6] E/CN.4/530, paragraph 52; E/CN.4/560/Rev.1, E/CN.4/617, E/CN.4/627, E/CN.4/627/Add.1; E/CN.4/SR.240 and 243.

[7] E/1681, annex I, E/CN.4/560/Rev.1, E/CN.4/617, E/CN.4/627 and E/CN.4/627/Add.1; E/CN.4/SR.240, 243 and 249.

[8] E/1681, annex I, E/CN.4/530, paragraphs 53–58, 85–89; E/CN.4/569, E/CN.4/617, E/CN.4/617/Corr.1, E/CN.4/SR.240 and E/CN.4/L.18/Add.1.

[9] E/CN.4/530, paragraphs 63–71; E/CN.4/560/Rev.1, E/CN.4/617,E/CN.4/620,E/CN.4/634/Rev.1,E/CN.4/SR.249.

ARTICLE 54

(formerly article 39)[1]

Normally, the Committee shall deal with a matter referred to it only if available domestic remedies have been invoked and exhausted in the case. This shall not be the rule where the application of the remedies is unreasonably prolonged.

ARTICLE 55

(formerly article 40)[2]

In any matter referred to it the Committee may call upon the States concerned to supply any relevant information.

ARTICLE 56[3]

The Committee may recommend to the Economic and Social Council that the Council request the International Court of Justice to give an advisory opinion on any legal question connected with a matter of which the Committee is seized.

ARTICLE 57

(formerly article 41)[4]

1. Subject to the provisions or article 54, the Committee shall ascertain the facts and make available its good offices to the States concerned with a view to a friendly solution of the matter on the basis of respect for human rights as recognized in this covenant.

2. The Committee shall, in every case and in no event later than eighteen months after the date of receipt of the notice under article 52, draw up a report which will be sent to the States concerned and then communicated to the Secretary-General of the United Nations for publication. The Committee shall complete its report as promptly as possible, particularly when requested by one of the States Parties where human life is endangered.

3. If a solution within the terms of paragraph 1 of this article is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached. If such a solution is not reached, the Committee shall state in its report its conclusions on the facts and attach thereto the statements made by the parties to the case.

ARTICLE 58[5]

The Committee shall submit to the General Assembly, through the Secretary-General, an annual report of its activities.

ARTICLE 59[6]

The States Parties to this covenant agree not to submit, by way of petition, to the International Court of Justice, except by special agreement, any dispute arising out of the interpretation or application of the Covenant in a matter within the competence of the Committee.

PART V[7]

ARTICLE 60[8]

The States Parties to this covenant undertake to submit reports concerning the progress made in achieving the observance of these rights[9] in conformity with the following articles and the recommendations which the General Assembly and the Economic and Social Council, in the exercise of their general responsibility may make to all the Members of the United Nations.

ARTICLE 61[10]

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

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under this part of the Covenant.[11]

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

ARTICLE 62[12]

Pursuant to its responsibilities under the Charter in the field of human rights, the Economic and Social Council shall make special arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of

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[1] E/1681, annex I, E/CN.4/530, paragraphs 59–62, E/CN.4/SR.249.

[2] E/1681, annex I, E/CN.4/530, paragraphs 63–71; E/CN.4/621, E/CN.4/SR.249.

[3] E/CN.4/530, paragraphs 78–80, E/CN.4/558/Rev.1, E/CN.4/SR.249.

[4] E/1681, annex I, E/CN.4/530, paragraphs 63–74; E/CN.4/556, E/CN.4/565, E/CN.4/617 and Corr. 1, E/CN.4/SR.249.

[5] E/CN.4/530, paragraphs 81–84, E/CN.4/556, E/CN.4/617, E/CN.4/SR.249.

[6] E/CN.4/530, paragraphs 78–80; E/CN.4/560/Rev.1/Corr.1, E/CN.4/620, E/CN.4/SR.249.

[7] The Commission did not decide whether this part should relate to the whole Covenant or only to parts of it.

[8] E/CN.4/629, E/CN.4/SR.246 and E/CN.4/L.19/Add.7.

[9] Wording suggested by the representative of Denmark (see paragraph 66):

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

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

[10] E/629, E/CN.4/630, E/CN.4/SR.246 and E/CN.4/L.19/Add.7.

[11] Wording suggested by the representative of Denmark (see paragraph 66):

Alternative 1: "obligations under Part III of this covenant".

Alternative 2: "obligations under this covenant".

[12] E/CN.4/629, E/CN.4/631/Rev.2, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

the provisions of this part of the Covenant[1] falling within their competence. These reports shall include particulars of decisions and recommendations on such implementation adopted by their competent organs.

ARTICLE 63[2]

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

ARTICLE 64[3]

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

ARTICLE 65[4]

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

ARTICLE 66[5]

The Economic and Social Council may submit to the Technical Assistance Board or to any other appropriate international organ the findings contained in the report of the Commission on Human Rights which may assist such organs in deciding each within its competence, on the advisability of international measures likely to contribute to the progressive implementation of this covenant.[6]

ARTICLE 67[7]

The States Parties to the Covenant agree that international action for the achievement of these rights[8] includes such methods as conventions, recommendations, technical assistance, regional and technical meetings and studies with governments.

ARTICLE 68[9]

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

ARTICLE 69[10]

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

PART VI

ARTICLE 70

(formerly article 42)[11]

1. This covenant shall be open for signature and ratification or accession on behalf of any State Member of the United Nations or of any non-member State to which an invitation has been extended by the General Assembly.

2. Ratification of or accession to this covenant shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as twenty States have deposited such instruments, the Covenant shall come into force among them. As regards any State which ratifies or accedes thereafter, the Covenant shall come into force on the date of the deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and other States which have signed or acceded, of the deposit of each instrument of ratification or accession.

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[1] Wording suggested by the representative of Denmark (see paragraph 66):

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

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

[2] E/CN.4/629, E/CN.4/630, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

[3] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

[4] E/CN.4/629, E/CN.4/630, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

[5] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

[6] Wording suggested by the representative of Denmark (see paragraph 66):

Alternative 1: "progressive implementation of Part III of this covenant".

Alternative 2: as in the text adopted.

[7] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

[8] Wording suggested by the representative of Denmark (see paragraph 66):

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

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

[9] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7.

[10] E/CN.4/629, E/CN.4/SR.247 and E/CN.4/L.19/Add.7. This article was adopted with the understanding that the decision did not prejudice the position of the article in the Covenant.

[11] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/500, E/CN.4/502, E/CN.4/L.13 and E/CN.4/SR.196, 200.

ARTICLE 71

(formerly article 43)[1]

[Federal State article]

ARTICLE 72[2]

The provisions of the present covenant shall extend to or be applicable equally to a signatory metropolitan State and to all the territories, be they Non-Self-Governing, Trust, or colonial Territories, which are being administered or governed by such metropolitan State.

ARTICLE 73

(formerly article 45)[3]

1. Any State Party to the Covenant may propose an amendment and file it with the Secretary-General. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one-third of the States favour such a conference the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly for approval.

2. Such amendments shall come into force when they have been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Covenant in accordance with their respective constitutional processes.

3. When such amendments come into force, they shall be binding on those Parties which have accepted them, other Parties being still bound by the provisions of the Covenant and any earlier amendment which they have accepted.

Annex II

COMMENTS OF THE MEMBERS OF THE COMMISSION ON THE DRAFT COVENANT ON HUMAN RIGHTS AS PREPARED AT THE SEVENTH SESSION

France

In confirmation of its observations made verbally, and to supplement them, the French delegation:

1. With regard to the first eighteen articles, refers to the previous communications transmitted to the Secretariat at the conclusion of the sixth session of the Commission on Human Rights, and immediately before its seventh session. The communications in question are given in annex III to this document.

2. With regard to any supplementary articles, reserves the right to submit proposals, especially on the problem of the right of asylum, for the solution of which positive international co-operation is essential.

3. With regard to economic, social and cultural rights, feels that a number of changes are called for in texts imperfectly drafted, notably the text of the general limitation clause, for which wording similar to that of the Declaration would appear to be indicated.

4. As regards implementation, the French delegation considers:

(*a*) That certain problems require more thorough study. This applies in particular to:

(i) The question of conciliation between States in respect of any dispute arising out of a charge in respect of non-observance of human rights. (The deletion of the former article 34 of the draft Covenant leaves a gap which it would be desirable to fill, not only on account of the need to preserve the Committee's impartiality, but also because of its allotted task as a mediator and the legitimate concern of each State party to a dispute not to find itself in a position which at first sight it may regard as unfavourable.)

(ii) The competence of the Committee. (The door should be left open for any extension of the scope of its activities which may be stipulated in future instruments.)

(*b*) That it is important for the constructive measures of implementation proposed in connexion with economic, social and cultural rights to be extended to cover all other rights. It would be paradoxical if the Commission on Human Rights were unable to exercise in respect of those other rights, for which at present no organ other than the Commission exists, the supervision it exercises, according to the draft Covenant at any rate, over economic, social and cultural rights, which are to a great extent already safeguarded by the specialized agencies.

(*c*) That the various States Members of the United Nations, and the United Nations itself, should not wait until the Covenant is signed and ratified before furthering the cause of human rights with the help of the various other means at their disposal.

India

1. The delegate for India has during the course of the session taken part in its deliberations and expressed the views of the Government of India on the various clauses of the document which the Commission has prepared, and it is not proposed to recapitulate these in this note.

2. The fundamental point on which the Government of India is not satisfied with the existing text is its failure to recognize the right of an individual or group of individuals to uphold the rights conceded to him or them in a straightforward manner in opposition to his State when the organs of his State fail him. The Committee set up under the draft can function only when a State is a complainant and another State is accused. An individual or group of individuals whose rights have been transgressed may interest a State which will, in practice, be a State not well disposed towards the accused State and thus foment a contro-

[1] See annex VI.

[2] See General Assembly resolution 422 (V).

[3] E/CN.4/353/Add.10, E/CN.4/365, E/CN.4/L.15, E/CN.4/SR.197, 200.

versy between two States. In the final analysis, therefore, the Covenant and the machinery set up for its implementation may turn out to be dangerous to world peace.

3. The next fundamental objection of the Government of India is to the combination in the same covenant of economic, social and cultural rights with civil rights. It can now be proved by a perusal of the articles as drafted that the two sets of rights stand on an entirely different footing and their inclusion in the same instrument is illogical in theory and will lead to confusion in practice.

United Kingdom

1. His Majesty's Government remain of the opinion that the definition of economic, social and cultural rights and the permissible limitations thereto in terms which are sufficiently precise to give rise to binding legal obligations and at the same time take into account the differences in the economic, social and cultural development of States and in their structure is a task that may not yet be possible. His Majesty's Government consider that the draft articles elaborated at the seventh session of the Human Rights Commission demonstrate the difficulties of this task without showing how they are to be overcome. His Majesty's Government therefore remain of the opinion that it is undesirable to attempt to incorporate them in this Covenant.

2. His Majesty's Government regret the failure of the Assembly to accept the inclusion of an article designed to enable the territories for whose international relations Member States are responsible to be brought within the scope of the Covenant in an orderly and constitutional manner. They also regret the Assembly's proposal to incorporate into the Covenant the draft article contained in A/1622 which would mean that the consent of all territories for whose international relations His Majesty's Government are responsible must be obtained prior to acceptance of the Covenant by His Majesty's Government in the United Kingdom. Their views on the necessity for a suitable application article remain as set out in E/CN.4/353/Add.2 and E/1681, annex I, article 43. A clear statement of the constitutional position of the United Kingdom in this respect may also be found in the summary records of the Council and of the Third Committee of the Assembly (E/AC.7/SR.152 and 153 and A/C.3/SR.294).

United States of America

1. The United States wishes to call attention to the desirability of including in the Covenant on Human Rights an article on the right of everyone to own property.

2. The United States wishes to call attention to the express reservation it made in the Commission on Human Rights on 19 May 1951 with respect to the provisions on economic, social and cultural rights drafted in this session of the Commission. The United States feels there should be a careful reconsideration of these provisions. This is not, however, to be interpreted as indicating any lessening of the interest or efforts of the United States for the achievement of economic, social and cultural rights through the United Nations or through the various specialized agencies in this field.

3. The United States participated in the work of this session of the Commission on Human Rights in attempting to carry out the mandate of the General Assembly to draft economic, social and cultural rights with a view to their inclusion in the Covenant. The United States did so, despite its initial view that such rights should not be included in the same Covenant with civil and political rights. Our experience in the present session of the Commission on Human Rights has been such that we are now of the view that the provisions in the Part of the Covenant dealing with economic, social and cultural rights—being loosely drafted and not being expressed in terms of legal rights and with different implementation and undertaking—should be dealt with in a separate legal instrument.

Annex III

TEXT OF AMENDMENTS, PROPOSALS AND COMMENTS TO PARTS I AND II (ARTICLES 1–18) OF THE DRAFT COVENANT ON HUMAN RIGHTS

A. *Amendments submitted by the representatives of India (E/CN.4/563/Rev.1), of Yugoslavia (E/CN.4/573), of Egypt (E/CN.4/626) and of the United Kingdom (E/CN.4/628) at the seventh session of the Commission*

ARTICLE 1

United Kingdom

Delete paragraphs 2 and 3 and substitute:

"2. Any State may, when signing this covenant or when depositing its instrument of ratification, make a reservation in respect of any particular provision of the Covenant to the extent that any law then in force in its territory is not in conformity with this provision. Reservations of a general character are not permitted under this article. Any reservation under this article shall contain a brief statement of the law concerned.

"3. Everyone whose rights and freedoms as set forth in this Covenant are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

ARTICLE 2

1. *Paragraph 1*

United Kingdom

Delete and substitute:

"In time of war or other public emergency *threatening the life of the nation* the States Parties hereto may take measures derogating *from their obligations under this Covenant* to the extent strictly required by the exigencies of the situtation, provided that such measures are not inconsistent with their other obligations under international law."

2. *Paragraph 2*

Yugoslavia

After the words "with international law" in article 2, paragraph 2, line 3, insert the words:

"and in particular with the principles of the Charter of the United Nations and the Universal Declaration of Human Rights".

United Kingdom

Delete and substitute:

"No derogation from article 3, *except in respect of deaths resulting from lawful acts of war*, or from articles 4, 5 (paragraphs 1 and 2), 7 and 11 shall be made under this provision."

3. *Paragraph 3*

India

For the word "immediately" substitute the words "as soon as may be", and for the words "the other States Parties ... Secretary-General" substitute the words "the Secretary-General who shall inform the General Assembly of the United Nations".

Yugoslavia

After the words in the present text: "the provisions from which it has derogated" insert the words: ", the reasons by which it was actuated".

ARTICLE 3

1. *Paragraphs 1, 2, 3 and 4*

United Kingdom

Delete paragraphs 1, 2, 3 and 4 and substitute:

"1. Everyone's right to life shall be protected by law. No *one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*

"2. *Deprivation of life shall not be regarded as inflicted in contravention of this article when it results in the use of force which is no more than absolutely necessary:*

"*(a) In defence of any person from unlawful violence;*

"*(b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*

"*(c) In action lawfully taken for the purpose of quelling insurrection.*"

2. *Paragraph 2*

India

Delete the words "self-defence" and substitute the words "in defence of persons, property or state or in circumstances of grave civil commotion".

3. *Paragraph 4*

Yugoslavia

Add the following sentence at the end of the paragraph:

"In no case shall sentence of death be put into effect where the sentence concerns a pregnant woman."

ARTICLE 4

Yugoslavia

Add the following text:

"In addition to the consent of the person in question, the approval of a higher medical institution designated by law (faculty, institute, supreme medical council, etc.) shall be required before the experimentation referred to in the previous paragraph is carried out. Such approval may be required even in the case of experimentation of a general nature."

United Kingdom

Delete this article and substitute the words:

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

ARTICLE 6

1. *Paragraphs 1, 2, 3, 4, 5 and 6*

United Kingdom

Delete paragraphs 1, 2, 3, 4, 5 and 6 and substitute:

"1. *Everyone has the right to liberty and security of person.* No one shall be deprived of his liberty *save in the following cases*, and in accordance with a procedure prescribed by law:

"*(a) The lawful detention of a person after conviction by a competent court;*

"*(b) The lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;*

"*(c) The lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;*

"*(d) The detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;*

"*(e) The lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;*

"*(f) The lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.*

"2. Everyone who is arrested shall be informed promptly, *in a language which he understands*, of the reasons for his arrest and of any charge against him.

"3. Everyone arrested or detained *in accordance with the provisions of paragraph 1 (c)* of this article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release *pending trial.* Release may be conditioned by guarantees to appear for trial.

"4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

"5. Everyone who has been the victim of arrest or detention *in contravention of the provisions of this article* shall have an *enforceable right to compensation.*"

2. *Paragraph 3*

India

After the words "at the time of arrest", add: "or as soon as may be".

3. *Paragraph 4*

India

After the words "Pending trial", add the words "in cases which are bailable".

ARTICLE 8

United Kingdom

Delete whole article.

ARTICLE 9

India

Delete the words "on established legal grounds and".

Yugoslavia

Add a new paragraph to read as follows:

"Person charged with political or military offences shall not be subject to extradition except where the alleged acts are regarded as crimes under international law, in respect of which compulsory extradition is stipulated in accordance with the resolutions of the United Nations General Assembly or conventions concluded under United Nations auspices."

United Kingdom

Delete whole article.

ARTICLE 10

1. *Paragraph 1*

Yugoslavia

Insert the word "competent" before the word "independent" in paragraph 1, line 3, the phrase to read as follows:

"... by a competent, independent and impartial tribunal established by law ..."

United Kingdom

Delete and substitute:

"In the determination of his *civil rights and obligations* or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. *Judgment shall be pronounced publicly* but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security *in a democratic society*, where the interests of juveniles *or the protection of the private life of the parties so require*, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."

2. *Paragraph 2*

India

(*b*) For the words "where the interests of justice so require", substitute the words "where the offence is punishable with death".

(*c*) After the word "tribunal", add the words "whose attendance the tribunal considers necessary".

United Kingdom

Delete and substitute:

"2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

"2a. Everyone charged with a criminal offence has the following minimum rights:

"(*a*) *To be informed promptly, in a language which he understands and in detail*, of the nature and cause of the accusation against him;

"(*b*) *To have adequate time and facilities for the preparation of his defence;*

"(*c*) To defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

"(*d*) To examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf *under the same conditions as witnesses against him;*

"(*e*) To have the free assistance of an interpreter if he cannot understand or speak the language used in court."

ARTICLE 11

United Kingdom

In paragraph 1 omit from "If, subsequent to the commission of the offence" to the end of the paragraph.

In paragraph 2, for the words "the commission of any act" insert "any act or omission", and for "the generally recognized principles of law" insert "the general principles of law recognized by civilized nations".

ARTICLE 12

United Kingdom

Delete the whole article.

ARTICLE 13

1. *Paragraph 1*

Egypt

Between the words "or belief" and the words "and freedom" insert the following words: "without constraint or influence affecting his free will".

2. *Paragraph 2*

United Kingdom

Delete "pursuant to law" and insert "prescribed by law".

Delete "reasonable and" before "necessary".

Delete from "to protect" to end of paragraph and insert "in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

ARTICLE 14

1. *Paragraphs 1, 2 and 3*

United Kingdom

Delete paragraphs 1, 2 and 3 and substitute:

"1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas *without interference by public authority* and regardless of frontiers. *This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.*

"2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such *formalities, conditions,* restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, *territorial integrity* or *public safety, for the prevention of disorder or crime,* for the protection of health or morals, for the protection of the reputation or rights of others, *for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary.*"

2. *Paragraph 3*

Yugoslavia

Delete and substitute:

"The right to seek, receive and impart information and ideas carries with it special duties and responsibilities and may therefore be subject to certain penalties, liabilities and restrictions, but these shall be such only as are provided by law and are necessary for the protection *of the purposes of the Charter of the United Nations and the principles of the Universal Declaration of Human Rights and especially for the protection of the independence and security of the State, the suppression of propaganda in favour of national, racial or other discrimination, the fermenting of hatred between peoples, the establishment of unequal relations between peoples and the propagation of aggressive principles or incitement to war.*"

Egypt

At the end, change the full stop into a comma and add the following words: "and for the maintenance of peace and good relations between States".

ARTICLES 15 AND 16

United Kingdom

Delete both articles and substitute article ...

"1. Everyone has the right to freedom of peaceful assembly and freedom of association with others, including the right to *form and to join trade unions* for the protection of his interests.

"2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary *in a democratic society* in the interests of national security or public safety, for the protection of health or morals or for the protection of the rights, and freedoms of others. *This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.*"

ARTICLE 15

India

For the words in the first sentence, substitute the following: "Everyone shall have the right to assemble peaceably and without arms."

ARTICLE 16

India

For paragraph 1, substitute the following:

"1. Everyone shall have the right to form associations or unions."

ARTICLE 17

Yugoslavia

Substitute the following for the present text:

"All persons are equal before the law. The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

United Kingdom

Delete the whole article.

ARTICLE 18

Yugoslavia

Paragraph 1: Delete the words: "recognized herein or at their limitation to a greater extent than is provided for in this Covenant" and substitute:

"of others or to derogate from the purposes of the Charter of the United Nations and the principles of the Universal Declaration of Human Rights or to impose restrictions which would be incompatible with those purposes and principles".

B. *Comments on the first eighteen articles submitted by the members of the Commission to the report of the sixth session of the Commission*

ARTICLE 1

France

In article 1 the French delegation regrets the addition of the words "within its territory" to the words "subject to its jurisdiction", which were sufficient in themselves. There is a danger that this addition may be interpreted as allowing a State to evade its duties towards its nationals abroad.

United Kingdom

1. The inclusion in paragraph 1 of this article of the provision relating to non-discrimination raises doubt whether the derogation for which provision is made in article 2 must be subject to the provision in this paragraph of article 1 forbidding discrimination. See comment on article 2 below.

2. The United Kingdom considers that an effective remedy must be a legal remedy, and that a claim that a human right has been violated must be determined by a court of law or by a tribunal whose decision has the force of law. Paragraph 3 (*b*) would permit of this question being determined by political or administrative authorities which have no judicial character. While it is right that political or administrative authorities should take action if a violation of a human right has occurred, and should, for example, make *ex gratia* payments by way of compensation in proper cases, such action is no substitute for a right on the part of the individual to have his claim that one of his rights as defined in the Covenant has been violated determined by an independent judicial tribunal; and the United Kingdom cannot accept sub-paragraph (*b*) of paragraph 3.

ARTICLE 2

Australia

Paragraph 1: At the beginning insert "In the case of war" so that the opening words will read: "In the case of war, in the case of a state of emergency ...".

Paragraph 2: Delete "Articles 3" and insert "Article 3, except in respect of deaths resulting from lawful acts of war, or from Articles ...".

United Kingdom

1. In the United Kingdom view, the circumstances in which derogation is permitted by this article are too narrowly defined, and the wording of the text of paragraph 1 of this article as set out in E/CN.4/365 is to be preferred.

2. The provision in paragraph 2 that there shall be no derogation from article 3 does not provide for the exception, proposed in the United Kingdom comments on this article, in respect of deaths resulting from lawful acts of war. The provision in paragraph 2 of article 3 which makes exception for the case of enforcement measures authorized by the Charter is not sufficient provision for this purpose, since Article 51 of the Charter recognizes the right of collective self-defence against armed attack independently of enforcement measures. In the United Kingdom view, the exception proposed in the United Kingdom comments on this article should be retained, and the reference to enforcement measures authorized by the Charter deleted from article 3.

3. In view of the doubt referred to in the comment on article 1 above, it seems necessary to provide in article 2 for derogation in emergency conditions not only from part II of the Covenant, but also from paragraph 1 of article 1. Similarly provision seems necessary for derogation from paragraph 3 of article 1.

ARTICLE 3

Australia

Paragraph 2: The qualification of "self-defence" is inadequate and a provision expressing the sense of paragraph 2 of the article suggested by the United Kingdom in E/CN.4/365 (page 23) is necessary.

France

In article 3 the French delegation regrets the introduction of a first clause, introducing an idea of doubtful legal validity in front of the second, which is in itself entirely sufficient.

United Kingdom

1. Discussions in the Commission have shown that the word "self-defence" in paragraph 2 is not a sufficient translation of the content of the French term "légitime défense" although in Article 51 of the Charter "légitime défense" is translated "self-defence". "Self-defence" is certainly insufficient to cover all the exceptions which ought to be made to the proposition that it shall be a crime to take life. The English equivalent, "legitimate defence", has no meaning in Anglo-Saxon law. The United Kingdom cannot accept paragraph 2 of this article, and still considers that it is necessary to set out, as was proposed in the United Kingdom comments on this article in E/CN.4/365, the categories of cases in which the taking of life shall not be a crime.

2. As regards the words "or in the case of enforcement measures authorized by the Charter", see the comment above on article 2.

ARTICLE 4

India

The second sentence beginning with words "In particular ...", has been adopted against the advice of the representative of the World Health Organization. That Organization was consulted with regard to the inclusion of an article to this effect, and its reply was that a separate article was not necessary as the article 6 of the original draft covered the subject. The representative of the WHO advised against the text adopted by the Commission as it might lead to complications and come in the way of genuine medical progress. The advice deserves careful attention.

ARTICLE 6

Australia

Reconsideration of paragraphs 1 and 2 in relation to one another is advisable.

United Kingdom

The term "arbitrary arrest or detention" is too vague and uncertain in its content for use in defining the important right which is the subject of this article. The discussion in the Commission has shown that there is no agreement on the question whether this paragraph merely says in another form what is said in paragraph 2 or whether it adds to the conception in paragraph 2 the further conception that the law itself must be a just law. The United Kingdom could not in any event agree that the latter conception is one which can properly be included in this article.

ARTICLE 8

Australia

Limitations are necessary to the extent indicated in E/CN.4/353/Add.10.

Lebanon

Article 8 of the draft first international covenant is to be construed as meaning that no general law shall be inconsistent with the article and in particular its paragraphs 1 (*a*) and 1 (*b*).

United Kingdom

The introductory words in paragraph 1, to which the rest of the paragraph is subject, are completely circular, since the right with which this paragraph is concerned is itself one of the rights recognized in the Covenant. The effect is thus to make the provisions of sub-paragraphs (*a*) and (*b*) absolute in their character and subject to no limitation of any kind. The United Kingdom suggests that the introductory words should be: "Subject to any law which is not contrary to the principles expressed in the Universal Declaration of Human Rights". Alternatively, the introductory words proposed for this article in the Australian comments (E/CN.4/353/Add.10, page 8) would be acceptable.

ARTICLE 10

Australia

Paragraph 3: Delete "This compensation shall be awarded to the heirs of a person executed by virtue of an erroneous sentence".

United Kingdom

Paragraph 3 of this article confines the requirement that compensation shall be given to persons who have been the victims of a miscarriage of justice to a limited class of case. The making of payments *ex gratia* by way of compensation ought to, and does in the United Kingdom, extend to many other classes of case in which a miscarriage of justice has occurred, and the United Kingdom does not consider that the question what cases are proper for such payments is one on which provision should be made in the Covenant.

ARTICLE 13

Australia

The limitations in this article should be in corresponding terms.

ARTICLE 14

Australia

The limitations in this article should be in corresponding terms.

France

In article 14 the French delegation regrets the omission of the words "in a democratic society" after the words "public order", the idea conveyd by the former expression being alone capable of restricting the excessively wide connotation of the latter in a manner in accordance with the spirit of the Declaration—in which, incidentally, it is used in article 29.

United Kingdom

1. Attention is drawn to the different sense of the English and French texts of paragraph 1. The French text imposes a legal requirement which the United Kingdom cannot accept, since it would mean that any form of molestation of a person because of his opinions, e.g., picketing or public demonstration, would have to be prohibited by domestic law.

2. The United Kingdom considers that in view of the recorded expression of opinion by the Commission as to the wide meaning to be given to the term "public order" used in paragraph 3 of this article, the article, with the limitations allowed by paragraph 3, affords no guarantee of the freedoms which are its subject.

ARTICLE 15

Australia

The limitations in this article should be in corresponding terms.

France

In article 15 the French delegation regrets the omission of the words "in a democratic society" after the words "public order", the idea conveyed by the former expression being alone capable of restricting the excessively wide connotation of the latter in a manner in accordance with the spirit of the Declaration—in which, incidentally, it is used in article 29.

India

Instead of "the right of peaceful assembly shall be recognized", it would be consistent with the form of other articles if the words "Everyone shall have the right to assemble peaceably" were used.

ARTICLE 16

Australia

The limitations in this article should be in corresponding terms.

France

In article 16, the French delegation regrets the omission of the words "in a democratic society" after the words "public order", the idea conveyed by the former expression being alone capable of restricting the excessively wide connotation of the latter in a manner in accordance with the spirit of the Declaration—in which, incidentally, it is used in article 29.

India

Here also the form is not consistent. "Everyone shall have a right of association" would be more consistent.

ARTICLE 17

Australia

Delete "without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status", these words being unnecessary and inadvisable in view of the inclusion of a similar expression in article 1.

France

For article 17, the French delegation regrets the adoption of an ambiguous wording, apparently extending to all rights and all cases the obligation of non-discrimination of the law, which at first applied only to the "rights set forth in this Covenant".

India

Though the Indian delegation voted for the accepted text, it still prefers the text it had submitted by way of amendment, as it brings out the central idea of this article which is "non-discrimination". There should be a period after the words "Protection of the law". The following sentence, or preferably a second paragraph, would read as follows:

"No one shall be discriminated against on grounds only of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

United Kingdom

The addition to the original text of the words which follow "equal protection of the law" is, in the United Kingdom view, not only unnecessary but casts doubt upon the meaning of the propositions that all are equal before the law and that all shall be accorded equal protection of the law. The discussions in the Commission have shown that it is possible to regard the present article as prohibiting the existence or the passing of laws which discriminate on grounds such as race, colour, etc. The necessary provision for this purpose is already made by the first paragraph of article 1. The United Kingdom considers that the concept of discrimination on grounds such as race, colour, etc. has no place in this article, and that all the words after "equal protection of the law" should be deleted.

Annex IV

TEXT OF ADDITIONAL ARTICLES PROPOSED FOR INCLUSION IN THE DRAFT COVENANT ON HUMAN RIGHTS

A. *Proposals for additional articles submitted by the representative of Yugoslavia (E/CN.4/573) at the seventh session of the Commission*

1. *Article 9a—Right of asylum*

"Any person persecuted for his political or scientific convictions, for his activities in the struggle for national or political liberation or by reason of his race, nationality or religion or his efforts in support of the realization of the principles of the Charter of the United Nations and the Universal Declaration of Human Rights shall have the right of asylum."

2. *Article 16a—Right of every member of a minority to make use of its national language and develop its culture*

"Every person shall have the right to show freely his membership of an ethnic or cultural group, to use without hindrance the name of his national group, to learn the language of this group and to use it in public or private life, to be taught in this language, as well as the right to cultural development together with other members of this national group without being subjected on that account to any discrimination whatsoever, and particularly such discrimination as might deprive him of the rights enjoyed by other citizens of the same State."

3. *Article 16b—The right of universal and equal suffrage and the right of every person to participate in the government of the State*

"Every citizen shall have the right to take part in the government of the State by means of a democratic ballot which shall ensure absolute secrecy and complete freedom of expression of the will of individuals without any discrimination whatsoever.

"Every citizen shall likewise have the same right of access to any State or public office."

B. *Proposals referred to the Commission under section B of resolution 421 (V) of the General Assembly and resolution 349 (XII) of the Economic and Social Council*

I. Proposals by the Union of Soviet Socialist Republics (A/C.3/L.96 and E/L.137 and E/CN.4/527)

The delegation of the Union of Soviet Socialist Republics to the General Assembly and the Economic and Social Council proposed that, in drafting the Covenant, the Commission on Human Rights should have in mind the inclusion therein of the following provisions:

1. *Participation in the government of the State*

Every citizen, irrespective of race, colour, nationality, social position, property status, social origin, language, religion or sex, shall be guaranteed by the State an opportunity to take part in the government of the State, to elect and be elected to all organs of authority on the basis of universal, equal and direct suffrage with secret ballot, and to occupy any State or public office. Property, educational or other qualifications restricting the participation of citizens in voting at elections to representative organs shall be abolished.

2. *National self-determination and minorities*

Every people and every nation shall have the right to national self-determination. States which have responsibilities for the administration of Non-Self-Governing Territories shall promote the fulfilment of this right, guided by the aims and principles of the United Nations in relation to the peoples of such

territories. The State shall ensure to national minorities the right to use their native tongue and to possess their national schools, libraries, museums and other cultural and educational institutions.

3. *Free expression of opinion*

In the interests of democracy, everyone must be guaranteed by law the right to the free expression of opinion; in particular, to freedom of speech, of the Press and of artistic representation, under conditions ensuring that freedom of speech and of the Press are not exploited for war propaganda, for the incitement of hatred among the peoples, for racial discrimination and for the dissemination of slanderous rumours.

4. *Fascist or nazi propaganda*

Any form of propaganda on behalf of fascist or nazi views, or of racial and national exclusiveness, hatred and contempt, must be prohibited by law.

5. *Right to organize and the right to assemble*

In the interests of democracy, the right to organize assemblies, meetings, street processions and demonstrations and to organize voluntary societies and unions must be guaranted by law. All societies, unions and organizations of a fascist or anti-democratic nature, and any form of activity by such societies, must be prohibited by law, subject to penalty.

II. Proposal by Yugoslavia (A/C.3/L.92 and E/CN.4/527)

The Yugoslav delegation to the General Assembly proposed that the following rights should be added to the list of the rights to be defined in the covenant:

(*a*) The right of universal and equal suffrage;

(*b*) The right of every person to participate in the government of the State;

(*c*) The right of every member of a minority to make use of its national language and develop its culture;

(*d*) The right of asylum.

C. *Proposal for additional articles before the sixth session of the Commission. (The proposals of the representatives of the Union of Soviet Socialist Republics and of Yugoslavia which are included in annex III of the report of the sixth session of the Commission, have been submitted in one form or another [see A and B above] since the sixth session and are therefore omitted from this annex.)*

I. *France*

Article on persons deprived of liberty and on penitentiary system

"All persons deprived of their liberty shall be treated with humanity. Accused persons shall not be subjected to the same treatment as convicted persons.

"The penitentiary system shall comprise treatment directed to the fullest possible extent towards the reformation and social rehabilitation of prisoners."

II. *Philippines*

Articles on protection of privacy, home, correspondence, honour and reputation, right to property and the right to just compensation for private property

"1. No one shall be subjected to arbitrary and unlawful interference with his privacy, home or correspondence, nor to attacks on his honour and reputation."

This text is derived from article 12 of the Declaration of Human Rights, with the insertion of the word "unlawful" before the word "interference".

"2. No one shall be deprived of his property without due process of law."

This guaranty is found in many constitutions. No covenant of human rights is complete without such a safeguard against confiscation.

"3. No private property shall be taken unless just compensation has first been paid."

This is also an important guaranty against confiscation of property.

III. *Sub-Commission on Prevention of Discrimination and Protection of Minorities*

Proposals on non-discrimination and minority rights

1. *The Sub-Commission on Prevention of Discrimination and Protection of Minorities,*

Considering that the Commission on Human Rights is preparing a draft International Covenant on Human Rights,

Recommends that the Commission include in the draft covenant a provision pledging the contracting States not to use governmental licensing arrangements, or to permit restrictions, prohibiting the entry into any business, profession, vocation or employment of a citizen by reason of his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

2. *The Sub-Commission on Prevention of Discrimination and Protection of Minorities,*

Having considered the problem of the fate of minorities referred to it by the General Assembly in its resolution 217 C (III),

Having adopted, in resolution C of its third session, a definition of minorities for purposes of protection by the United Nations,

Is of the opinion that the most effective means of securing such protection would be the inclusion in the international covenant on human rights of the following article:

"Persons belonging to ethnic, religious, or linguistic minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."

Annex V

DRAFT PROTOCOL ON PETITIONS FROM INDIVIDUALS AND NON-GOVERNMENTAL ORGANIZATIONS

The Commission at its seventh session had before it the following proposal submitted by the representative of the United States of America on a protocol on petitions from individuals and non-governmental organizations (E/CN.4/557) and amendments thereto, submitted by the representatives of Denmark (E/CN.4/559/Rev.1), Egypt (E/CN.4/564), Uruguay (E/CN.4/606/Rev.1) and France (E/CN.4/632):

ARTICLE 1

I. *United States of America*

1. With respect to States Parties to this Protocol, the Human Rights Committee established pursuant to the International Covenant on Human Rights shall also have jurisdiction to receive written petitions submitted by:

(*a*) Individuals within the territory of a State Party to this Protocol, alleging that that State is not giving effect to a provision of the Covenant, and

(*b*) Non-governmental international organizations, as defined in paragraph 2, alleging that a State Party to this Protocol is not giving effect to a provision of the Covenant.

2. The non-governmental international organizations referred to in paragraph 1 (*b*) comprise organizations with consultative status to the United Nations Economic and Social Council, approved annually by two-thirds of the States Parties to this Protocol at a meeting of representatives of these States convened by the Secretary-General of the United Nations.

II. *Amendments to Article 1, paragraph 1 (a)*

Denmark

Amend to read as follows:

"Individuals, groups of individuals and juridical persons, who allege that their rights as defined in parts I and II of the Covenant have been violated by the State in question, and".

Egypt

Replace the word "Individuals" by the words: "Individuals or groups of individuals".

France

Amend as follows:

"Individuals, *groups of individuals and juridical persons* who at the time of the alleged violation are under the jurisdiction of a State Party to this Protocol and who, *after obtaining the support of one of the international non-governmental organizations defined in paragraph 2,* allege that *their rights as defined in the Covenant* have been violated by the State in question".

III. *Amendment to article 1, paragraph 1 (b)*

Egypt

Replace the words "as defined in paragraph 2" by the words: "*with consultative status to the United Nations Economic and Social Council*".

IV. *Amendment to Article 1, paragraph 2*

Egypt

Delete the paragraph.

ARTICLE 2

I. *United States of America*

The Human Rights Committee shall determine which of the petitions received warrant detailed examination, and with respect to such petitions the following procedure shall apply:

(*a*) A copy of the petition shall be provided to each of the States Parties to this Protocol, the petitioner being promptly notified of this action.

(*b*) Any such State shall have the right to make a submission in writing to the Human Rights Committee concerning the petition.

(*c*) The Human Rights Committee may request the petitioner and the States Parties to this Protocol to supply relevant information.

(*d*) Subject to Article 54 of the Covenant on Human Rights, the Human Rights Committee shall ascertain the facts and prepare a report of these facts not later than eighteen months after a copy of the petition is provided to States Parties to this Protocol. The Human Rights Committee shall send this report to these States and shall then communicate it to the Secretary-General of the United Nations for publication.

II. *Amendment to the whole of article 2*

France

Amend as follows:

"The Human Rights Committee shall determine, *in accordance with its rules of procedure,* which of the petitions received warrant detailed examination."

III. *Amendments to article 2, paragraph (c)*

Denmark

Add the following: "and invite the petitioner and the State against which allegations are made to be represented at the hearings of the Committee and make submissions orally."

Uruguay

Amend to read as follows:

"The Human Rights Committee may request the petitioner, the States Parties to this Protocol and the Attorney-General to supply relevant information."

IV. *Amendment to add a new paragraph in article 2 between paragraphs (c) and (d)*

Denmark

Add a new paragraph between (*c*) and (*d*) as follows:

"When the Committee has decided that a petition warrants examination, the Secretary of the Committee shall, at the request of the petitioner, render him such assistance as may be necessary with a view to the adequate presentation of his case before the Committee."

V. *Amendment to article 2, paragraph (d)*

Denmark

Substitute for article 2, paragraph (*d*), a new article as follows:

"Subject to the provisions of Article 54 of the Covenant on Human Rights, the Human Rights Committee shall ascertain the facts of the case. If the Committee deems it appropriate, it may offer its good offices to the State concerned with a view to a solution of the matter on the basis of respect for human rights as recognized in this Covenant. In every case the Committee shall draw up a report not later than eighteen months after the date of receipt of the petition. The report shall be sent to the States Parties to this Protocol and then communicated to the Secretary-General of the United Nations for publication. Article 57, paragraph 3 shall apply."

VI. *Amendments for inclusion of new articles between article 2 and article 3 of the proposal of the United States of America*

Uruguay

ARTICLE 3

There shall be established an office, known as the "Office of the United Nations Attorney-General for Human Rights" (hereinafter referred to as "the Attorney-General"), entrusted with the functions herein provided for with respect to the implementation of the provisions of this Protocol.

ARTICLE 4

1. The Attorney-General shall be appointed for a period of five years by the President of the International Court of Justice from a panel of candidates nominated by the States signatories to the Covenant.

2. Each State signatory to the Covenant shall submit to the Secretary-General of the United Nations, three months before the date of the opening of the General Assembly, the names of two persons of high moral character who possess, in the countries of which they are nationals, the qualifications required for appointment to the highest judicial office.

ARTICLE 5

1. The Attorney-General shall receive from the Secretary of the Human Rights Committee any petition which, in accordance with Article 2 of this Protocol, warrants detailed examination, together with any information supplied by the petitioner and the States Parties of this Protocol. He shall be entitled to appear before the Human Rights Committee in connexion with any case which, in his opinion, raises a problem of grave public interest, and to put to the Committee, either orally or in writing, the arguments in defence of such public interest.

2. He may also request the Committee to summon and hear witnesses and to ask for the communication of the documents relevant to the case in question.

ARTICLE 6

Should the Attorney-General consider, after the Human Rights Committee has examined a petition, that the case calls for an advisory opinion from the International Court of Justice on a point of law arising therefrom, he shall request the Committee to seek such advisory opinion through the appropriate channels. He shall have full power, at the hearing of the request by the International Court of Justice, to appear as counsel for the defence of the public interest in the case in question and to put to the Court, either orally or in writing, the arguments in support of such public interest.

Articles 3, 4 and 5 of the United States proposal to be numbered 7, 8 and 9 respectively.

ARTICLE 3

I. *United States of America*

The relevant provisions of articles 33 to 47 inclusive, 48, 49, 51 and 54 of the International Covenant on Human Rights relating to the establishment, authority and procedure of the Human Rights Committee shall also be applicable under this Protocol.

II. *Amendment to article 3*

Uruguay

Article 3 should become article 7.

ARTICLE 4

I. *United States of America*

1. This Protocol shall be open for signature or accession on behalf on any State Party to the International Covenant on Human Rights.

2. Ratification of or accession to this Protocol shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as fifteen States have deposited such instruments, the Protocol shall come into force among them. As regards any State which ratifies or accedes thereafter, the Protocol shall come into force on the date of deposit of its instrument of ratification or accession.

3. The Secretary-General of the United Nations shall inform all Members of the United Nations, and

other States which have ratified or acceded to this Protocol, of the deposit of each instrument of ratification or accession.

II. *Amendment to article 4*

Uruguay

Article 4 should become article 8.

III. *Amendment to article 4, paragraph 2*

France

Amend as follows:

"Ratification of or accession to this Protocol shall be effected by the deposit of an instrument of ratification or accession with the Secretary-General of the United Nations, and as soon as *two-thirds* of the States Members of the United Nations have deposited such instruments, the Protocol shall come into force among them, *unless, in the instrument of ratification or accession deposited by it, any State makes the entry into force of the Protocol so far as it is concerned subject to ratification or accession by a different number of States, such number in no circumstances to be less than* a majority of the Members of the United Nations."

As regards any State which ratifies or accedes thereafter with the same reservation, the Protocol shall come into force on the date of deposit of its instrument of ratification or accession.

ARTICLE 5

I. *United States of America*

1. Any State Party to this Protocol may propose an amendment and file it with the Secretary-General. The Secretary-General shall thereupon communicate the proposed amendment to the States Parties to the Protocol with a request that they notify him whether they favour a conference of States Parties to this Protocol for the purpose of considering and voting upon the proposal. In the event that at least one-third of the States favour such a conference, the Secretary-General shall take the necessary steps to convene such a conference under the auspices of the United Nations. Any amendment of this Protocol adopted by a majority of States present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment shall come into force when it has been approved by the General Assembly and accepted by a two-thirds majority of the States Parties to the Protocol, in accordance with their respective constitutional processes.

3. When such an amendment comes into force, it shall be binding on those States Parties to the Protocol which have accepted it, other Parties to the Protocol being still bound by the provisions of the Protocol and any earlier amendments which they have accepted.

II. *Amendment to article 5*

Uruguay

Article 5 should become article 9.

Annex VI

TEXTS OF PROPOSALS AND COMMENTS ON THE FEDERAL STATE ARTICLE AND ON PART VI (ARTICLES 70 TO 73) OF THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

A. FEDERAL STATE ARTICLE

I. *Text contained in the report of the third session of the Commission (E/800)*

"In the case of a federal State, the following provisions shall apply:

"(*a*) With respect to any articles of this Covenant which the federal government regards as wholly or in part appropriate for federal action, the obligations of the federal government shall, to this extent, be the same as those of Parties which are not federal States;

"(*b*) In respect of articles which the federal government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces, or cantons, the federal government shall bring such provisions, with favourable recommendation, to the notice of the appropriate authorities of the states, provinces or cantons at the earliest possible moment."

II. *Texts before the Commission at its fifth session*

1. *Text proposed by the representative of the United States of America to replace paragraph (a):*

"(*a*) With respect to any articles of this Covenant which the federal government regards as appropriate under its constitutional system, in whole or in part, for federal action, the obligations of the federal government shall to this extent be the same as those of Parties which are not federal States."

2. *Text proposed by the representative of India:*

"(*a*) In respect of any articles of the Covenant, the implementation of which is, under the constitution of the federation, wholly or in part within federal jurisdiction, the obligations of the federal government shall, to that extent, be the same as those of Parties which are not federal States.

"(*b*) In respect of any articles of this Covenant, the implementation of which is under the constitution of the federation, wholly or in part within the jurisdiction of the constituent units (whether described as states, provinces, cantons, autonomous regions, or by any other name), the federal government shall bring such provisions with favourable recommendations to the notice of the appropriate authorities of the units."

3. *Text proposed by the representative of the United Kingdom for the second sub-paragraph:*

"(*b*) Each federal State Party to this Covenant shall at the request of another State Party report what effect has been given to the provisions of this Covenant by the governments of the constituent states, provinces or cantons following the recommendation referred to in the preceding paragraph."

III. *Comments of governments on the report of the fifth session of the Commission*

1. *Australia*

Subject to further observations that may be offered at the sixth session of the Human Rights Commission, the text contained in document E/800 is preferred with the amendment proposed by the United States delegation. The text, as amended, adheres closely to that contained in the International Labour Organisation's Constitution—a formula which resulted from long and expert consultations and has already secured a wide measure of agreement.

2. *France*

The French Government would be willing to agree to the text contained in the draft communicated to the Secretary-General of the United Nations by the United States Government on 20 December 1949. This text is an improvement on that submitted by the United States Government at the third session of the Commission on Human Rights, since it is more objectively drafted and offers the additional advantage of being closer to the text submitted by the representative of India.

3. *Netherlands*

The Netherlands Government prefer the text proposed by the representative of India supplemented by the text proposed by the representative of the United Kingdom.

4. *Philippines*

The text proposed by the representative of India seems to be the most satisfactory.

5. *United Kingdom*

His Majesty's Government will support the inclusion in the Covenant of articles intended to make suitable provision for the particular constitutional circumstances of federal States or of metropolitan States with dependent overseas territories.

In this connexion, His Majesty's Government have noted with interest the decision of the Social Commission at its fourth session (E/CN.5/SR.76, pages 3–7 and E/1359, page 22) that it was not competent to decide questions of international law such as are raised by these two articles and to "refer consideration of the article to a higher body". His Majesty's Government consider that the Social Commission has established a useful precedent by this decision, and suggest that the Human Rights Commission should follow the same procedure and refer these two articles to the Economic and Social Council, which should in its turn refer them to the Sixth Committee of the General Assembly.

There is one further comment which His Majesty's Government in the United Kingdom feels obliged to make in this connexion. The constitutional circumstances which oblige them to press for the inclusion in many international agreements of a Colonial Application Article have been explained by United Kingdom representatives on many occasions in many different bodies of the United Nations. His Majesty's Government feels bound to point out that these constitutional considerations apply with all their force to the Covenant on Human Rights. If therefore the Covenant, as finally drawn up, has no such article, His Majesty's Government will have no option but to oppose it.

6. *United States*

This article should read as follows:

"In the case of a federal State, the following provisions shall apply:

"(*a*) With respect to any articles of this Covenant which are determined in accordance with the constitutional process of that State to be appropriate in whole or in part for federal action, the obligations of the federal government shall to this extent be the same as those of Parties which are not federal States;

"(*b*) With respect to articles which are determined in accordance with the constitutional processes of that State to be appropriate in whole or in part for action by the constituent states, provinces, or cantons, the federal government shall bring such articles, with favourable recommendation, to the notice of the appropriate authorities of the states, provinces or cantons at the earliest possible moment".

IV. *Amendments proposed at the sixth session of the Commission*

1. *United Kingdom: amendment to the proposal contained in the comment of the Government of the United States*

In paragraph (*b*) insert "(1)" after the word "shall", and add at the end a new sub-paragraph as follows:

"2. informs the Secretary-General of the United Nations when the laws of any constituent state, province or canton give effect fully to the provisions of the Covenant which lie within its jurisdictional sphere."

2. *Yugoslavia: amendment to the text contained in the report of the third session of the Commission*

Add a new sub-paragraph (*c*) as follows:

"(*c*) No federal State shall ratify the present Covenant unless it has previously ensured the application thereof throughout its territory."

V. *Text proposed by the representative of Denmark at the seventh session of the Commission (E/CN.4/636)*

1. The government of a federal State may at the time of signature, ratification or accession to this Covenant make a reservation in respect of any particular provision of the Covenant to the extent that the application of such provision, under the constitution of the federal State, falls within the exclusive jurisdiction of the constituent states, provinces or cantons. The Secretary-General of the United Nations shall inform other States Parties to the Covenant of any such reservation.

2. When making a reservation under paragraph 1, the government of the federal State shall transmit to the Secretary-General, for communication to other States Parties to the Covenant, a brief statement as to

the status of the law of the constituent states, provinces or cantons with regard to the subjects covered by the reservation.

3. When a reservation is made under paragraph 1, the federal government shall bring the relevant provisions of the Covenant to the attention of the appropriate authorities of the constituent states, provinces or cantons and recommend that such steps be taken as may be necessary to give full effect to the provisions.

4. A reservation made under paragraph 1 may at any time be withdrawn in whole or in part. Withdrawal of a reservation is effected by notification to the Secretary-General, who shall inform the other States Parties to the Covenant.

5. As long as and to the extent that a reservation made under paragraph 1 remains in force, the government of the federal State may not in relation to other States Parties to the Covenant invoke the relevant provisions of the Covenant.

Explanatory note

The representative of Denmark maintains the opinion, as previously stated on behalf of his Government, that it would be preferable not to include a "federal States clause" in the Covenant. Indeed, such a clause will tend to introduce an element of inequality between obligations of the various States Parties to the Covenant, in so far as federal States under such a clause will be relieved from obligations which unitary States must fulfil without qualification. It is a well-established principle in international law that no State can invoke provisions of its constitution as an excuse for not fulfilling its international obligations, and any deviation from this general principle to the advantage of only one category of States would, it is submitted, tend to weaken the principles of equality and reciprocity on which international relations must be based.

In view, however, of the General Assembly's resolution 421 (V), part C, according to which the Commission on Human Rights is requested "to study a federal State article and to prepare ... recommendations which will have as their purpose the securing of the maximum extension of the convenant to the constituent units of federal States, and the meeting of the constitutional problems of federal States", the above proposal is submitted. Its purpose is, in addition to that indicated by the General Assembly, to obviate to the greatest possible extent the disadvantages resulting from the status of inequality which any special regard for federal States will inevitably entail. In pursuance of these divergent purposes, proposals are made to the effect:

(*a*) That federal States may ratify the Covenant even if the implementation of certain of its provisions under their constitutional systems fall within the reserved powers of their constituent units;

(*b*) That authorities of constituent States shall be encouraged to take any necessary action with a view to giving effect to those provisions which fall under their reserved powers;

(*c*) That limitations of obligations of federal States shall result only from express reservations in respect of particular provisions, not from the automatic application of a federal States clause;

(*d*) That other States Parties shall be kept informed of the extent to which a federal State gives effect to the provisions covered by reservations; and

(*e*) That a federal State which, because of a reservation, is "immune" against complaints regarding violations of a provision in the Covenant shall not itself be able to make such complaints against other States Parties.

B. PART VI (ARTICLES 70 TO 73) OF THE DRAFT INTERNATIONAL COVENANT ON HUMAN RIGHTS

I. *Comments of members of the Commission on the report of the sixth session of the Commission*

ARTICLE 70

(*former article 42*)

France

The French delegation regrets the fixing at twenty, a figure which in the French delegation's opinion is definitely insufficient, of the number of ratifications required for the entry into force of the Covenant.

India

The Commission has adopted twenty as the number for ratification of the Covenant. Once the General Assembly accepts the Covenant as the first step towards the implementation of human rights, it should become obligatory for all the States Members to ratify it within a reasonable time. Unless this is done, the obligation to promote and protect human rights under the Charter of the United Nations will not be fulfilled.

II. *Amendments submitted by the representative of India at the seventh session of the Commission (E/CN.4/563/Rev.1)*

In article 70, paragraph 2, delete the words "among them" after the words "shall come into force".

In article 73, delete paragraph 3.

Annex VII

TEXTS OF PROPOSAL RELATING TO THE ESTABLISHMENT OF AN OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER (ATTORNEY-GENERAL) FOR HUMAN RIGHTS

The following proposal was submitted by the representative of Uruguay (E/CN.4/549 and E/CN.4/549/Corr.1) to the seventh session of the Commission on Human Rights.

ARTICLE 1

1. The primary responsibility for ensuring the effective implementation of the personal rights and freedoms (civil and political) referred to in articles ... and recognized in this Covenant shall be vested in each State Party hereto with respect to all individuals within its jurisdiction.

2. There shall be established a permanent organ, known as "The United Nations High Commissioner (Attorney-General) for Human Rights", to exercise the functions hereinafter provided with respect to the implementation of the provisions of this Covenant and the supervision of its observance.

3. The functions conferred by this Covenant upon the organ established under paragraph 2 of this article are without prejudice to the functions and powers of organs of the United Nations established by the Charter, or of their subsidiary organs, or of organs of the specialized agencies referred to in Article 57 of the Charter.

ARTICLE 2

1. The United Nations High Commissioner for Human Rights or Attorney-General (hereinafter referred to as High Commissioner (Attorney-General) shall be appointed by the General Assembly of the United Nations upon the recommendation of the States Parties of this Covenant, from among persons of high moral character and recognized competence and independence who possess, in the countries of which they are nationals, the qualifications required for appointment to the highest judicial offices.

2. At least three months before the date of the opening of the session of the General Assembly at which the appointment of the High Commissioner (Attorney-General) is to be made, the Secretary-General of the United Nations shall address a written communication to the States Parties to this Covenant inviting them to submit their nominations within a period of two months.

3. Each State Party to this Covenant may nominate one or two persons possessing the qualifications described in paragraph 1 of this article. These persons may be nationals of the nominating States or of any other States.

4. The Secretary-General shall prepare a panel of the persons thus nominated and submit it to the States Parties of this Covenant together with an invitation to designate representatives to a meeting called for the purpose of deciding upon a recommendation on the appointment of the High Commissioner (Attorney-General). The Secretary-General shall fix the date and make all arrangements necessary for such a meeting.

5. The recommendation of the States Parties to this Covenant shall be made by a two-thirds majority vote of the representatives present and voting. The quorum shall consist of two-thirds of the said States. The names of all persons obtaining a two-thirds majority of the votes shall be communicated by the Secretary-General to the General Assembly.

6. The appointment shall be made by a two-thirds majority vote of the members of the General Assembly present and voting.

7. The High Commissioner (Attorney-General) shall, before taking up his duties, make a solemn declaration before the General Assembly that he will exercise his functions impartially and in accordance with the dictates of his conscience.

8. The term of office of the High Commissioner (Attorney-General) shall be five years and the High Commissioner shall be eligible for reappointment.

ARTICLE 3

1. The High Commissioner (Attorney-General) shall collect and examine information with regard to all matters relevant to the observance and enforcement by the States Parties to this Covenant of the rights and freedoms recognized herein. This information shall include reports, transmitted by the States Parties to this Covenant, laws and regulations, judicial decisions, records of parliamentary debates, writings in periodicals and in the Press and communications from international organizations and from individuals.

2. States Parties to this Covenant shall transmit to the High Commissioner (Attorney-General) at times agreed with him, periodic reports on the implementation of the provisions of this Covenant in the territory under their jurisdiction. Such reports shall include the text of relevant laws, administrative regulations, international agreements to which the said States are parties and significant judicial and administrative decisions.

3. The High Commissioner (Attorney-General) may, at times agreed with the States Parties concerned, conduct on-the-spot studies and inquiries on matters concerning the implementation of this Covenant.

ARTICLE 4

1. The High Commissioner (Attorney-General) may at any time initiate consultations with the States Parties to this Covenant on any case or situation which, in his opinion, may be inconsistent with the obligations assumed by that State Party under the Covenant and make to any State Party such suggestions and recommendations as he may deem appropriate for the effective implementation of this Covenant.

ARTICLE 5

1. The High Commissioner (Attorney-General) shall receive and examine complaints of alleged violations of this Covenant which may be submitted to him by individuals, groups of individuals, national and international non-governmental organizations and inter-governmental organizations.

2. No action shall be taken by the High Commissioner (Attorney-General) on any complaint which:

(*a*) Is anonymous;

(*b*) Contains abusive or improper language; however, specified charges of improper conduct, levelled at individuals or bodies of persons, shall not be considered to constitute abusive or improper language;

(*c*) Does not refer to a specific violation of this Covenant by a State Party to the detriment of an individual or a group of individuals who, at the time of the alleged violation, were within the jurisdiction of the said State;

(*d*) Is manifestly inconsequential;

(*e*) Emanates from a national organization but does not relate to a violation allegedly committed within the jurisdiction of the State to which that organization belongs.

3. Complaints received from organizations, whether national or international, shall not require the autho-

rization of the individuals or groups against whom the alleged violation was committed.

4. The Secretary-General of the United Nations shall communicate to the High Commissioner (Attorney-General) any complaint of an alleged violation of this Covenant or any information relating to such an alleged violation which may be received by him or by any other organ of the United Nations.

ARTICLE 6

1. Subject to the provisions of paragraph 2 of Article 5, the High Commissioner (Attorney-General) may conduct such preliminary investigations as he may consider appropriate of the merits of a complaint with a view to deciding whether the object or the character of the complaint justifies further action by him.

2. In conducting the preliminary investigations the High Commissioner (Attorney-General) may call for the assistance of the competent governmental agencies of the State Party concerned. He may also seek the assistance of such non-governmental organizations as may be familiar with the local conditions and the general issues involved.

ARTICLE 7

1. Subject to the provisions of paragraph 2 of Article 5, the High Commissioner (Attorney-General) shall have full discretion to decide with respect to any complaint received by him of an alleged violation of this Covenant:

(*a*) Not to take action;

(*b*) To defer taking action until such time as he may deem appropriate;

(*c*) To take action.

The High Commissioner (Attorney-General) shall inform the author of the complaint of his decision.

2. In case the High Commissioner (Attorney-General) decides to take action, he may decide to undertake negotiations with the State Party concerned with respect to the complaint received by him of an alleged violation of this Covenant in a territory within the jurisdiction of the said State. The High Commissioner (Attorney-General) may refer the complaint to the Security Council if in his opinion such negotiations are not likely to result in a satisfactory solution or have not resulted in a satisfactory solution.

3. In making his decision under this Article the High Commissioner (Attorney-General) shall give due consideration to the availability and the use made by the alleged victim of the violation of domestic remedies, including means of enforcement, to the availability and the use made of diplomatic remedies or of procedures established by United Nations organs or specialized agencies or of other available procedures provided by international agreement.

ARTICLE 8

The following provisions shall apply in cases where the High Commissioner (Attorney-General) has decided to take action as provided in paragraph 2 of article 7:

1. The High Commissioner (Attorney-General) shall communicate the complaint to the State Party concerned and ask for its observations thereon within such time-limit as the High Commissioner (Attorney-General) may recommend.

2. The High Commissioner (Attorney-General) shall fully investigate the case on the receipt of the observations of the State Party concerned or on the expiration of the time-limit recommended by him for the submission of such observations.

3. States Parties to this Covenant shall place at the disposal of the High Commissioner (Attorney-General), upon his request, such information as they may possess regarding the case.

4. The High Commissioner (Attorney-General) shall be entitled to conduct an inquiry within the territory under the jurisdiction of the State Party concerned, which shall afford all facilities necessary for the efficient conduct of the inquiry.

5. The High Commissioner (Attorney-General) shall have the right to summon and hear witnesses and to call for the production of documents and other objects pertaining to the case.

ARTICLE 9

When the High Commissioner (Attorney-General) has decided to take action on a complaint as provided in paragraph 1 of Article 7 he may call upon the State Party concerned to comply with such provisional measures as he may deem necessary and desirable in order to prevent an aggravation of the situation.

ARTICLE 10

1. The High Commissioner (Attorney-General) will make every effort to settle the object of a complaint on which he has decided to take action as provided in paragraph 1 of Article 7 through negotiation and conciliation.

2. The High Commissioner (Attorney-General) shall notify in writing to the State Party concerned his intention to enter into negotiations with respect to a given complaint and request the State Party to designate representatives for the purpose of such negotiations. The High Commissioner (Attorney-General) shall fix in consultation with the State Party concerned the date and place of such negotiations.

3. The High Commissioner (Attorney-General) shall inform the author of the complaint of the results of the negotiations.

ARTICLE 11

1. The High Commissioner (Attorney-General) shall seize the Security Council of his accusation by a notice given to the Secretary-General of the United Nations and to the State Party concerned. Such notice shall indicate the provision of the Covenant the violation of which is alleged and shall be accompanied by all relevant documents.

2. The High Commissioner (Attorney-General) shall have the right to be present or to be represented at all hearings and other meetings which the Council may hold on the complaint and to make submissions to the Council orally or in writing. He shall receive communication of all documents, including the minutes of meetings relating to the case and may, in conformity with the rules of procedure of the Council, examine such witnesses or experts as may appear before the same.

3. The High Commissioner (Attorney-General) may at any time, by a notice given to the Secretariat of the Council and the State Party concerned, withdraw the complaint from the agenda of the Council. Upon the receipt of such notice of withdrawal the Council shall cease to consider the complaint.

ARTICLE 12

The High Commissioner (Attorney-General) shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

ARTICLE 13

1. The High Commissioner (Attorney-General) shall appoint his staff subject to such financial provisions and administrative regulations as the General Assembly may approve in this respect.

2. The High Commissioner (Attorney-General) may, in consultation with the States Parties concerned, appoint regional commissioners who shall, under his direction and supervision, assist him in the performance of his functions with respect to a given region.

3. The paramount consideration of the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standard of efficiency, integrity and competence. Due regard shall be given to the importance to recruiting the staff from nationals of the States Parties to the Covenant.

ARTICLE 14

1. In the performance of their duties the High Commissioner (Attorney-General) and his staff shall not seek or receive instructions from any government or from any other authority or any organization. They shall refrain from any action incompatible with their position or the independent discharge of their functions as established by this Covenant.

2. The States Parties to this Covenant undertake to respect the exclusively international character of the responsibilities of the High Commissioner (Attorney-General) and his staff and not to seek to influence them in discharge of their responsibility.

ARTICLE 15

The High Commissioner (Attorney-General) shall enjoy diplomatic privileges and immunities. Members of his staff shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions.

ARTICLE 16

The High Commissioner (Attorney-General) shall reside at the permanent seat selected by him.

ARTICLE 17

1. The High Commissioner (Attorney-General) shall receive a salary and allowances commensurate with the importance and dignity of his office. The salary and the allowances shall be fixed by the General Assembly of the United Nations and may not be lowered during the High Commissioner's (Attorney-General's) term of office. They shall be free of all taxes.

2. The General Assembly shall fix the conditions under which a retirement pension may be accorded to the High Commissioner (Attorney-General).

3. The expenses incurred by the exercise by the High Commissioner (Attorney-General) of his functions under this Covenant shall be borne by the United Nations in such manner as shall be decided by the General Assembly.

Note. Additional provisions may be added to this draft proposal, or the existing provisions amended accordingly, to apply to the implementation of so-called economic, social and cultural rights, provided, however, that these rights have been adopted, with a greater or lesser degree of precision, in final form, and provided further, that they shall be implemented gradually and with the utmost regard to reality.

Annex VIII

DRAFT RESOLUTION FOR THE ECONOMIC AND SOCIAL COUNCIL

The Economic and Social Council

Takes note of the report of the seventh session of the Commission on Human Rights.

CHAPTER III

FREEDOM OF INFORMATION

At its fifth session, the General Assembly, in resolution 426 (V), appointed a fifteen-member *ad hoc* committee to prepare a draft Convention on Freedom of Information, taking into consideration the various existing texts and the discussions relating to them.[1] This *ad hoc* committee met at Lake Success, New York, from 15 January to 7 February 1951, and drew up a preamble and nineteen articles of a draft Convention on Freedom of Information which it submitted, along with its report, to the Economic and Social Council at its thirteenth session. The Council, however, did not consider the draft Convention in detail, but examined the Committee's report, the comments made on the draft by a number of governments and the recommendation to convene a conference of plenipotentiaries to draw up the final text of the Convention and open it for signature. The Council decided against convening such a conference and transmitted its decision to the General Assembly. For reasons of time the General Assembly decided to postpone detailed consideration of the draft Convention and other questions relating to freedom of information until its seventh session in 1952.

The Sub-Commission on Freedom of Information and of the Press did not meet in 1951, pursuant to a decision made by the Economic and Social Council at its eleventh session. This decision was later reaffirmed by the Council at its resumed eleventh session,[2] but at its thirteenth session the Council decided to convene a final session of the Sub-Commission on Freedom of Information and of the Press in 1952.

All these developments are described in this chapter.

1. *AD HOC* COMMITTEE ON THE DRAFT CONVENTION ON FREEDOM OF INFORMATION

In its work on the preparation of the draft Convention on Freedom of Information, the *Ad Hoc* Committee took into consideration the draft Convention on Freedom of Information which had been approved by the United Nations Conference on Freedom of Information held at Geneva from 23 March to 21 April 1948, the text adopted during the second part of the third session of the General Assembly and article 14 of the provisional text of the draft First International Covenant on Human Rights, together with the observations contained in the summary records of the meetings of the Third Committee of the General Assembly at its fifth session dealing with the question of freedom of information. The *Ad Hoc* Committee drafted a preamble and nineteen articles, which, pursuant to resolution 426 (V) of the General Assembly, the Secretary-General submitted to the various governments concerned for their consideration, and in particular for their views regarding the convening of a conference of plenipotentiaries. The *Ad Hoc* Committee recommended to the Economic and Social Council that if, as it was to be hoped, the comments of governments permitted it, a conference should be convened with a view to the framing and opening for signature of a Convention on Freedom of Information.

In the course of its work, the *Ad Hoc* Committee found particular difficulty in reaching an agreed text for article 2 of the draft Convention (containing a list of permissible limitations on freedom of information). It considered, *inter alia*, two amendments which it believed raised serious problems deserving thorough study in the interest of good international relations. Accordingly it adopted a resolution which requested the Secretary-General to prepare a report on the legal problems raised by the two amendments, with a view to suggesting, where necessary, wording consistent with the form and spirit of the draft Convention. The text of this resolution is as follows:

The Committee on the Draft Convention of Freedom of Information,

Believing that the suggestions contained in two amendments to article 2 (A/AC.42/L.18/Rev.1), paragraph 2, and (A/AC.42/L.22)[1] raise a serious problem which deserves thorough study in the interests of good international relations,

Realizing, nevertheless, that the excessively general and flexible drafting of the amendments failed to provide the solid legal basis which would have made it possible to insert them in the Convention without opening the door to possible abuse,

[1] See *Yearbook on Human Rights for 1950*, pp. 475–476.

[2] *Ibid.*, p. 482.

[1] (*a*) Text of paragraph 2 of document A/AC.42/L.18/Rev.1:

"Add the following sub-paragraph at the end of article 2:

" 'matters likely to injure the feelings of the nationals of the State'."

(*b*) Text of document A/AC.42/L.22:

"Add the following sub-paragraphs at the end of article 2:

" '(i) false or distorted reports which undermine friendly relations between peoples or States;

" '(ii) reports regarding racial, national or religous discrimination'."

Therefore requests the Secretary-General

1. To prepare as soon as possible, if necessary in consultation with experts in international law, a report on the legal problems raised by the two amendments, with a view to suggesting where necessary wording consistent with the form and spirit of the Convention on Freedom of Information for the drafting of which the Committee is responsible; and

2. To transmit this report, if possible, to the Economic and Social Council at its thirteenth session and, in any case, to the Conference of Plenipotentiaries.

The *Ad Hoc* Committee also adopted a resolution relating to an International Code of Ethics for information personnel, which reads as follows:

The Committee on the Draft Convention on Freedom of Information,

Considering that it is desirable to design, by the people engaged in the profession of information, an international code of ethics aimed at establishing standards of professional conduct for all engaged in the gathering, transmission and dissemination of information and opinions;

Considering that the debate in the Committee on the Draft Convention on Freedom of Information made it evident that such code of ethics promotes the implementation of the Convention on Freedom of Information and of the Convention on the International Transmission of News and the Right of Correction;

Considering further that, in accordance with resolution 306 E (XI) of the Economic and Social Council, the draft international code of ethics formulated by the Sub-Committee on Freedom of Information and of the Press has been communicated to information enterprises and national and international professional associations for comment and suggestions, and that many of these enterprises and associations have already indicated their interest in the draft code;

Strongly urges the Economic and Social Council to request the Sub-Commission on Freedom of Information and of the Press to complete at the earliest possible date its work on the draft international code of ethics with a view to having it submitted to an international professional conference for final formulation and acceptance by this conference.

2. ECONOMIC AND SOCIAL COUNCIL

(*Thirteenth Session*)

The report of the *Ad Hoc* Committee (A/AC.42/7) was discussed by the Economic and Social Council at its thirteenth session, observations having been received from eighteen governments, namely: Australia, Bolivia, Bulgaria, Burma, Ceylon, Denmark, Hashemite Kingdom of Jordan, India, Indonesia, Liechtenstein, Monaco, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Union of Soviet Socialist Republics and Jugoslavia (E/2031 and addenda). The Council also had before it the legal study concerning the amendments to article 2 of the draft Convention (E/2046 and Add.1) which the *Ad Hoc* Committee had requested the Secretary-General to prepare.

The Council did not examine the draft Convention article by article, but discussed at some length the question of convening a conference of plenipotentiaries to revise and open for signature the draft Convention prepared by the *Ad Hoc* Committee. It finally adopted a resolution (387 A (XIII)) by which it expressed its decision not to convene such a conference.

In the course of the debate on the draft Convention, charges were made that certain countries were violating freedom of information. A proposal was put forward appealing to governments to safeguard the rights of foreign correspondents to gather and transmit news. This proposal was criticized on the grounds that it would serve no useful purpose, as governments would not expel or punish correspondents who carried out their duties properly. Others, however, thought that it would be useful, in view of the situation of the world today, to reaffirm the freedom of information by such a resolution. The resolution was adopted by the Council as resolution 387 B (XIII).

The texts of the above resolutions are as follows:

A

The Economic and Social Council,

Having studied the report of the *Ad Hoc* Committee appointed by the General Assembly at its fifth session to prepare a draft convention on freedom of information, and the observations of governments thereon,

Considering the existence of a wide divergence of views on this subject,

Having decided not to convene a plenipotentiary conference,

Transmits this decision to the General Assembly together with the records of the discussion which took place at the thirteenth session of the Council on the report of the Committee on the Draft Convention on Freedom of Information.

B

The Economic and Social Council,

Recognizing freedom of information as one of the fundamental freedoms referred to in the Charter, and the high importance accorded in the Universal Declaration of Human Rights to the right to seek, receive and impart information and ideas through any medium, regardless of frontiers,

Desiring to implement the right of all peoples to be fully informed,

Conscious of the need of continually stressing the vital importance of safeguarding and developing this essential freedom in order that all peoples may, by freely

exchanging information and ideas, come to understand one another, develop friendly relations among themselves and achieve true international co-operation in solving problems of vital concern to all nations,

1. *Views* with extreme concern all governmental action aimed at the systematic exclusion of bona fide correspondents, the imposition of arbitrary personal restraints and the infliction of punishments upon such correspondents solely because of their attempts faithfully to perform their duties in gathering and transmitting news;

2. *Urges* strongly that personal restraints be removed and sentences imposing arbitrary punishments be revoked; and

3. *Appeals* to governments to do all within their power to safeguard the right of correspondents freely and faithfully to gather and transmit news.

CHAPTER IV

STATUS OF WOMEN

SECTION I

COMMISSION ON THE STATUS OF WOMEN

(Fifth Session)

The fifth session of the Commission on the Status of Women was held at Lake Success, New York, from 30 April to 14 May 1951. It adopted a number of resolutions and decisions (E/1997/Rev.1) on political rights of women, nationality of married women, status of women in public law, status of women in private law, educational opportunities for women, equal pay for equal work for men and women workers, status of nurses, the problem of Greek mothers whose children have not been repatriated and the participation of women in the work of the United Nations as set out under the headings A–I. The Commission also noted the progress reports submitted by the Secretary-General on the plight of survivors of Nazi concentration camps and by the Inter-American Commission of Women set out under the headings J and K. Its decisions are set forth in the following paragraphs:

A. *Political Rights of Women*

1. *Report of the Secretary-General relating to political rights of women*

The Commission on the Status of Women received the Secretary-General's annual report on constitutions, electoral laws and other legal instruments relating to the franchise of women and their eligibility to public office and functions (A/1342). The Commission expressed appreciation of the fact that since its fourth session further progress had been made in the field of political rights for women. The women of Lebanon had been granted municipal voting rights; the women of Greece had participated in large numbers in the recent municipal elections; and the new Constitution of Haiti recognizes the principle of full political rights for women, and provided for the exercise of such rights by women within three years after the next general elections.

2. *Draft Convention on the Political Rights of Women*

The Commission on the Status of Women,

Having noted the debates of the Economic and Social Council in regard to the recommendations of the Commission on the Status of Women for a convention on political rights,

Considering that the Commission on the Status of Women has worked for five years on a detailed investigation of the position of women in various fields, and that sufficient information has already been presented clearly to reveal the discrimination against women in the political field,

Recommends that the Economic and Social Council adopt the following resolution:

"*The Economic and Social Council,*

"*Noting* the progress achieved in granting women political rights since the signing of the United Nations Charter,

"*Considering* that in a number of countries these rights have not yet been granted and that, in some cases, measures for the implementation of such rights are still lacking, notwithstanding resolution 56 (I) of the General Assembly recommending that all Member States adopt measures necessary to fulfil the purposes and aims of the Charter by granting to women the same political rights as to men,

"*Considering* that the time is appropriate for an international convention under the auspices of the United Nations, designed to eliminate all discrimination against women in the field of political rights,

"*Recommends* that a convention on the political rights of women embodying the following preamble and substantive clauses be opened for signature and ratification by Member States and such States as will be invited by the General Assembly, and that the Secretary-General be requested to draft the necessary final and formal clauses of that convention:

"DRAFT CONVENTION

"*The Contracting Parties,*

"*Desiring* to implement the principle of equality of rights for men and women, contained in the Charter of the United Nations,

"*Recognizing* that every person has the right to take part in the government of his country and has the right to equal access to public service in his country, and desiring to equalize the status of men and women in the enjoyment and exercise of political rights, in accordance with the provisions of the Universal Declaration of Human Rights,

"*Having* resolved to conclude a convention for this purpose,

"*Hereby* agree as hereinafter provided:

"*Article 1.* Women shall be entitled to vote in all elections on the same conditions as men.

"*Article 2.* Women shall be eligible for election to all publicly elected bodies, established by national law, on the same conditions as men.

"*Article 3.* Women shall be entitled to hold public office and to exercise all public functions established by national law, on the same condition as men."

3. *Political Education of Women*

The Commission on the Status of Women,

Having studied the draft pamphlet on the political education of women prepared by the Secretary-General (E/CN.6/168), and

Having noted the observations and suggestions made by various members of the Commission with respect to the scope and text of the draft;

Recommends that the Economic and Social Council adopt the following resolution:

"*The Economic and Social Council,*

"*Considering* the importance of preparing women for participation in public life and having regard to the fact that publication and wide distribution of a pamphlet on education in civics and public affairs would be of great and practical use to this end;

"(*a*) *Invites* the Secretary-General to amend the draft prepared by him (E/CN.6/168), taking into account such observations and suggestions made by the members of the Commission at its fifth session as he may deem appropriate,

"(*b*) *Requests* the Secretary-General to circulate to members of the Commission the text as re-drafted by him, and having received their comments, prepare a final text for distribution and dissemination on a wide basis;

"(*c*) *Suggests* to the United Nations Educational, Scientific and Cultural Organization that it take this pamphlet into account in the preparation of further publications to serve as educational and cultural instruments to prepare women for the proper exercise of their political rights."

4. *Advisory Services for the Improvement of the Status of Women*

The Commission on the Status of Women

Recommends that the Economic and Social Council adopt the following resolution:

"*The Economic and Social Council,*

"*Believing* that the governments interested in improving the status of women may wish to take advantage of experience gained elsewhere in the expansion of opportunities for women to share more fully in the responsibilities of national life and in the elimination of remaining discriminations against them,

"*Noting*

"(*a*) That the advisory services rendered by the United Nations to governments on request may include assistance in the field of human rights, without distinction as to race, sex, language or religion, and

"(*b*) That the Secretary-General in paragraph 56 of his memorandum (E/1900) has suggested that advisory services in this field might be made available to assist in improving the status of women;

"*Draws the attention* of governments to the provisions for the advisory services programmes, so that they may avail themselves of these services for the improvement of the status of women."

5. *Status of Women in Trust Territories*

The Commission on the Status of Women

Requests the Economic and Social Council to adopt the following resolution:

"*The Economic and Social Council,*

"*Considering* that under Chapter XIII of the United Nations Charter the Trusteeship Council is empowered to despatch visiting missions to Trust Territories;

"*Considering* that it would be desirable, in order to promote the development of the status of women in the Trust Territories, that women should share in the responsibilities of the missions;

"*Invites* the Member States to nominate, and the Trusteeship Council to appoint women to serve as members of visiting missions."

B. *Nationality of Married Women*

The Commission on the Status of Women,

Having resolved at its fourth session that a convention on the nationality of married women should be drafted promptly to embody the principles recommended by it at that session,

Noting that the International Law Commission has not included in the provisional agenda of its forthcoming session the drafting of such a convention,

Recommends that the Economic and Social Council adopt the following resolution:

"*The Economic and Social Council,*

"*Having proposed* at its eleventh session, to the International Law Commission to undertake as soon as possible the drafting of a convention on the nationality of married women, embodying the principles recommended by the Commission on the Status of Women at its fourth session,

"*Noting* that at its 1950 session the International Law Commission deemed it appropriate to undertake the drafting of such a convention,

"*Proposes* that the International Law Commission undertake to complete the drafting of this convention in 1952."

C. *Status of Women in Public Law*

The Commission on the Status of Women,

Having considered the detailed comparative reports on the status of women in public law in the fields of public services and functions, civil liberties and fiscal law (E/CN.6/156, 157, 158 and 159),

Recommends that the Economic and Social Council adopt the following resolution:

"*The Economic and Social Council*

"*Expresses its thanks* to all Member States which sent replies to section C, E, and F of part I of the questionnaire on the legal status and treatment of women;

"*Invites* Member States to forward to the Secretary-General such additional information as they may have, with respect to women in public services and functions, and civil liberties for women;

"*Requests* the Secretary-General to prepare for the sixth session of the Commission a supplementary report on these subjects, based on the additional information supplied by Member Governments;

"*Expresses the hope* that the obstacles still existing in some countries with regard to the access and appointment of women to public services and functions will be eliminated as soon as possible;

"*Noting* that some countries discriminate against married women with respect to employment in the public services;

"*Expresses the hope* that the Member States concerned will take steps to remove all discrimination in connexion with the employment of married women in public services."

D. *Status of Women in Private Law*

The Commission on the Status of Women,

Having examined the preliminary reports on family law and on property rights (E/CN.6/165 and E/CN.6/166), prepared by the Secretary-General,

Requests the Secretary-General:

(*a*) To prepare and circulate to non-governmental organizations a list of questions concerning family law and property rights, requesting their advice as to the changes to be introduced in the various legal systems in order to eliminate discrimination against women, and to circulate the replies received at least two months before the sixth session;

(*b*) To prepare a report on various legal systems, based on replies of governments to part III (family law) of the questionnaire on the legal status and treatment of women, supplementing this information from other sources necessary to ensure a complete picture;

(*c*) To prepare a comparative analysis of the information supplied or obtained with respect to the matters covered under sections 1 (personal relations of spouse) and 2 (relations between parents and children) of chapter III of the preliminary report of the Secretary-General on the status of women in family law (E/CN.6/165).

E. *Educational Opportunities for Women*

The Commission on the Status of Women

Expresses its appreciation to the United Nations Educational, Scientific and Cultural Organization for its continued assistance in the study of education opportunities for women and girls throughout the world;

Notes that the United Nations Educational, Scientific and Cultural Organization

(*a*) In its long-term programme on behalf of free and compulsory education for all will include a special study of educational opportunities for women,

(*b*) In its programme of fundamental education is making use of techniques designed to overcome the obstacles and prejudices which retard women's education;

Requests the Secretary-General to continue to collaborate with the Director-General of the United Nations Educational, Scientific and Cultural Organization on these questions and, in particular, to report to the next session of the Commission on the Status of Women on the progress of the United Nations Educational, Scientific and Cultural Organization programmes, in so far as they are related to the work of the Commission.

F. *Equal Pay for Equal Work for Men and Women Workers*

The Commission on the Status of Women

Regrets that women workers in a majority of countries still suffer discrimination in regard to equal pay for equal work;

Notes the valuable work that the International Labour Organisation has done towards the implementation of the principle of equal pay for equal work, and its plan to take final action at its 1951 Conference on proposals to this end, and

Expresses the hope that all elements in the delegations of Member States to the International Labour Conference will co-operate so as to give effect to the principle of equal pay for equal work,

Requests the Economic and Social Council to adopt the following resolution:

"*The Economic and Social Council,*

"*Recalling*

"(*a*) That the principle of equal rights for men and women is embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

"(*b*) That the principle of equal pay for equal work is laid down in the Universal Declaration of Human Rights,

"(*c*) That the Economic and Social Council adopted resolution 121 (VI) of 10 March 1948 reaffirming 'the principle of equal remuneration for work of equal value for men and women workers',

"(*d*) That resolution 121 (VI) of 10 March 1948 was transmitted to the International Labour Organisation with the request that ILO proceed as rapidly as possible with the further consideration of this subject and report on the action taken,

"*Noting* the action of ILO to give effect to the principle of equal pay for equal work,

"*Noting* that States Members of the ILO have undertaken to act promptly on decisions of the International Labour Conference,

"*Urges* Member States which are not members of the ILO also to take such measures as may be required to give effect to the principle of equal pay for equal work."

G. *Status of Nurses*

The Commission on the Status of Women,

Having considered the report of the first session of the Committee of Experts of the World Health Organization communicated to the Commission by the Secretary-General in conformity with article III of the Agrement between the United Nations and the World Health Organization;

Expressing its thanks to the said Organization and to the Committee of Experts for transmitting the said report, which deals with all the aspects of the training and status of nurses; and hoping that the widest possible publicity will be given to the report;

Realizing that, according to the said report, the shortage of qualified nursing staff is hampering the application and progress of all programmes relating to health and hygiene; and

Believing that any measures which will improve the status of nurses will improve the status of women generally,

In order to achieve, in countries where the services are well organized, the ratio necessary to meet the needs of hospitals and services for public health, and

In order to create in other countries an awareness of the urgent need for professional and auxiliary training, so as to remedy the existing extreme inadequacy of such services in those countries,

Requests the Secretary-General

To draw the attention of Member States to the importance of ensuring:

(*a*) Wider recognition for the professional status of nurses, and

(*b*) Legal protection for this status, and

To recommend to non-governmental organizations to give their co-operation to governments and professional associations of nurses for these purposes.

H. *Problem of Greek Mothers whose Children have not been repatriated*

The Commission on the Status of Women,

Having regard to its resolution of 18 May 1950,

Taking into account General Assembly resolution 382 G (V) of 1 December 1950 and more particularly the contents of its first paragraph that "not a single Greek child has yet been returned to his native land, except for Yugoslavia, no country harbouring Greek children has taken definite action to comply with the resolutions unanimously adopted in two successive years by the General Assembly";

Having heard the statement presented by the representative of the Secretary-General that, with the only exception of Yugoslavia, no other country harbouring Greek children has until now complied with the aforementioned General Assembly resolution;

Expresses its grave concern for the continuance of this situation and its deep sympathy for the Greek mothers who were deprived of their children more than three years ago;

Affirms its confidence that the Secretary-General and the Standing Committee established by the aforementioned resolution of 1 December 1950 will submit to the General Assembly the urgent necessity of finding new and possibly stronger ways for the early return of the Greek children.

I. *Participation of Women in the Work of the United Nations*

The Commission on the Status of Women

Recommends that the Economic and Social Council adopt the following resolution:

"*The Economic and Social Council,*

"*Recalling* the provision in Article 8 of the Charter that 'The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs',

"*Noting* the report of the Secretary-General on efforts to assure qualified women equal opportunities for appointment and promotion in the Secretariat of the United Nations,

"*Urges* that the Secretary-General continue to appoint women to senior positions in the Secretariat of the United Nations as envisaged in Article 8 of the Charter; and bring up to date for the next session of the Commission on the Status of Women his report on the nature and proportion of positions occupied by women in the Secretariat of the United Nations (E/CN.6/167, Part A);

"*Requests* the Secretary-General to invite the specialized agencies to co-operate with him by supplying information as to the number and proportion of women employed in their secretariats, together with any other

information available on qualifications required for professional positions; and to present this information to the Commission on the Status of Women at its next session."

J. *Plight of Survivors of Nazi Concentration Camps* [1]

The Commission noted the progress on the plight of survivors of concentration camps (E/1915), prepared by the Secretary-General for the twelfth session of the Economic and Social Council, and resolution 353 (XII) adopted by the Council. The Commission noted and a majority of the Commission expressed appreciation of the initiative taken by the Economic and Social Council in this field in which the Commission will maintain a continuing interest.

K. *Report of the Inter-American Commission of Women*

The Commission noted the report of the Inter-American Commission of Women and a majority of the members of the Commission expressed their appreciation of the part played by the Inter-American Commission of Women in raising the status of women, particularly in Latin-American countries.

SECTION II

ECONOMIC AND SOCIAL COUNCIL

(*Thirteenth Session*)

At its thirteenth session, from 30 July to 21 September 1951, held at Geneva, the Economic and Social Council considered the report of the fifth session of the Commission on the Status of Women (E/1997/Rev.1, E/CN.6/175/Rev.1) and adopted resolution 385 (XIII) dealing with the proposed Convention on political rights of women, political education of women, advisory services for the improvement of the status of women, status of women in Trust Territories, nationality of married women, status of women in public law, equal pay for equal work.

A. *Report of the Commission on the Status of Women*

The Economic and Social Council

Takes note of the report of the Commission on the Status of Women (fifth session).

B. *Convention on the Political Rights of Women*

The Economic and Social Council,

Noting the recommendation of the Commission on the Status of Women, at its fifth session, that a convention on the political rights of women be opened for signature by interested States,

Desiring to expedite by every appropriate means, in accordance with General Assembly resolution 56 (I), the extension to women in all countries of equal political rights with men,

Requests the Secretary-General to circulate to the governments of Member States the text of the draft Convention on the Political Rights included in the report of the Commission on the Status of Women for comments on the draft Convention and suggestions as to the best manner of giving effect to the principles underlying it, with the request that such comments and suggestions be sent to the Secretary-General by 1 January 1952, to be made available to the Commission on the Status of Women for consideration at its sixth session.

C. *Political Education of Women*

The Economic and Social Council,

Considering the importance of preparing women for participation in public life, and having regard to the fact that the publication and wide distribution of a pamphlet on education in civics and public affairs would be of great and practical use to this end,

1. *Invites* the Secretary-General, in consultation with the United Nations Educational, Scientific and Cultural Organization, to amend the draft prepared by him, taking into account such observations and suggestions made by the members of the Commission on the Status of Women at its fifth session as he may deem appropriate;

2. *Requests* the Secretary-General to circulate to members of the Commission the text as redrafted by him and, having received their comments, to prepare a final text for distribution and dissemination on a wide basis;

3. *Suggests* to the United Nations Educational, Scientific and Cultural Organization that it take this pamphlet into account in the preparation of further publications to serve as educational and cultural instruments to prepare women for the proper exercise of their political rights.

D. *Advisory Services for the Improvement of the Status of Women*

The Economic and Social Council,

Believing that the governments interested in improving the status of women may wish to take advantage of experience gained elsewhere in the expansion of opportunities for women to share more fully in the responsibilities of national life and in the elimination of remaining discriminations against them,

Noting:

(*a*) That the advisory services rendered by the United Nations to governments on request may include assistance in the field of human rights without distinction as to race, sex, language or religion, and

(*b*) That the Secretary-General, in paragraph 56 of his memorandum "Development of a Twenty-year Programme for Achieving Peace through the United

[1] See also p. 590 of this *Yearbook*.

Nations", has suggested that advisory services in this field might be made available to assist in improving the status of women,

Draws the attention of governments to the provisions of the advisory services programme, so that they may avail themselves of these services for the improvement of the status of women.

E. *Status of Women in Trust Territories*

The Economic and Social Council,

Considering that under Chapter XIII of the United Nations Charter the Trusteeship Council is empowered to despatch visiting missions to Trust Territories,

Considering that it would be desirable, in order to promote the development of the status of women in the Trust Territories, that women should share in the responsibilities of the missions,

Invites the Member States to nominate, and the Trusteeship Council to consider appointing, women to serve as members of visiting missions.

F. *Nationality of Married Women*

The Economic and Social Council,

Having proposed, at its eleventh session, to the International Law Commission to undertake as soon as possible the drafting of a convention on the nationality of married women, embodying the principles recommended by the Commission on the Status of Women at its fourth session,

Noting that at its 1950 session the International Law Commission deemed it appropriate to undertake the drafting of such a convention,

Noting, moreover, with appreciation that the International Law Commission has decided to put on its agenda for 1952 the question of nationality, including the question of the nationality of married women,

Expresses the hope that the International Law Commission will endeavour to complete the drafting of this convention as soon as practicable.

G. *Status of Women in Public Law*

The Economic and Social Council

1. *Expresses its thanks* to all Member States which sent replies to sections C, E, and F of part I of the questionnaire on the legal status and treatment of women;

2. *Invites* Member States to forward to the Secretary-General such additional information as they may have with respect to women in public services and functions and civil liberties for women;

3. *Requests* the Secretary-General to prepare for the sixth session of the Commission a supplementary report on these subjects, based on the additional information supplied by Member States;

4. *Expresses the hope* that the obstacles still existing in some countries with regard to access to and appointment of women to public services and functions will be eliminated as soon as possible; and

5. *Noting* that some countries discriminate against married women with respect to employment in the public services;

6. *Expresses the hope* that the Member States concerned will take steps as far as possible to remove all discrimination in connexion with the employment of married women in public services.

H. *Equal Pay for Equal Work*

The Economic and Social Council,

Recalling:

(*a*) That the principle of equal rights for men and women is embodied in the Charter of the United Nations and the Universal Declaration of Human Rights,

(*b*) That the principle of equal pay for equal work is laid down in the Universal Declaration of Human Rights,

(*c*) That it adopted resolution 121 (VI) of 10 March 1948 approving "the principle of equal remuneration for work of equal value for men and women workers",

Noting the action taken by the International Labour Organisation and especially the adoption, at its thirty-fourth session, of a convention to give effect to the principle of equal pay for equal work,

Noting that the States Members of the International Labour Organisation have undertaken to act promptly on decisions of the International Labour Conference,

Urges Member States which are not members of the International Labour Organisation to take or promote such legislative or other measures as may be required to give effect to the principle of equal pay for equal work.

SECTION III

GENERAL ASSEMBLY

(*Sixth Session*)

In resolution 532 A (VI) adopted at its sixth session, the General Assembly requested the Economic and Social Council to reconsider its decision that the Commission on the Status of Women should meet only biennially. The text of this resolution reads as follows:

The General Assembly,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights affirm the principle of equal rights of men and women, and aim to promote respect for human rights and fundamental freedoms for all without distinctions as to sex,

Considering that the terms of reference of the Commission on the Status of Women, as defined by the Economic and Social Council at its second session (resolution 11 (II) of 21 June 1946) are "to prepare recommendations and reports to the Economic and Social Council on promoting women's rights in political, economic, social and educational fields" and to "make recommendations to the Council on urgent problems requiring immediate attention in the field of women's rights",

Considering that during the past five years the Commission on the Status of Women held five sessions and that the value of its work has been proved by the fact that the Economic and Social Council has adopted numerous recommendations made to it by the Commission,

Considering that the recommendations of the Commission since its creation have served in many countries as a basis for the activities of non-governmental organizations working for the improvement of the status of women,

Considering that the task of the Commission is not yet completed since the principle of equal rights for men and women has not yet achieved universal recognition, and that in many countries women have not yet been granted equal rights with men,

Considering that the Commission is at present engaged in important studies and has important commitments in carrying out its tasks,

Considering that to enable it to pursue these tasks without undue delay it is important that the Commission should continue to hold yearly sessions,

Resolves to request the Economic and Social Council to reconsider its resolution 414 (XIII), section B, I (*g*), of 18, 19 and 20 September 1951 with a view to continuing to convene the Commission on the Status of Women for one session every year.

CHAPTER V

PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

In the light of resolution 419 (V) of the General Assembly, the Economic and Social Council decided to convene a session of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1951.[1] It was decided by the Council at its twelfth session that the Sub-Commission should meet in New York between the thirteenth session of the Council and the sixth session of the General Assembly, the date to be chosen by the Secretary-General. The Sub-Commission accordingly held its fourth session at the United Nations Headquarters in New York from 1 to 16 October 1951.

At this session the Sub-Commission revised the draft resolutions on definition of minorities and on interim measures for the protection of minorities which it had drafted at its third session. It made several recommendations to the Commission on Human Rights in connexion with its work on the draft Covenant on Human Rights. It also recommended a programme for the United Nations to carry into effect in pursuing its work in the field of prevention of discrimination and protection of minorities. These decisions and recommendations of the Sub-Commission, together with those taken by the Economic and Social Council at its thirteenth session and by the General Assembly at its sixth session in the field of prevention of discrimination and protection of minorities, are described in the following sections.

SECTION I

ECONOMIC AND SOCIAL COUNCIL

(Thirteenth Session)

At its thirteenth session the Economic and Social Council discussed the question of the future of the Sub-Commission on Prevention of Discrimination and Protection of Minorities in connexion with the report of the *ad hoc* Committee on the Organization and Operation of the Council and its Commissions. The *ad hoc* committee had recommended that the Sub-Commission be discontinued and its work be taken over by the Commission on Human Rights.

The Council decided in resolution 414 B I (XIII) to discontinue the Sub-Commission until 31 December 1954, its work being taken over by the Council, the Commission on Human Rights, the Secretary-General or *ad hoc* bodies as appropriate. The Council also requested the Secretary-General to conduct an inquiry among the Member States as to the lines along which the Council might be called upon to continue its work in the field of prevention of discrimination and protection of minorities, and after consulting with the specialized agencies, particularly UNESCO, to report to a session of the Council in 1952 on the results of his inquiry, on his own suggestions and on any that might be formulated by the Sub-Commission at its fourth session.

[1] See *Yearbook on Human Rights for 1950*, p. 495.

SECTION II

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES

(Fourth Session)

In resolution 303 F (XI) the Economic and Social Council had requested the Secretary-General to invite governments to furnish examples of legislation, court decisions and other types of action concerning prevention of discrimination and protection of minorities within their jurisdiction. Replies were received from thirty-eight governments.[2] These replies were before the Sub-Commission at its fourth session, together with an analysis prepared by the Secretary-General (E/CN.4/Sub.2/132).

The Sub-Commission reconsidered and made some minor changes in the draft resolution on definition of minorities which it had adopted at its third session.[3] It decided to substitute the word "preserve" for the word "develop" in section 4 (*b*) of the draft resolution, to delete the opening words "the members of" from section 4 (*c*), and to delete section 2 and substitute the following text:

"Recognizing, however, the special factor that among the minority groups not requiring protection are such groups as:

"(*a*) Those numerically inferior to the rest of the population, although the dominant group therein; and

[2] Afghanistan, Argentina, Belgium, Byelorussian Soviet Socialist Republic, Ceylon, Colombia, Denmark, Ecuador, Egypt, Finland, France, Federal Republic of Germany, Guatemala, Honduras, Hungary, Iceland, India, Ireland, Italy, Japan, Jordan, Lebanon, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Pakistan, Philippines, El Salvador, Saudi Arabia, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom, United States of America, Yemen and Yugoslavia (E/CN.4/Sub.2/122 and addenda).

[3] See *Yearbook on Human Rights for 1950*, p. 490.

"(*b*) Those seeking complete identity of treatment with the rest of the population, in which case their problems are covered by those articles of the Charter of the United Nations, the Universal Declaration of Human Rights and the draft International Covenant on Human Rights that are directed towards the prevention of discrimination."

The Sub-Commission also revised the draft resolution on interim measures for the protection of minorities which it had adopted at its previous session,[1] taking into account the amendments suggested by the *ad hoc* Committee on Prevention of Discrimination and Protection of Minorities established by the Commission on Human Rights at its sixth session, and amendments proposed by members of the Sub-Commission. It was decided, *inter alia*, to add the phrase "in those cases where the member of the minority group does not speak or understand the language ordinarily used in the courts" to section 1 of the first operative paragraph of the draft resolution, and to insert the phrase "with due regard to the requirements of educational efficiency" after the opening words "the teaching of State-supported schools of languages of such groups" in section 2 of the same operative paragraph.

Concerning the question of classification of minorities, the Sub-Commission considered the report of the committee which it had appointed at its third session to improve upon the classification of minorities contained in the Secretary-General's memorandum (E/CN.4/Sub.2/85). The Sub-Commission decided to refrain at that stage from classifying minorities in greater detail than was afforded by its definition of minorities.

Turning to the question of prevention of discrimination, the Sub-Commission had before it, for information, a statement by experts on problems of race issued by UNESCO on 18 July 1950 (E/CN.4/Sub.2/121) and a memorandum on activities of UNESCO in the field of prevention of discrimination and protection of minorities (E/CN.4/Sub.2/121/Add.1). The Sub-Commission adopted a resolution recommending that the Commission on Human Rights draw the attention of the Economic and Social Council and the General Assembly to the activities of UNESCO in this field and particularly to the on-the-spot investigations carried on by UNESCO, such as those which had been conducted in Brazil.

The Sub-Commission considered the problem of discrimination practised against persons born out of wedlock and decided to recommend to the Commission on Human Rights the amendment of the texts of articles 1 and 26 of the draft Covenant on Human Rights to include reference to persons born out of wedlock.

The Sub-Commission examined the provisions of the draft Covenant relating to, or affecting, prevention of discrimination and protection of minorities. Recognizing that discrimination exerted its most powerful, insidious and often times irreparable harm in the sphere of economic, social and cultural rights, the Sub-Commission adopted a resolution recommending that a general provision forbidding discrimination in regard to these rights should precede their formulation.

The Sub-Commission also decided to recommend to the Commission on Human Rights that the draft Covenant include a provision formally condemning incitement to violence against any religious group, nation, race or minority. It submitted the following text for the consideration of the Commission:

"Any advocacy of national, racial or religious hostility that constitutes an incitement to violence shall be prohibited by the law of the State."

The Sub-Commission considered it desirable to undertake studies on definition and protection of political groups and on injuries suffered by groups through the total or partial destruction of their media of culture and their historical monuments, but since it might not be able to carry out these tasks in view of the decision of the Economic and Social Council in resolution 414 B I (XIII), it decided to recommend that these studies be placed on the agenda of the Commission on Human Rights.

The Sub-Commission made a number of suggestions as to a programme of future work to be undertaken by the United Nations in the field of prevention of discrimination and protection of minorities. It suggested, in addition to the various recommendations already noted above, that the future work of the United Nations should include, as part of the general implementation of the international covenant on human rights, an appropriate body for securing prevention of discrimination and protection of minorities, with the following functions: (*a*) to seek a solution of urgent and important problems in these fields; (*b*) to draw to the attention of the Secretary-General of the United Nations any matter concerning prevention of discrimination or protection of minorities which in its opinion may threaten international peace and security; (*c*) to co-operate with interested governements in regard to the evaluation of measures for prevention of discrimination and protection of minorities, through the appointment of commissioners or special commissions; (*d*) to co-operate with governments, UNESCO and inter-governmental and non-governmental organizations in scientific and educational activities designed to combat prejudice which hampers prevention of discrimination and protection of minorities.

The Sub-Commission also suggested that the Economic and Social Council recommend to States Members of the United Nations (1) that they incorporate in any appropriate international instrument to which they may become parties adequate safeguards against violation of the principle of non-discrimination as set forth in the Charter and in the Universal Declaration

[1] *Ibid.*, p. 492.

of Human Rights; (2) that in the preparation of international treaties establishing new States, or new boundary lines between States, special attention should be paid to the protection of any minorities which may be created thereby; (3) that they review their national legislation and administrative practices with a view to abolishing all discriminatory measures and of taking effective measures for the protection of minorities; and (4) that they encourage the establishment of national and local committees to study and survey the extent to which discriminatory measures may exist in law or in fact within their respective jurisdictions and to recommend means of eliminating such discrimination. The Sub-Commission also recommended that the Council arrange for the preparation of an international convention for the protection of minorities.

The Sub-Commission considered the decision of the Economic and Social Council at its thirteenth session to discontinue the Sub-Commission. It adopted the following resolution:

Resolution on decision of the Economic and Social Council to discontinue the Sub-Commission on Prevention of Discrimination and Protection of Minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Noting that the Economic and Social Council at its thirteenth session decided to discontinue the Sub-Commission until 31 December 1954 (resolution 414 (XIII));

Recalling that the terms of reference of the Sub-Commission are (E/1371, paragraph 13):

"1. To undertake studies, particularly in the light of the Universal Declaration of Human Rights, and to make recommendations to the Commission on Human Rights concerning the prevention of discrimination of any kind relating to human rights and fundamental freedoms and the protection of racial, national, religious and linguistic minorities; and

"2. To perform any other functions which may be entrusted to it by the Economic and Social Council or the Commission on Human Rights."

Recalling that the General Assembly (resolution 217 C (III)) the Economic and Social Council (resolution 191 (VIII)), and the Commission on Human Rights (document E/1371, paragraph 13) have requested the Sub-Commission to "make a thorough study of the problem of minorities, in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities;"

Pointing out that the Sub-Commission has functioned since its establishment under the limitations that its sessions were repeatedly postponed, cancelled or shifted about the calendar without regard to the rhythm of its work; and that each of its four sessions was of less than three weeks' duration;

Recalling that despite these handicaps the Sub-Commission has been able to forward a number of recommendations to the Commission on Human Rights, including many which have been acted upon,[1] and others which are awaiting consideration by the Commission or the Economic and Social Council;

Recalling further that the Sub-Commission requested the Secretary-General to prepare numerous technical studies relating to prevention of discrimination and protection of minorities, many of which have upon completion proved of general interest and value;[2]

[1] Among the recommendations so acted upon, the following are cited as examples:

(*a*) The Sub-Commission drafted a text relating to the term "prevention of discrimination" which was approved by the Commission on Human Rights (E/600, para. 39);

(*b*) The Sub-Commission prepared detailed recommendations for the inclusion of texts relating to prevention of discrimination and protection of minorities in the Universal Declaration of Human Rights (E/CN.4/52, section I), which were considered by the Commission on Human Rights (E/600, chapter 8, para. 34), and in the International Covenant on Human Rights (E/351, annex, draft resolution III, and E/358, chapters VIII and IX), which are awaiting consideration;

(*c*) The Sub-Commission made detailed recommendations as to educational programmes in the field of prevention of discrimination (E/CN.4/52, section VII and E/358, annex, draft resolution II) which were accepted in substance by the Commission on Human Rights and the Economic and Social Council, and which led to close co-operation between the United Nations and UNESCO in this field (resolution 116 B (VI) of the Economic and Social Council and E/1681, annex IV, draft resolution VII);

(*d*) The Sub-Commission made a recommendation on the method of securing thorough and precise information from governments on prevention of discrimination and protection of minorities; this was adopted by the Commission on Human Rights (E/1681, annex IV, draft resolution VI) and the Economic and Social Council (resolution 303 F (XI)), and has induced thirty-eight governments to provide information on these subjects (E/CN.4/Sub.2/122 and Adds.1 to 37).

[2] Among these are: Provisions of national Constitutions concerning the prevention of discrimination and protection of minorities (E/CN.4/Sub.2/4); International protection of minorities under the League of Nations (E/CN.4/Sub.2/6); The main types and causes of discrimination (E/CN.4/Sub.2/40/Rev.1); Definition and classification of minorities (E/CN.4/Sub.2/85); Suggested studies on the problem of minorities (E/CN.4/Sub.2/89); Contribution of the Convention on the Prevention and Punishment of the Crime of Genocide to the prevention of discrimination and protection of minorities (E/CN.4/Sub.2/80); Memorandum on the draft International Covenant on Human Rights (E/CN.4/Sub.2/131); Analysis of information from governments relating to prevention of discrimination and protection of minorities (E/CN.4/Sub.2/132); Memorandum on prevention of discrimination and denial of fundamental freedoms in respect of political groups (E/CN.4/Sub.2/129); Memorandum on the position of persons born out of wedlock (E/CN.4/Sub.2/125); Memorandum on the procedure for the international protection of minorities in Upper Silesia (1922–1937) (E/CN.4/Sub.2/126); Memorandum on treaties and international instruments concerning the protection of minorities (E/CN.4/Sub.2/133); Memorandum on the principle of non-discrimination as applied in the Convention relating to the status of refugees (E/CN.4/Sub.2/135); Study of the legal validity of the undertakings concerning minorities (E/CN.4/367 and Add.1).

Considering that the knowledge and experience which the Sub-Commission has gained during its four sessions should not be cast aside;

Considering that a body of independent experts constitutes a suitable forum for the discussion of these problems;

Considering that the existence of the Sub-Commission has made it possible for persons from a larger number of countries and regions to participate in the effort of the United Nations directed toward prevention of discrimination and protection of minorities than would otherwise have been possible;

Considering that discontinuance of the Sub-Commission creates the impression that the struggle against discrimination and for the protection of minorities has been weakened, or at least that insufficient regard is being paid to the importance which those problems have in the eyes of a large number of people throughout the world, as has been emphasized by representatives of non-governmental organizations having consultative status;

Emphasizing the paramount importance of full realization and implementation of the principle of non-discrimination, as set forth in the Charter of the United Nations and in the Universal Declaration of Human Rights, which in the opinion of the Sub-Commission should be a primary objective in the work of all organs and agencies of the United Nations;

Considering that prevention of discrimination and protection of minorities are two among the most important items of constructive work undertaken by the United Nations;

Considering that these are exceedingly complex and delicate questions, as the General Assembly already has recognized in its resolution 217 C (III);

Considering that the Commission on Human Rights has an overloaded agenda and would be assisted in its work in the field of prevention of discrimination and protection of minorities if precise proposals and recommendations were formulated for its consideration by a subsidiary body;

Considering that in the thirteenth session of the Economic and Social Council there was an almost even division of opinion in respect of the proposal to discontinue the Sub-Commission;

A

Requests the Commission on Human Rights to recommend that the Economic and Social Council reconsider its decision to discontinue the Sub-Commission so as to ensure that the functions of prevention of discrimination and protection of minorities are carried out by a body of independent experts appropriate to the purpose.

Noting, however, that neither the Commission on Human Rights nor the Economic and Social Council is scheduled to convene before the sixth session of the General Assembly;

B

Requests the Secretary-General to convey directly to the General Assembly, in connexion with its discussion during its sixth session of the Report of the Economic and Social Council, the deep regret of the Sub-Commission that it will not be able to continue its work on the study called for in resolution 217 C (III) of the General Assembly, at least until 31 December 1954.

SECTION III

GENERAL ASSEMBLY

(*Sixth Session*)

At its sixth session the General Assembly adopted the following resolution (532 B (VI)) concerning the decision of the Economic and Social Council to discontinue the Sub-Commission on Prevention of Discrimination and Protection of Minorities:

Sub-Commission on the Prevention of Discrimination and the Protection of Minorities

The General Assembly,

Noting that at its thirteenth session the Economic and Social Council decided to discontinue the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities until 31 December 1954 (resolution 414 (XII), section B, I (*d*)),

Recalling that the functions of the Sub-Commission are:

(*a*) To undertake studies, with particular reference to the principles of the Universal Declaration of Human Rights, and to submit recommendations to the Commission on Human Rights relating to the prevention of discrimination of any kind incompatible with human rights and fundamental freedoms, and to the protection of racial, national, religious or linguistic minorities, and

(*b*) To discharge any other task which might be assigned to it by the Economic and Social Council or the Commission on Human Rights,

Noting that the General Assembly (resolution 217 C (III) of 10 December 1948), the Economic and Social Council (resolution 191 (VIII) of 9 February 1949) and the Commission on Human Rights (resolution C)[2] had asked the Sub-Commission to make a thorough study of the problem of minorities, in order that the United Nations might be able to take effective measures for the protection of racial, national, religious or linguistic minorities,

[2] See *Official Records of the Economic and Social Council, Ninth Session, Supplement No. 10*, chapter IV.

Mindful of the extreme complexity and delicacy of these questions, as recognized by the General Assembly in its resolution 217 C (III),

Emphasizing that the full application and implementation of the principle of non-discrimination recommended in the United Nations Charter and the Universal Declaration of Human Rights are matters of supreme importance, and should constitute the primary objective in the work of all United Nations organs and institutions,

Considering that the prevention of discrimination and the protection of minorities are two of the most important branches of the positive work undertaken by the United Nations,

Invites the Economic and Social Council:

(*a*) To authorize the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities to continue its work so that it may fulfil its mission, and especially to convene a session in 1952;

(*b*) To take any practical steps that may be necessary for the continuance, within the framework of the United Nations, of the work on the prevention of discrimination and the protection of minorities.

CHAPTER VI

PROCEDURES FOR DEALING WITH COMMUNICATIONS

Resolutions 275 B (X) and 304 (XI) of the Economic and Social Council amended resolutions 75 (V) and 76 (V) respectively, and introduced certain changes in the procedure for handling communications concerning human rights and the status of women.[1]

As a result of these changes the present procedure for handling communications may be outlined as follows:

(1) Writers of all communications are informed that their communications will be treated in accordance with the procedure laid down;

(2) Non-confidential lists are prepared for each session of the Commission on Human Rights and the Commission on the Status of Women, containing summaries of the communications which deal with the principles involved in the promotion of universal respect for and observance of human rights and the principles relating to the promotion of women's rights, and the identity of the authors is disclosed unless they indicate that they wish their names to remain confidential. The members of the Commissions may, on request, consult the originals of such communications;

(3) Confidential lists are prepared containing summaries of all other communications concerning human rights and the status of women and are furnished to the Commissions in private meetings without disclosing the identity of the authors except where they state that they have already divulged or intend to divulge their names or that they have no objection to their names being divulged;

(4) A copy of any communication which refers explicitly to a Member State or to territories under its jurisdiction is furnished to that State without divulging the author's identity except as provided for in the case of the confidential lists.

SECTION I

COMMUNICATIONS DEALING WITH HUMAN RIGHTS

At its seventh session the Commission on Human Rights received the two lists of communications and replies from Member States and adopted the following resolution:

The Commission on Human Rights

Takes note of the lists of communications concerning human rights prepared for its seventh session by the Secretary-General in accordance with resolution 75 (V) as amended by resolution 275 B (X) of the Economic and Social Council; and

Calls the attention of the Economic and Social Council, in its consideration of the question of petitions in connexion with the report of the seventh session of the Commission, to the fact that the Commission has been receiving communications concerning human rights since its establishment.

At its thirteenth session the Economic and Social Council took no action regarding this resolution of the Commission other than taking note of the report of the Commission as a whole in resolution 384 A (XIII).

SECTION II

COMMUNICATIONS DEALING WITH THE STATUS OF WOMEN

At its fifth session the Commission on the Status of Women appointed a Committee on Communications to consider the lists of communications which had been prepared for it in accordance with resolution 76 (V) of the Economic and Social Council as amended by resolution 304 (XI).

The Committee recommended that all communications in the non-confidential list be made available to the members of the Commission on request, and it also noted that the communications represented an encouraging sign of interest among non-governmental organizations in the work of the Commission.

The report of its Committee on Communications was adopted by the Commission.

SECTION III

COMMUNICATIONS DEALING WITH THE PREVENTION OF DISCRIMINATION AND THE PROTECTION OF MINORITIES

Resolution 116 A (VI) of the Economic and Social Council gives the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities the same facilities with respect to communications dealing with discrimination and minorities as are enjoyed by the Commission on Human Rights.

At its fourth session the Sub-Commission received the two lists of communications, appointed a committee to examine the lists, and after considering the report of the committee, adopted the following resolution:

[1] See *Yearbook on Human Rights for 1950*, p. 496.

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Having considered the report of its Committee on Communications (document E/CN.4/Sub.2/139);

Takes note of the lists of communications dealing with discrimination and minorities received by the United Nations from 30 November 1949 to 11 August 1951, prepared for its fourth session by the Secretary-General under resolution 75 (V) of the Economic and Social Council as amended by resolutions 116 A (VI) and 275 B (X) (document E/CN.4/Sub.2/CR.3 and restricted document Sub.2/Communications List No. 1);

Observes with deep concern that no adequate procedure has yet been adopted by the United Nations for dealing with complaints of current violations of human rights, despite the fact that a considerable number of communications have been received since the establishment of the United Nations.

CHAPTER VII

TRADE UNION RIGHTS (FREEDOM OF ASSOCIATION)

In 1950, the Economic and Social Council had adopted at its tenth session resolution 277 (X) concerning the procedure for dealing with alleged violations of trade union rights. By this resolution, the Council had decided to accept the services of the International Labour Organisation and the Fact-Finding and Conciliation Commission on Freedom of Association, and to forward to the Governing Body of the International Labour Office for its consideration as to referral to the Commission all allegations regarding infringement of trade union rights against member States of the International Labour Organisation, as well as, with the prior consent of the government concerned, such allegations against Members of the United Nations which are not members of the International Labour Organisation as the Council might consider suitable for transmittal.[1] In 1951 this procedure was applied by the Economic and Social Council and by the competent organs of the International Labour Organisation in dealing with communications alleging violation of trade union rights.

SECTION I

ECONOMIC AND SOCIAL COUNCIL

1. *Twelfth Session*

At its twelfth session, the Council had before it several communications alleging that trade union rights were being infringed in various countries (E/1882/Add.1 and 2, E/1922 and Add.1, E/1992 and Add.1). The decisions which the Council took regarding these communications were set forth in resolution 351 (XII) which it adopted on 28 February 1951.

The Council decided to forward to the Governing Body of the International Labour Office, in accordance with its resolution 277 (X), communications relating to States members of the International Labour Organisation.[2] Exception was made, however, in respect of a communication from the World Federation of Trade Unions and other communications protesting against the closing of the headquarters of that organization in Paris. No action was taken by the Council with respect to these communications.

Since the communication from the Union des Syndicats Confédérés du Cameroun, concerning allegations of violations of trade union rights in the Camerouns under French administration (E/1882, VII), was already before the Trusteeship Council, the Economic and Social Council requested the Secretary-General to report to it on the action taken by the Trusteeship Council.

With regard to allegations concerning violations of trade union rights in the Soviet Union which is not a member of the International Labour Organisation, the Council requested the Government of that State to reply, not later than the thirteenth session of the Council, to the request addressed to it by the Secretary-General under the terms of paragraph (*c*) (i) of resolution 277 (X) with reference to the communication from the International Confederation of Free Trade Unions (E/1882, part IV). It also invited the Secretary-General to report to the Council at its thirteenth session concerning the reply received from the Soviet Union.

Allegations concerning violations of trade union rights in the territory of States members neither of the United Nations nor of the International Labour Organisation had been received from the Union General de Trabajadores de España en el exilio (E/1882, I) with respect to Spain, from the Confédération Générale du Travail (E/1882, VI) with respect to Japan, and from the International Confederation of Free Trade Unions (E/1882/Add.1) with respect to Romania. The Council decided to bring these allegations to the attention of the governments and authorities concerned, as well as the provisions of resolution 277 (X) under which allegations regarding infringements of trade union rights may be referred for examination to the Fact-Finding and Conciliation Commission on Freedom of Association, and to invite those governments and authorities to submit their observations thereon. The Council also invited the Secretary-General to report to the Council on the circumstances in which the procedure laid down in Council resolution 277 (X) would be applicable to the above-mentioned communications, having regard to the replies of the governments and authorities concerned.

Finally, the Council requested the Secretary-General to transmit to it, in the future, only such communications from governments or trade union or employers'

[1] See *Yearbook on Human Rights for 1950*, pp. 498–499.

[2] Communications received from *De Metaal* concerning the Netherlands (E/1882, II), from the Pancyprian Federation of Labour concerning Israel (E/1882, VIII), from the International Confederation of Free Trade Unions concerning Czechoslovakia (E/1882, Add.1) and Hungary (E/1882, Add.1), and from the Union internationale des syndicats des transports terrestres et aériens of Bucharest concerning Argentinia (E/1882/Add.2, III).

organizations concerning infringements of trade union rights which reached him not less than seven weeks before the date of the first meeting of the session.

2. *Thirteenth Session*

At its thirteenth session, the Council had before it a note by the Secretary-General (E/2025 and Add.1) on the various matters on which he had been requested to report in the above-mentioned resolution.

With respect to the allegation that trade union rights had been violated in the Cameroons under French administration, the Secretary-General reported that the Trusteeship Council, having regard to the recent amendment of the Labour Code for Overseas France, had considered that "none of the cases cited could be regarded as obstructing trade union rights". The Trusteeship Council decided that, under these circumstances, it was not called upon to take any further action on this question.

The Secretary-General also reported that, as yet, he had received no replies to the communications sent to the Governments of the Union of Soviet Socialist Republics, Spain and Romania, and the competent authorities of Japan.

As all the new communications alleging infringements of trade union rights (E/1990 and Addenda 1 to 22) concerned States members of the International Labour Organisation, the Council decided, upon the proposal of its Agenda Committee, to refer the item "allegations regarding infringements of Trade Union Rights" to the International Labour Organisation, without preliminary discussion.

The questions of trade union rights and of the ILO Fact-Finding and Conciliation Commission on Freedom of Association were also discussed at this session when the annual report of the International Labour Organisation (E/2050 and Add.1) was considered.[1] Appreciation was expressed of the difficulty, pointed out by the Director-General of the ILO, that the consent of the government concerned must be secured before an allegation can go before the Commission, and no government had as yet given that consent. Members of the Council welcomed the statement of the Director-General that the possibility of improving the procedure relating to the treatment of such allegations was being investigated, and that progress has been made in settling certain cases by agreement without reference to the Commission.

SECTION II

ACTIONS TAKEN BY THE INTERNATIONAL LABOUR ORGANISATION

113th session of the Governing Body (November 1950)

In accordance with the procedure defined by the Governing Body of the International Labour Office in January 1950 (110th session) eighteen communications relating to infringements of trade union rights, directly addressed to the ILO or referred to it by the Economic and Social Council (eleventh session), have been submitted to the officers of the Governing Body for preliminary examination.[2]

With regard to a communication concerning Spain, directly sent to the ILO by the Union General de Trabajadores de España en el exilio, the officers of the Governing Body considered that no action could be taken in view of the fact that there is no provision in the arrangements made between the Governing Body and the Economic and Social Council applying to complaints concerning States (such as Spain) which are not members either of the ILO or of the United Nations.[3]

With regard to most parts of the other complaints,[4] the officers of the Governing Body decided to bring the allegations to the attention of the governments concerned, and to ask them for their observations on the matter.

114th, 115th, and 116th sessions of the Governing Body

The question of safeguarding trade union rights was not taken into consideration at the 114th session of the Governing Body. At its 115th session (June 1951), the members of the Governing Body discussed certain propositions of the Director-General concerning the improvement of the procedure[5] for preliminary examination of complaints alleging infringements of trade union rights. Decisions on the matter were postponed to the 117th session of the Governing Body.

117th session of the Governing Body (November 1951)

At its 117th session, the Governing Body made changes in its own internal procedure for preliminary examination of complaints under the arrangements approved by the International Labour Conference and the United Nations.[6] It was decided to establish a Committee of nine of the members of the Governing Body, including the officers of this Body when available, to undertake the duty of preliminary examination of the complaints. Provisions were made to ensure that this preliminary examination take place in an atmosphere free from prejudices or influence in favour of any interested parties. It was also decided that in the

[1] See plenary meetings 510 and 512.

[2] See appendix XI of the fifth report of the ILO to the United Nations, 1951.

[3] *Ibid.*, pp. 255 and 259.

[4] See the detailed report of these decisions on pages 255–261 appendix XI of the fifth report of the ILO to the United Nations.

[5] See an exposé of this procedure, established at the 110th session of the Governing Body, in the *Yearbook on Human Rights for 1949*, pp. 293–295 and 380.

[6] See the sixth report of the ILO to the United Nations, chapter I, pp. 47–49.

future the Director-General should, unless he considers that there are special circumstances which make it desirable to refer the matter in the first instance to the Committee, communicate all allegations to governments as soon as they are received, and ask the governments whether they have any preliminary observations to make. The Committee would be expected to report to the next session of the Governing Body that a case does not call for further examination by the Governing Body if the Committee finds, for example, that the alleged facts, if proved, would not constitute an infringement of the exercise of trade union rights; or that the allegations made are so purely political in character that it is undesirable to pursue the matter further; or that the allegations made are too vague to permit a consideration of the case on its merits; or that the complainant has not offered sufficient evidence to justify reference of the matter to the Fact-finding and Conciliation Commission. When the Committee, after such preliminary examination, concludes a case warrants further examination, it is to report this conclusion to the Governing Body for determination as to the desirability of attempting to secure the consent of the government concerned to the reference of the case to the Fact-finding and Conciliation Commission. In every case in which the government against whom the complaint is made has refused consent to reference to the Fact-Finding and Conciliation Commission or has not within four months replied to a request for such consent, the Committee is to include in its report to the Governing Body recommendations as to the "appropriate alternative action" which the Committee may believe the Governing Body might take under the approved procedure.

CHAPTER VIII

FORCED LABOUR

It may be recalled that at the eleventh session of the Economic and Social Council a proposal was jointly made by the United Kingdom and United States delegations for the establishment of an *ad hoc* Committee on Forced Labour, but the Council did not discuss the proposal in detail.[1] At its twelfth session, the Council resumed consideration of the proposal and, after some discussion, adopted resolution 350 (XII) by which it invited the International Labour Organisation to co-operate with it in the early establishment of an *ad hoc* Committee on Forced Labour to be composed of not more than five members to be jointly appointed by the Secretary-General of the United Nations and the Director-General of the International Labour Office. The text of the resolution is as follows:

350 (XII). FORCED LABOUR AND MEASURES FOR ITS ABOLITION

Resolution of 19 March 1951[2]

The Economic and Social Council,

Recalling its previous resolutions[3] on the subject of forced labour and measures for its abolition,

Considering the replies[4] furnished by Member States to the communications addressed to them by the Secretary-General in accordance with resolutions 195 (VIII) and 237 (IX),

Taking note of the communications[5] 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,[6]

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 and 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,

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 result 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.

The Secretary-General, in consultation with the Director-General of the International Labour Office, appointed three members[7] to constitute the *ad hoc* Committee on Forced Labour.

The Committee held its first session in Geneva from 8 to 27 October 1951. During this session, the Committee took a number of important decisions concerning its future work. It interpreted its terms of reference to include a survey and thereafter a study of systems of forced labour imposed with a view to correcting the political opinions of those who differed from the ideology of the government of the State for the time being. The Committee also decided that its terms of reference would cover persons forced to work for the fulfilment of the economic plans of a State, their work being of such a nature as to lend a large decree of economic

[1] See *Yearbook on Human Rights for 1950*, p. 500.

[2] See 476th meeting of the Council.

[3] See Council resolutions 195 (VIII) and 237 (IX).

[4] See documents E/1337 and Addenda 1 to 6 inclusive and 8 to 33 inclusive.

[5] See documents E/1671 and E/1884.

[6] See International Labour Office, *Conventions and Recommendations, 1919–1949*, Geneva, p. 168.

[7] Sir Ramaswami Mudaliar (India), Mr. Paal Berg (Norway) and Mr. Felix Fulgencio Palavicini (Mexico). Sir Ramaswami was elected as Chairman and Rapporteur.

assistance to the State in carrying out such economic plans.

The Committee drafted a questionnaire to be transmitted to the governments of all States whether Members or non-members of the United Nations or of the International Labour Organisation. The questionnaire included (*a*) questions concerning punitive, educational or corrective labour, and (*b*) questions concerning other cases of compulsion for work. Governments were requested to reply before 1 April 1952 regarding their metropolitan, Trust and Non-Self-Governing Territories, central State administrations, and regional or local authorities.

Non-governmental organizations having consultative status with the Economic and Social Council or a similar status with the International Labour Organisation were invited to notify the Committee if they wished to be heard and questioned by it, and, where appropriate, to submit documentary material and information relating to the Committee's terms of reference as it had interpreted them. They were also asked to specify the points on which they wished to be heard and questioned and the nature of the documentary material they wished to submit. The Committee authorized the Chairman, on the basis of these memoranda, to decide which organizations should then be invited to send representatives or to transmit documentary information. The Committee also considered that other organizations and individuals should have the opportunity, subject to the same conditions, of transmitting documentary material and of expressing the wish to be heard.

The Committee delegated authority to its Chairman to appoint and define more specifically the duties of regional consultants in the interval between the Committee's first and second sessions. It decided to hear and question representatives of non-governmental organizations at its second session, but took no decision concerning the examination of witnesses and the possibility of on-the-spot investigations. The Committee defined the tasks in collecting information and in research which it wished the Secretariat to undertake between two sessions.

The Committee decided to hold its second session at the United Nations Headquarters in New York from 26 May to 3 July 1952.

CHAPTER IX

SLAVERY

In pursuance of Council resolution 307 (XI)[1] the *ad hoc* Committee on Slavery held its second and final session at United Nations Headquarters in New York from 2 to 27 April 1951. The Committee had before it the replies of sixty-four governments[2] to the Questionnaire on Slavery and Servitude circulated under Council resolution 276 (X). It also had before it various statements submitted by non-governmental organizations, research institutions, missionary and church organizations and private individuals.

In trying to evaluate the nature and extent of practices of slavery and servitude under Council resolution 238 (IX), the Committee found that, in some cases, the information furnished by governments conflicted with that received from unofficial sources. As the information from such sources could not be verified the Committee felt that it could not put it forward as its own. It decided, therefore, that it could go no further with the survey than to submit to the Council the replies from governments to the Questionnaire, together with its comments thereon. Nevertheless, each of the members of the *ad hoc* Committee prepared a report summarizing his conclusions regarding the existence of slavery or other forms of servitude in a particular region of the world which was well known to him. The Committee itself did not consider these reports (E/AC.33/R.11, 12, 13, and 14) but decided to draw the attention of the Council to them without assuming any collective responsibility for their contents.

One of the recommendations put forward by the Committee for the consideration of the Council was that the definition contained in article I of the 1926 Slavery Convention should continue to be accepted as an accurate and adequate international definition of slavery and the slave trade. It also prepared a draft protocol to the 1926 Slavery Convention under which the United Nations would assume the functions and powers formerly exercised by the League of Nations under that Convention. The Committee further recommended that the Council set up a drafting committee to prepare a new supplementary convention on slavery and other forms of servitude embodying certain principles which it described in some detail. The Committee drafted recommendations which might be made to governments regarding legislative and administrative measures for the abolition of slavery and similar customs. It proposed that a standing body of experts should be established by the United Nations to study and report to the Council on measures taken to eliminate slavery. It further recommended that the Secretary-General and the governments concerned organize, within the framework of the United Nations, regional conferences and seminars among peoples of common cultural backgrounds living in areas where slavery or other forms or servitude are reported to exist, to discuss and review their various problems.

The Council considered this report (E/1988) at its thirteenth session. The majority of its members considered that the available material on slavery was not at present in such form as to allow the Council to act. In the light of these views, the Council adopted resolution 388 (XIII), which reads as follows:

The Economic and Social Council

1. *Takes note* of the report submitted by the *ad hoc* Committee on Slavery appointed by the Secretary-General in accordance with Council resolution 238 (IX), together with the ancillary memoranda prepared individually by the members of the Committee;

2. *Expresses its thanks* to the members of the *ad hoc* Committee for their work;

3. *Notes*, however, that the material is not at present in such a form as to allow the Council to act upon it at this session; and

4. *Requests* the Secretary-General to obtain such information, including information from governments, as is necessary in order to supplement the material presented by the Committee, to examine the Committee's report and recommendations in the light of that information, of the documentation already assembled by the Committee, and of the discussions on this subject during the thirteenth session of the Council, and to report thereon to the Council as soon as practicable, indicating what action the United Nations and specialized agencies could most appropriately take in order to achieve the elimination of slavery, the slave trade and forms of servitude resembling slavery in their effects.

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[1] See *Yearbook on Human Rights for 1950*, p. 502.

[2] E/AC.33/10/Adds.1 to 63. Additional replies were received later, but too late to be considered by the Committee.

CHAPTER X

REFUGEES AND STATELESS PERSONS

SECTION I

CONVENTION RELATING TO THE STATUS OF REFUGEES

1. *United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons*

In accordance with General Assembly resolution 429 (V),[1] a Conference of Plenipotentiaries met in Geneva from 2 to 25 July 1951 in order to complete the drafting of and to sign both the Convention relating to the Status of Refugees and the Protocol relating to the Status of Stateless Persons. Twenty-six States were represented by delegates at the Conference, while two others were represented by observers.[2] The United Nations High Commissioner for Refugees also participated, without the right to vote.

In the drafting of the Convention relating to the Status of Refugees, the Conference of Plenipotentiaries devoted particular attention to the definition of the term "refugee". It decided that the term should cover (1) persons who have been considered refugees prior to the Second World War; (2) persons considered to be refugees under the Constitution of the International Refugee Organization; and (3) persons who have become refugees as a result of events occurring before 1 January 1951. The definition was based on a recommendation submitted to the Conference by the General Assembly.[3] The main modification consisted in the addition to the clause excluding from the benefit of the Convention persons receiving protection or assistance from organs or agencies of the United Nations other than the Office of the High Commissioner for Refugees, of a provision whereby such persons would be *ipso facto* entitled to the benefit of the Convention if such protection should cease without their position being definitively settled. With regard to persons in category (3), the Conference decided that latitude should be given to each contracting State to specify at the time of signature, ratification or accession whether the words "events occurring before 1 January 1951" should apply to such events occurring "in Europe" or "in Europe or elsewhere".

Apart from revising a number of articles contained in the draft Convention submitted by the General Assembly for its consideration, the Conference drafted certain new provisions such as those concerning religion (article 4), provisional measures (article 9) and refugee seamen (article 11).

The Convention[4] was adopted on 25 July 1951. The Conference of Plenipotentiaries also adopted the following recommendations to governments: (1) that the issuance or recognition of travel documents under the Agreement on Refugee Travel Documents, dated 15 October 1946, be continued by interested governments until they had undertaken obligations under article 28 of the Convention; (2) that the unity of refugee families should be maintained and minors amongst refugees receive particular protection; (3) that the efforts of interested non-governmental organizations be encouraged and facilitated; (4) that governments continue to receive refugees in their territories; and (5) that all refugees be treated in accordance with the spirit of the Convention.

During 1951, the following States signed the Convention: Austria, Belgium, Colombia, Denmark, the Federal Republic of Germany, Israel, Liechtenstein, Luxembourg, Netherlands, Norway, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, and Yugoslavia. The Convention would come into effect on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. *The General Assembly* (Sixth Session)

By resolution 538 (VI), the General Assembly at its sixth session expressed satisfaction at the conclusion of the Convention relating to the Status of Refugees, invited Member and non-member States interested in the solution of the refugee problem to become parties to the Convention as soon as possible, and reiterated its call upon governments to co-operate with the United Nations High Commissioner for Refugees.

SECTION II

ESTABLISHMENT OF AN ADVISORY COMMITTEE ON REFUGEES

By resolution 393 (XIII) adopted at its thirteenth session, the Economic and Social Council established

[1] See *Yearbook on Human Rights for 1950*, pp. 505–506.

[2] Australia, Austria, Belgium, Brazil, Canada, Colombia, Denmark, Egypt, France, Federal Republic of Germany, Greece, Holy See, Iraq, Israel, Italy, Luxembourg, Monaco, Netherlands, Norway, Sweden, Switzerland (the Swiss delegation also represented Liechtenstein), Turkey, United Kingdom, United States, Venezuela and Yugoslavia sent delegations, while Cuba and Iran sent observers.

[3] Resolution 429 (V) of the General Assemlby.

[4] The full text of the Convention is reproduced in the annex to this chapter.

an Advisory Committee on Refugees to advise the High Commissioner for Refugees at his request in the exercise of his functions. The Council invited the following fifteen States, Members and non-members of the United Nations, to be represented on the Advisory Committee: Australia, Austria, Belgium, Brazil, Denmark, the Federal Republic of Germany, France, Israel, Italy, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the Vatican City and Venezuela.

The first session of the Advisory Committee was held in December 1951. The High Commissioner for Refugees reported on his plans and on various problems facing his Office. Topics covered in his report included, *inter alia*, the budgetary programme and the establishment of branch offices; the survey of the refugee problem; the Convention relating to the Status of Refugees; the Convention on Declaration of Death of Missing Persons; and travel documents for refugees. Two papers were presented, one on assistance to refugees and the other on problems of eligibility arising out of the statute of the Office of the High Commissioner. In connexion with the latter subject, the Advisory Committee took note of the High Commissioner's memorandum, agreed with the action taken by him in that field and expressed the hope that he would continue to work along the same lines. The rules of procedure adopted by the Advisory Committee at its first session provided that the sessions were to be convened by the High Commissioner at least once a year.

SECTION III

PROBLEMS OF ASSISTANCE TO REFUGEES

Having in mind the serious unsolved problems which would face refugees who would remain unrepatriated or who would not be resettled by the end of the operations of the International Refugee Organization and the urgency of finding solutions to these problems, the General Assembly at its sixth session adopted the following resolution on assistance to and protection of refugees, as resolution 538 B (VI):

The General Assembly,

Taking note of the communication[1] of the General Council of the International Refugee Organization on residual refugee problems and the observations[2] of the United Nations High Commissioner for Refugees contained in his report on the problem of assistance submitted in accordance with resolution 430 (V) of 14 December 1950,

Having noted the serious unsolved problems which in certain areas will face refugees who will not have been repatriated or resettled by the end of the operations of the International Refugee Organization,

Bearing in mind the urgency of finding solutions for the refugee problem, including the repatriation to their countries of origin of refugees who express the desire to return there,

1. *Authorizes* the High Commissioner, under paragraph 10 of the Statute of his Office, to issue an appeal for funds for the purpose of enabling emergency aid to be given to the most needy groups among refugees within his mandate;

2. *Recommends* all States directly affected by the refugee problem, as well as the appropriate specialized agencies and other inter-governmental agencies concerned, to pay special attention to this problem when drawing up and executing programmes of economic reconstruction and development; and requests the High Commissioner to contribute to the promotion of activities in this field, paying due regard to the desirability of repartiating to their countries of origin refugees who express the desire to return there;

3. *Appeals* to States interested in migration to give to refugees within the mandate of the High Commissioner every possible opportunity to participate in and benefit from projects to promote migration.

SECTION IV

PROBLEMS OF STATELESSNESS

1. *Draft Protocol relating to the Status of Stateless Persons*

As noted in section 1 above, the Conference of Plenipotentiaries was convened in order to complete the drafting of and to sign not only a Convention relating to the Status of Refugees, but also a Protocol relating to the Status of Stateless Persons. A draft Protocol[3] prepared by the *ad hoc* Committee on Refugees and Stateless Persons was before the Conference of Plenipotentiaries, but it was decided that the subject still required more detailed study and consequently the draft Protocol was referred back to the appropriate organs of the United Nations for further study. The matter was before the General Assembly at its sixth session, but for reasons of time consideration of the item had to be postponed until the seventh session.

2. *Elimination of Statelessness*

It may be recalled that the Economic and Social Council at its eleventh session had urged the International Law Commission to prepare at the earliest possible date the necessary draft International Convention or Conventions for the Elimination of Statelessness. In addition, the Council had made certain recommendations to States concerning the problem of statelessness and had requested the Secretary-General

[1] See *Official Records of the General Assembly, Sixth Session, Annexes*, agenda items 30 and 31, document A/1948.

[2] *Ibid., Supplement No. 19*, part III.

[3] See *Yearbook on Human Rights for 1951*, p. 518.

to invite these States to submit observations on the action taken thereon. At its twelfth session the Council, noting that only a few governments had sent replies in pursuance of the above request, decided to request the Secretary-General to address another communication to governments inviting them to submit their observations at the latest by 1 November 1951 and to include in their replies not only an analysis of legal and administrative texts but of practical application of those laws and regulations. The Secretary-General was to submit a consolidated report both to the Council and to the International Law Commission.

Meanwhile, the International Law Commission at its third session in 1951 decided that the problem of elimination of statelessness should be examined in connexion with the question of nationality, and appointed a special rapporteur on the subject of "Nationality including statelessness".

Annex to Chapter X

CONVENTION RELATING TO THE STATUS OF REFUGEES

PREAMBLE

The *High Contracting Parties*,

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1

DEFINITION OF THE TERM "REFUGEE"

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either

(*a*) "events occurring in Europe before 1 January 1951"; or

(*b*) "events occurring in Europe or elsewhere before 1 January 1951";

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (*a*) may at any time extend its obligations by adopting alternative (*b*) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(1) He has voluntarily re-availed himself of the protection of the country of his nationality; or

(2) Having lost his nationality, he has voluntarily reacquired it; or

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

(6) Being a person who has no nationality he is, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

(*a*) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(*b*) He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(*c*) He has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2

GENERAL OBLIGATIONS

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3

NON-DISCRIMINATION

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4

RELIGION

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

Article 5

RIGHTS GRANTED APART FROM THIS CONVENTION

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6

THE TERM "IN THE SAME CIRCUMSTANCES"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7

EXEMPTION FROM RECIPROCITY

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8

EXEMPTION FROM EXCEPTIONAL MEASURES

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9

PROVISIONAL MEASURES

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10

CONTINUITY OF RESIDENCE

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11

REFUGEE SEAMEN

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II

JURIDICAL STATUS

Article 12

PERSONAL STATUS

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13

MOVABLE AND IMMOVABLE PROPERTY

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14

ARTISTIC RIGHTS AND INDUSTRIAL PROPERTY

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15

RIGHT OF ASSOCIATION

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16

ACCESS TO COURTS

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER III

GAINFUL EMPLOYMENT

Article 17

WAGE-EARNING EMPLOYMENT

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:

(*a*) He has completed three years' residence in the country.

(*b*) He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;

(*c*) He has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18

SELF-EMPLOYMENT

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19

LIBERAL PROFESSIONS

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

CHAPTER IV

WELFARE

Article 20

RATIONING

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21

HOUSING

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22

PUBLIC EDUCATION

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23

PUBLIC RELIEF

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24

LABOUR LEGISLATION AND SOCIAL SECURITY

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

(*a*) In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;

(*b*) Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:

(i) There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;

(ii) National laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

CHAPTER V

ADMINISTRATIVE MEASURES

Article 25

ADMINISTRATIVE ASSISTANCE

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26

FREEDOM OF MOVEMENT

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

Article 27

IDENTITY PAPERS

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28

TRAVEL DOCUMENTS

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29

FISCAL CHARGES

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30

TRANSFER OF ASSETS

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer

assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31

REFUGEES UNLAWFULLY IN THE COUNTRY OF REFUGE

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32

EXPULSION

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33

PROHIBITION OF EXPULSION OR RETURN ("REFOULEMENT")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.

Article 34

NATURALIZATION

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI

EXECUTORY AND TRANSITORY PROVISIONS

Article 35

CO-OPERATION OF THE NATIONAL AUTHORITIES WITH THE UNITED NATIONS

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:

(*a*) The condition of refugees,

(*b*) The implementation of this Convention, and

(*c*) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 36

INFORMATION ON NATIONAL LEGISLATION

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 37

RELATION TO PREVIOUS CONVENTIONS

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

CHAPTER VII

FINAL CLAUSES

Article 38

SETTLEMENT OF DISPUTES

Any dispute between parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39

SIGNATURE, RATIFICATION AND ACCESSION

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.

2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40

TERRITORIAL APPLICATION CLAUSE

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.

2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.

3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article 41

FEDERAL CLAUSE

In the case of a Federal or non-unitary State, the following provisions shall apply:

(*a*) With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of Parties which are not Federal States;

(*b*) With respect to those articles of this Convention that come within the legislative jurisdiction of constituent states, provinces or cantons which are not, under the constitutional system of the federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of states, provinces or cantons at the earliest possible moment.

(*c*) A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42

RESERVATIONS

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16 (1), 33, 36–46 inclusive.

2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43

ENTRY INTO FORCE

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44

DENUNCIATION

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.

3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45

REVISION

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.

2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 46

NOTIFICATIONS BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

(*a*) Of declarations and notifications in accordance with section B of article 1;

(*b*) Of signatures, ratifications and accessions in accordance with article 39;

(*c*) Of declarations and notifications in accordance with article 40;

(*d*) Of reservations and withdrawals in accordance with article 42;

(*e*) Of the date on which this Convention will come into force in accordance with article 43;

(*f*) Of denunciations and notifications in accordance with article 44;

(*g*) Of requests for revision in accordance with article 45.

In faith whereof the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments,

Done at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

CHAPTER XI

MEASURES FOR THE PEACEFUL SOLUTION OF THE PROBLEM OF PRISONERS OF WAR

The *ad hoc* Commission on Prisoners of War was established by the General Assembly at its fifth session under the terms of resolution 427 (V) of 14 December 1950 for the purpose of seeking a settlement of prisoners taken in the Second World War and not yet repatriated or otherwise accounted for.[1]

Under the terms of reference the Secretary-General was requested to establish an *ad hoc* commission of three qualified and impartial persons chosen by the International Red Cross or, failing that, by the Secretary-General himself. The International Committee of the Red Cross and the International League of Red Cross Societies finding themselves unable to comply with the request of the General Assembly, the Secretary-General named as members of the Commission the following: Countess Estelle Bernadotte, widow of the late Count Folke Bernadotte, United Nations Mediator in Palestine; Mr. J. G. Guerrero, Vice-President of the International Court of Justice; and Mr. Aung Khine, Judge of the High Court of Burma.

The Commission held its first session in New York from 30 July to 15 August 1951. After careful study of its terms of reference the Commission decided that its essential task was to seek a solution of the question of prisoners of war in a purely humanitarian spirit and on terms acceptable to all governments concerned. A statement was issued by the Commission and a letter was addressed to all governments in order to make known the Commission's interpretation of its terms of reference and to establish the fact that its role was entirely non-political in character and was not one of a judicial tribunal nor of an organ of political inquiry. In the letter addressed to governments the Commission invited their full co-operation in assisting the Commission in carrying out the work entrusted to it and, more particularly, in the following ways:

(*a*) Transmission to the Commission of any information which it may deem necessary to request from the governments concerned with a view to facilitating the accomplishment of its task;

(*b*) Transmission to the Commission of any suggestion which would come within the framework of its mission as described in the preceding paragraph of this letter;

(*c*) The establishment of direct contact between the Commission and representatives of the governments concerned.

Under the terms of resolution 427 (V) the Secretary-General called upon all governments still having control of prisoners of war "to act in conformity with the recognized standards of international conduct and with the above-mentioned international agreements and conventions which require that, upon the cessation of active hostilities, all prisoners should, with the least possible delay, be given an unrestricted opportunity of repatriation and, to that end, to publish and transmit to the Secretary-General before 30 April 1951:

"(*a*) The names of such prisoners still held by them, the reasons for which they are still detained and the places in which they are detained;

"(*b*) The names of prisoners who have died while under their control, as well as the date and cause of death, and the manner and place of burial in each case."

At its first session the Commission had before it the replies of forty-eight governments to this appeal of the Secretary-General. After a preliminary examination of these replies the Commission requested certain governments to supply supplementary information.

The Commission decided to postpone a decision on invitations received from the Governments of the Federal Republic of Germany and of Japan to visit their respective countries for the purpose of examining files of information concerning prisoners of war who had not yet been repatriated.

In keeping with its decision to seek the close collaboration of the governments most immediately concerned in the problem of prisoners of war the Commission invited the Governments of the following countries to send representatives to meet with it at its second session: Australia, Belgium, France, the Federal Republic of Germany, Italy, Japan, Luxembourg, the Netherlands, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America.

[1] See *Yearbook on Human Rights for 1950*, p. 519.

CHAPTER XII

SPECIFIC QUESTIONS

SECTION I

THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Convention on the Prevention and Punishment of the Crime of Genocide came into force on 12 January 1951. During the year 1951 the Convention was ratified by Belgium, China and Denmark.

SECTION II

SUPPRESSION OF THE TRAFFIC IN WOMEN AND CHILDREN

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which was adopted by the General Assembly at its fourth session, came into force on 25 July 1951.

It may be recalled that at its sixth session the Social Commission had adopted a resolution requesting the Secretary-General to consult governments in the Far East with a view to the calling of a conference to examine the problem of combating traffic in persons in that region. The replies received from the governments concerned expressed general agreement, but indicated that until the prevailing situation in that region had been clarified the convening of the proposed conference was premature. Further action on the matter has therefore been postponed.

At its seventh session the Social Commission adopted a questionnaire relating to the suppression of the traffic in persons and of the exploitation of the prostitution of others. Governments were requested to send their reports to the Secretary-General every two years on or before 1 July.

SECTION III

PLIGHT OF SURVIVORS OF CONCENTRATION CAMPS [1]

At its twelfth session, the Economic and Social Council had before it a preliminary report prepared by the Secretary-General (E/1915) in accordance with resolution 305 (XI) by which he was requested to consider as soon as possible with the competent authorities and institutions, means for alleviating the plight of victims of so-called scientific experiments in concentration camps under the Nazi regime. In the course of the discussion, some members of the Council stated that these victims should be cared for by the governments of the States where they were living, but the majority believed that the United Nations should continue to interest itself in the matter and emphasized the need for prompt action. The Council adopted resolution 353 (XII) by which it appealed to the competent German authorities to consider making the fullest possible reparations for the injuries suffered, under the Nazi regime, by persons subjected to so-called scientific experiments in concentration camps; invited the International Refugee Organization and any authority which may succeed it in the administration of the Reparation Funds, and voluntary agencies distributing these funds, to alleviate the plight of these victims as far as possible; invited the World Health Organization to assist in the health aspects of the problem; requested the Secretary-General to study the possibility of securing such voluntary support and contributions as may appear necessary to supplement the reparations measures proposed, if they proved inadequate; and further requested him to keep himself informed of all the measures which may be taken, to seek to ensure that they provide full reparation, and to report to the thirteenth session of the Council on the result of this resolution.

The Government of the Federal Republic of Germany, in a letter dated 30 July 1951 (E/2087, annex (ii)) in reply to the request made in Council resolution 353 (XII), stated that it was prepared, in special cases of need, to afford practical assistance to such surviving victims of experiments on human beings now living abroad and persecuted on grounds of race, religion, opinions or political convictions, as are ineligible for reparation under the compensation laws in force in the *Länder* of the Federal Republic, either because they lack residential qualifications or because the time-limit for submission of applications has expired. That Government also stated that victims of experiments who are ineligible for reparation on other grounds shall not be denied assistance if their health has been permanently impaired through gross disregard of human rights, and that it was prepared, on humanitarian grounds, to provide assistance, in all cases in which such assistance was required and appeared justified.

At its thirteenth session, the Council had before it a second report by the Secretary-General (E/2087) indicating the progress that had been made in implementing resolution 353 (XII). In discussing this re-

[1] See also p. 563 of this *Yearbook*.

port, the Council again emphasized the urgency of the need for bringing help to the victims. It adopted the following resolution as resolution 386 (XIII):

The Economic and Social Council

1. *Notes* the report of the Secretary-General[1] concerning the plight of survivors of concentration camps who were the victims of so-called scientific experiments under the Nazi regime;

2. *Welcomes* the decision taken by the Government of the Federal Republic of Germany in assuming responsibility for this problem and appeals to that Government to render on the most generous scale possible the assistance which it is undertaking;

3. *Requests* the Soviet Control Commission for Germany to reply to the communication from the Secretary-General concerning this problem;

4. *Invites* the governments of States Members and non-members of the United Nations, the specialized agencies concerned and voluntary agencies to assist the Government of the Federal Republic of Germany in investigating individual cases of victims of so-called scientific experiments not residing within its territory;

5. *Invites* the occupying authorities, through the Allied High Commission for Germany and the German authorities concerned, to give sympathetic consideration to applications for the remittance of funds to victims who are now resident outside Germany;

6. *Requests* those agencies responsible for the administration and distribution of reparation funds to continue their efforts to alleviate the plight of victims;

7. *Asks* the World Health Organization to continue its valuable assistance in meeting this problem;

8. *Requests* the Secretary-General:

(*a*) To make available to the Government of the Federal Republic of Germany, as requested in its communication of 30 July 1951,[2] the information collected to date by the Secretary-General concerning the number and nature of the various cases, and to keep that Government supplied with new information as it is received;

(*b*) To inform the Government of the Federal Republic of Germany that, in the view of the Council, the investigation and certification of individual claims against that Government is a matter of primary responsibility for that Government;

(*c*) To invite the Government of the Federal Republic of Germany to inform him of the action taken with regard to the various aspects of this problem; and

9. *Reminds* the Secretary-General and the various governments, agencies and organizations concerned of the need for prompt action and positive measures in meeting this problem.

SECTION IV

RIGHTS OF THE CHILD, WELFARE OF THE AGED AND RIGHT OF ASYLUM

Questions concerning the rights of the child, the welfare of the aged and the right of asylum were on the agenda of the Commission on Human Rights at its seventh session, but for lack of time it decided to defer consideration of these items (E/1992, paragraph 95).

[1] See document E/2087.

[2] See document E/2087, annex H.

CHAPTER XIII

QUESTIONS OF HUMAN RIGHTS IN CERTAIN TERRITORIES

SECTION I

TRUST TERRITORIES

A. *Annual Reports on Trust Territories*

In the course of its eighth session (315th to 345th meetings, 30 January to 16 March 1951) held at Lake Success, New York, and its ninth session (346th to 384th meetings, 5 June to 30 July 1951) held at Flushing Meadow, New York, the Trusteeship Council considered the annual reports of eleven Trust Territories, seven in Africa, four in the Pacific area. The African Trust Territories consist of: Tanganyika, Ruanda-Urundi, Somaliland under Italian Administration, Cameroons under British and French Administration, Togoland under British and French Administration. The four Trust Territories in the Pacific area consist of: Western Samoa, Nauru, New Guinea and the Trust Territory of the Pacific Islands.

The Council adopted certain conclusions and recommendations referring to human rights, and of which the following are relevant instances.[1]

TRUST TERRITORIES IN AFRICA

Tanganyika

Political Advancement. The Council welcomed the appointment for the first time of an African to the Executive Council and expressed the hope that among the reforms arising from the report of the Constitutional Development Committee would be a further increase of African participation in executive and legislative organs. The Council noted that very few Africans were in the senior branch of the Civil Service and that it was the aim of the Administration to provide training facilities for the promotion of members of the Junior Service to the Senior Service. It recommended that increased opportunities be offered to Africans in the Junior Service and that the Administering Authority consider the provision of a comprehensive programme of specialized training either on an in-service basis or by sending a greater number of promising junior officials to institutions of higher education in the United Kingdom, East Africa or elsewhere for further training. The Council considered as sound the stress laid by the Administering Authority on the development of responsible local government institutions, and noted with satisfaction the intention of the Administering Authority to confer greater responsibilities on these institutions. It recommended that the Administering Authority accelerate the modification of indigenous tribal institutions along more democratic lines and intensify its efforts among the less developed tribes in order to avoid excessive unevenness in political development. It also urged the Administering Authority to proceed as soon as possible with the establishment of local government training facilities. The Council noted with satisfaction the successful operation of provincial councils in the Lake and Southern Highlands provinces, but took note that the setting up of further councils has been deferred pending the approval of recommendations of the Constitutional Development Committee. It expressed the hope that the geographical basis of regional councils would be determined and further councils established as soon as possible, and that the Administering Authority would encourage the progressive development of the regional council system generally. After noting with satisfaction the increase in African representation on the Dar-es-Salaam Municipal Council and considering that municipal councils could become useful instruments in fostering the growth of a more representative form of government, the Council expressed the hope that additional municipal councils would be established.

Economic Advancement. The Council noted with satisfaction the considerable increase in the amounts to be spent under the revised ten-year development and welfare plan and considered as sound the emphasis now placed upon such basic problems as communications, water supplies and natural resources. It also hoped that the Administering Authority would continue its policy of placing particular emphasis upon those projects of direct benefit to the indigenous inhabitants. It recommended that the Administering Authority study the possibility of promoting schemes for providing cheap hydro-electricity.

Considering the improvement of African agricultural methods to be of great importance for the economic future of the Territory, the Council expressed the hope that the Administering Authority would further strengthen the agricultural services, particularly those bringing directly to the farmer the benefits of scientific experimentation and improved agricultural methods. It commended the Administering Authority on its efforts to relieve population pressure in certain parts of the country by opening up areas hitherto closed to cultivation because of insufficient water supplies or the

[1] The following paragraphs are based on the Report of the Trusteeship Council to the General Assembly (A/1856).

prevalence of the tsetse fly. The Council also appreciated receiving further information on the progress under the Administration's various resettlement and development schemes. It noted with satisfaction the increase in the number of co-operative societies and in their membership, and the financial provisions in the 1951 estimates for the proposed Inter-Territorial Training Centre for Co-operative Staffs, and expressed the hope that the Administering Authority would continue to encourage this development, particularly by increasing the facilities for training Africans in the principles and techniques of co-operative enterprise.

Social Advancement. The Council appreciated the reasons given by the Administering Authority for the comparatively backward status of women in the Territory, and urged the Administering Authority to continue to take all possible steps, particularly in the educational field, to improve their status.

It noted with concern the present shortage of African urban housing, noted with satisfaction that the revised ten-year plan provides for urban housing and urged the Administering Authority to accelerate the implementation of the plan.

Noting that the expansion of the Territory's economy would result in an increase of the number of Africans employed, the Council urged the Administering Authority to pay particular attention to the provisions relating to social welfare and conditions of employment of African labourers so that the industrial development of Tanganyika will result in benefit and not in hardship to the people. It recommended that the Administering Authority pay careful attention to the wages and working conditions of inhabitants of Tanganyika employed outside the Territory, and that it make suitable arrangements for protecting their interests, including the possibility of establishing a labour advisory service for giving assistance and advice on matters relating to the terms and conditions of their employment.

The Council noted with concern that, although certain measures had been taken to reduce the number of offences for which corporal punishment might be imposed by the courts, this form of punishment still existed in the Territory. It reaffirmed the view expressed in General Assembly resolution 440 (V) that measures be taken immediately to bring about the complete abolition of corporal punishment in all Trust Territories where it still exists and the recommendation adopted by the Council at its sixth session that corporal punishment be abolished as rapidly as possible. The Council recommended that the Administering Authority give earnest consideration to the possibility of suspending the operation of the relevant provisions of the law pending their complete repeal, and in particular urged the Administering Authority to press on with the expansion of the recently established probation system as the means of securing the abolition of the caning of juvenile delinquents at the earliest possible date. The Council, noting with satisfaction the considerable increase in the expenditure for medical services, expressed the hope that there will be further budgetary increases in order to meet the need for the expansion of medical services of all kinds and, in particular, increased provision for the housing of indigenous medical staff.

Educational Advancement. The Council, noting with satisfaction the policy, objectives and increased financial provisions contained in the revised ten-year plan for African education, expressed the hope that the revised programme would be adopted and implemented if possible before the target date, having regard to the ultimate objective of the provision of education for every child in the Territory. It also took note of the increase in the number of teachers during the years under review and expressed the hope that the provisions contained in the revised ten-year plan for African education would result in an accelerated expansion of training facilities so that the lack of an adequate corps of teachers would be alleviated. The Council, noting with interest the increase to forty-two in the number of students from Tanganyika at Makerere College, considered that this number was still insufficient to meet the Territory's needs, and urged that every effort be made to increase the number of students qualified for higher education.

The Council noted with interest the plans for the establishment of broadcasting facilities at Dar-es-Salaam, and considered the usefulness of such facilities for mass education and culture. It hoped that these proposals would be implemented as rapidly as possible to provide experience for the expansion of such services in the Territory.

Ruanda-Urundi

Political Advancement. The Council, taking note of the fact that the Council of Vice-Government-General is still a consultative body, and considering that this organ might become a valuable medium for political education, recommended that the Administering Authority further explore the possibilities of developing the importance of this organ of government, and expressed the hope that the Administering Authority would soon be able to review the functions of this Council with a view to delegating to it some powers of legislation. It noted with satisfaction that in 1951 one more indigenous member and alternate were appointed to this Council, and recommended that the number of African members on this Council be further increased. The Council also noted with approval the established policy of the Administering Authority to extend the responsibilities to the indigenous authorities, with the objective of gradually transferring to them the responsibilities now discharged by the European administration. It recommended that increased opportunities be provided for the advancement of qualified Africans into the higher ranks of the European administrative service, and that to this end the establishment of a training programme for African personnel

be considered, including the possibility for specialized training abroad.

The Council noted with keen interest the proposed revision of the Ordinance on the indigenous political organization whereby electoral principles would be partially applied to the existing indigenous councils (*conseils de pays* and *conseils de chefferies*) and to indigenous councils to be established (*conseils de territoire* and *conseils de sous-chefferies*) and whereby these councils would to some extent exercise legislative powers. It considered that such reforms hold great promise of transforming the indigenous feudal political institutions of the Territory into truly representative institutions and expressed the hope that the next annual report will contain detailed information on the new system.

The Council also noted with satisfaction the greater measure of separation of political from judicial powers established by the decree of 5 July 1948.

Economic Advancement. The Council commended the Administering Authority for the measures it had adopted against famine. The Council noted that the Administering Authority fully recognized the dangers inherent in the fact that the economy of the Trust Territory is based on only a few products. It further noted with approval the steps taken by the Administering Authority during the two years under review to increase and diversify export productions and to apply scientific methods to problems of conservation and expansion of production. Commending the Administering Authority for having included two indigenous coffee growers in the management of the Office des Cafés Indigènes du Ruanda-Urundi, the Council expressed the hope that the Administering Authority will consider giving similar representation to cotton growers in the cotton organization. It also commended the Administering Authority for its decision to suspend the granting of concessions to non-indigenous agricultural settlers, and for the steps it has taken to increase the participation of indigenous merchants and artisans in the commercial activities of the Territory, and expressed the hope that the ten-year plan would soon be formulated and adopted, placing special emphasis on increasing the participation of the indigenous inhabitants, on a more responsible level, in the economic life of the Territory.

Noting that the cattle question remains one of the most urgent and difficult problems of the Territory and that the Administering Authority is giving serious attention to it, the Council urged the Administering Authority to continue to consider this matter as a major economic and social issue and to continue to study the problems of overstocking and of placing cattle-raising on an economic basis.

Social Advancement. The Council noted with satisfaction that the Administering Authority had reviewed the legislation on firearms and had eliminated from it any aspect of racial discrimination, and that it was also considering a similar revision of the legislation on the penitentiary system and on alcoholic beverages. The Council reiterated its previous recommendation that the Administering Authority continue to review all legislation involving discrimination, namely, legislation on residence and immigration.

The Council noted the fact that wages were very low, and that an ordinance of 24 April 1951 had increased the minimum salary scale by 40 per cent. Recalling its previous recommendation on the subject of wages, it recommended that the Administering Authority continue to carry out studies of the standards of living and wages of the indigenous population with a view to raising the social level of the population in these respects.

The Council, noting that a new decree concerning the re-education of juvenile delinquents had recently been promulgated, expressed the hope that it would provide for the establishment of reformatory schools for juvenile delinquents, and for the separation of children and adults in penal institutions. The Council also noted that although the Administering Authority, on 30 May 1951, decided to suppress corporal punishment as a penal sanction pronounced by indigenous tribunals, such punishment reduced to four strokes is still applicable in the Territory as a disciplinary sanction in prisons; and recommended that corporal punishment be immediately abolished.

The Council noted with satisfaction the opening of two social service centres and the adoption of recent legislation providing for the protection of the family and of the status of women. It recommended that the Administering Authority continue to take measures with a view to improving the status of women in the Territory.

Educational Advancement. The Council requested the Administering Authority to provide in future annual reports further information on chapel schools and simple reading schools and, recalling its previous recommendation on this subject, recommended that the Administering Authority establish secular official primary schools providing for a full six-year course which would prepare the children for secondary education. The Council noted with interest the emphasis placed by the Administering Authority upon the education of girls and requested the Administering Authority to include detailed information on that subject in future annual reports. The Council, considering the importance of adult education, also noted with satisfaction the increase in library facilities, the use of two mobile cinema units, and the imminent opening of a radio system, as well as the measures contemplated in the ten-year plan to combat illiteracy.

Somaliland

Political Advancement. The Council commended the Administering Authority for its achievement in the short period covered by the annual report and urged the Administering Authority to continue its efforts for

the development of the Territory in every field in order that the Territory may be prepared for independence within the time-limit prescribed by the Trusteeship Agreement.

The Council also commended the Administering Authority on the establishment of a Territorial Council and of residency councils and on its plans to establish municipal councils in the Territory, and recommended that the Administering Authority take further measures to increase the participation and the representation of the indigenous inhabitants in these organs of government and to extend constantly the powers and competence of these bodies as a means of developing the political experience of the inhabitants required for the establishment of the future independent State. It noted with approval that a School of Political Administration had been established and recommended that the Administering Authority make every effort to build as rapidly as possible a strong and efficient indigenous administration, utilizing technical and educational facilities both within and outside the Territory.

Economic Advancement. The Council, after noting that the aid of the Technical Assistance Administration of the United Nations and of the specialized agencies had been requested by the Administering Authority in the formulation of plans for the economic and social development of the Territory, and taking note of the fact that political independence would be better ensured if it were accompanied by a certain degree of economic development, recommended that the Administering Authority, with the help of the pertinent international agencies, draw up a plan for the economic development of the Territory and report on this matter to the Trusteeship Council at the earliest possible opportunity.

Cameroons under British Administration

Political Advancement. The Council noted with approval the Man-o'-War Bay scheme for training potential leaders in community development, and considered that such a scheme should assist in developing among the inhabitants a more constructive and responsible community spirit and should promote more rapid progress in the field of local government.

After taking note that there are two indigenous inhabitants of the Territory in the senior branch of the Civil Service and that the various scholarships provided had enabled twenty-one Cameroonians to pursue higher education, the Council expressed the hope that an increasing scholarship programme would result in an increasing number of Cameroonians in the senior service. It also considered the formation of the Cameroons National Federation to be a political development of importance and expressed the hope that this and similar organizations would be given every encouragement to play a constructive role in the political life of all parts of the Territory.

Economic Advancement. The Council took note of the great improvement in the economic situation of the Territory, and the particularly encouraging fact that the Territory had shown a surplus of revenue over an increased expenditure, which was largely due to the successful operation of the Cameroons Development Corporation. At the same time the Council, drawing the attention of the Administering Authority to the precarious nature of the Territory's economy in its overdependence upon a single crop, expressed the hope that the Administering Authority would intensify its efforts to establish a more diversified economy, and, in particular, recommended that the Administering Authority explore every possibility of industrial development, encourage the co-operative movement, and the use of modern and scientific methods in agriculture.

The Council noted with approval that three indigenous inhabitants of the Territory had been appointed to membership in the Cameroons Development Corporation; it expressed the hope that the Administering Authority would progressively increase indigenous participation in the Corporation as well as in other economic fields.

Social Development. The Council noted that the increase in the number of doctors, nursing staff and hospital facilities had been almost entirely due to the activities of the Cameroons Development Corporation and that therefore this expansion had primarily affected the southern part of the Territory. After noting with approval that medical field units were operating in the northern part of the Territory and that a new hospital was nearing completion at Mubi, the Council recommended that the Administering Authority make a sustained effort to improve medical and public health facilities, particularly in the north, by such means as providing more mobile medical units and local dispensaries and by training more African medical assistants.

The Council took note of the steps taken to increase wages and reduce the prices of consumer goods; it expressed the hope that it will be possible, particularly by increasing the productivity of the worker, to continue to increase real wages and to raise the standard of living in the Territory. The Council considered as encouraging the manner in which the leadership of the Cameroons Development Corporation Workers' Union had matured, and the present satisfactory labour relations of the Corporation, and expressed the hope that the influence of such responsible leadership would be increasingly extended to other labour unions.

After noting that the Administering Authority had undertaken in 1950 a further review of its position in the light of the General Assembly and Council resolutions regarding corporal punishment, and that it had stated that further progress toward its declared aim of complete abolition of this penalty would be made as rapidly as local circumstances would permit, the Council urged that measures be taken immediately to bring about the complete abolition of corporal punishment.

Educational Advancement. The Council noted with approval the expansion of the scholarships programme

for secondary and higher education due in large measure to the successful operation of the Cameroons Development Corporation and recommended that the Administering Authority provide increasing access to secondary and higher education for the growing number of qualified students from the Territory. It also noted with approval the emphasis given by the Administration to the expansion of teacher-training facilities, and in particular the opening in 1950 of an elementary teacher-training centre in the less advanced northern part of the Territory, and recommended that the programme for training indigenous teachers be extended. The Council commended the work of the Cameroons Development Corporation in the field of adult education; recommended that every possible additional means of promoting adult education be encouraged, and in this regard, noted with approval the proposal of the Administering Authority to establish a literature bureau for West Africa; and expressed the hope that, by supplying reading material for Africans, this bureau would assist them in retaining or advancing the degree of literacy achieved in school.

Cameroons under French Administration

Political Advancement. The Council noted that the Territory had a Representative Assembly which already discussed and decided certain matters, that adult suffrage had been extended and that plans for the development of regional and municipal institutions seemed well advanced. It recommended the continued extension of adult suffrage among the African population, the revision and extension of the powers and functions of the Representative Assembly and the development of democratic organs of regional government. Although noting that association of the Territory with the French Union was not without its benefits, the Council nevertheless considered that the Administering Authority should continue to preserve the separate status of the Territory with a view to its final self-government or independence.

The Council after noting with approval the Administering Authority's stated intention to enhance the powers of the Representative Assembly to a considerable extent and to modify the proportion between the European and indigenous members in favour of the latter, expressed the hope that the draft legislation now under consideration would be adopted to extend the powers of the Representative Assembly, and that in the next annual report the Administering Authority would inform the Council of the changes that had been made in the powers and functions of the Representative Assembly.

The Council took note of the increase of African and European administrative personnel. It urged the Administering Authority to undertake a more comprehensive training programme to qualify Africans for increasingly responsible positions within the government service and expressed the hope that the Administering Authority would ensure a gradual replacement of Europeans by indigenous inhabitants, especially in senior posts of responsibility.

The Council commended the Administering Authority for its action in promoting developments in local and municipal government and expressed the hope that they would be widely extended throughout the Territory, including the northern section, that all members of such governmental bodies would soon be selected through an electoral system and that these commissions would be granted wider powers of deliberation and decision.

After noting with approval the substantial increase in the number of registered voters, the Council expressed the hope that the Administering Authority would pursue its plans for progressively expanding the electorate with universal suffrage as its objective and recommended that the present dual system be superseded by a single electoral college.

Economic Advancement. Noting that the Assembly of the French Union had requested the French Government to make a study of draft legislations to define the juridical status of individual, communal and territorial real property, taking into account local customs, traditions and religions, the Council expressed the hope that the Administering Authority would be able to find a solution to this far-reaching problem, a solution which might have the full agreement of the inhabitants, and recommended that care should be taken in granting concessions to non-indigenous inhabitants so as adequately to safeguard the interest of the African population. The Council commended the Administering Authority for its policy of associating the indigenous inhabitants in the Territory's industrial development by reserving for them 50 per cent of the shares in palm oil processing plants, at the same time expressing the hope that this policy would be increasingly pursued in the future and associated with intensified training of the indigenous inhabitants in technical skills and industrial management.

Social Advancement. The Council noted its earlier expressions of concern over the low wages in the Territory, noted with approval the substantial increase in the minimum wage rates during 1950, and urged the Administering Authority to continue and extend its study of the standards of living in the Territory, review minimum wage rates at relatively frequent intervals and in general make every effort to see that wage rates continued to increase sufficiently rapidly to compensate for prevailing inflationary tendencies. It recommended that the Administering Authority take all feasible measures to ameliorate the position of women in the Territory. It noted with approval the increased effectiveness of medical services, as shown by the growing number of African doctors, and urged the Administering Authority to continue to ensure the widest possible provision of medical facilities in the Territory and to this end further intensify its efforts to train African medical personnel.

Educational Advancement. The Council considered that advances in the political, economic and social fields depend to a large degree upon the educational facilities and noted with approval the increase in the number of pupils and in the amount of funds appropriated to education, but it noted with concern the large number of children and adults still lacking knowledge of the first rudiments and expressed the hope that adequate steps would be taken to provide educational facilities at all levels with particular emphasis on progress toward the establishment of compulsory primary education. It considered that the lack of teachers constituted the greatest bottleneck to educational advancement in the Territory, and noted that the United Nations Educational, Scientific and Cultural Organization found that the training of teachers was the main educational problem in the Cameroons under French administration. It noted with approval the opening of the Nkongsamba normal school and expressed the hope that the Administering Authority would accelerate its efforts in the all-important field of teacher-training. The Council also noted with gratification that vocational schools have been or will be set up at Yaoundé, Douala, and Garua, and recommended that this work be pushed forward vigorously.

Togoland under British Administration

Political Advancement. The Council commended the Administering Authority on the promulgation of the new Gold Coast Constitution which it considered to be an important step toward full responsible government in the Trust Territory to which the Constitution has been applied. It noted with satisfaction that this Constitution will give the inhabitants of the Territory the opportunity of acquiring higher political experience and noted with approval the safeguards retained in the new Constitution. It took note of the assurance of the Administering Authority that it was not only preserving the status of the Trust Territory, but also taking particular measures to ensure that full consideration would continue to be given to the interests of the inhabitants.

The Council having noted with satisfaction that suffrage and secret ballot had been extended to Southern Togoland and that the Administering Authority hoped that it would be possible to extend suffrage to the northern part of the Territory as soon as practicable, recommended that this step be expedited and implemented as soon as possible. The Council also noted with satisfaction the appointment of an African as Commissioner for Africanization and urged that the Administering Authority continue to take necessary measures to ensure an increase of qualified Togolanders in all branches of the Civil Service, particularly in the senior branch.

Economic Advancement. The Council after noting with satisfaction the considerable progress achieved in the economic field during the period under review, commended the Administering Authority for its policy in encouraging the participation of the indigenous inhabitants in the economic development of the Territory, in particular by providing for their representation on all boards affecting their interests and by the establishment of local agricultural and rural development committees, and expressed the hope that similar committees in other economic spheres would be established. The Council further urged the Administering Authority to intensify its efforts to increase agricultural production by the indigenous farmers and to achieve greater diversification of types of production. It noted with interest the increase in the number of co-operative societies during the period under review, recommending at the same time that the Administering Authority continue to foster the development of the co-operative movement.

Social Advancement. The Council urged the Administering Authority to continue to give special attention to measures designed to improve the status of women. On the question of corporal punishment, the Council, having noted that the Administering Authority had undertaken in 1950 a further review of its position in this regard in the light of the General Assembly and Council resolutions and having noted further that it had been decided by the Executive Council of the Gold Coast that corporal punishment for adults would be abolished as a sentence of the courts, urged that measures be taken immediately to bring about the complete abolition of corporal punishment.

The Council, while appreciating the progress made in the field of health, noted the rather small number of doctors and hospitals, particularly in the Northern Section, and the present shortage of trained indigenous medical personnel, and recommended that the Administering Authority should continue to expand the medical facilities and to train the indigenous inhabitants in the various aspects of public health to meet the extensive needs of the Territory, and to seek further assistance from the United Nations specialized agencies.

It noted the need for further improvement of wages and standards of living, expressed the hope that the Administering Authority would not relax its efforts to ameliorate the living conditions of the indigenous inhabitants and reiterated its previous recommendation that the Administering Authority undertake cost-of-living studies and review its wage policies in the light of such studies.

Educational Advancement. The Council took note of the progress achieved in educational advancement during the period under review, particularly the decisions that junior primary education would be free, the plan to transfer the management of primary schools to the new local authorities to be established, the increase in primary school enrolment and the measures taken to increase educational facilities in the north. It noted further that there was a wide discrepancy between educational progress in the Northern and

Southern Sections, and that much remains to be done to achieve a satisfactory level of education throughout the Territory. It recommended that further measures be taken to meet the educational needs of the Territory, particularly in the North, and that the Administering Authority consider in this connexion the desirability of establishing government or local authority schools. The Council commended the Administering Authority on the considerable success that had attended the experimental programme for mass education begun in 1948, recommending at the same time that the programme should continue to be expanded in the South and that every effort should be made to introduce mass education into the North where it was urgently needed.

Togoland under French Administration

Political Advancement. The Council, although noting that the association of the Territory with the French Union was not without its benefits, nevertheless considered that the Administering Authority should continue to preserve the separate status of the Territory with a view to its final self-government or independence. And considering that increased participation by the indigenous inhabitants in the administration of the Territory was essential for the advance towards self-government or independence, the Council recommended that the Administering Authority increase the number of the indigenous inhabitants holding public office, especially in senior posts, and to this end continue to give them the necessary training.

The Council took note of the considerable progress which had been made in increasing the number of electors in the Territory during the period under review; it urged the Administering Authority to continue its efforts in this field, and expressed the hope that continued progress would be made towards universal suffrage.

It noted with approval that the Administering Authority had taken steps to divest administrative officers of judicial functions. It took note of the increase in the number of courts composed of indigenous judges, the extension by decree of the competence of the justices of the peace and the contemplated increase in the number of career magistrates, and recommended that the Administering Authority train sufficient indigenous career personnel to fill all posts in the judiciary.

The Council noted with satisfaction the measures taken by the Administering Authority for the successful reorganization of indigenous administration and the modification of the role of the chiefs and expressed the hope that it would be possible for the Administering Authority to assimilate the chiefs into the administrative structure and that the plans for municipal and local government would soon be implemented and progressively extended to all parts of the Territory.

Economic Advancement. The Council, having noted the efforts of the Administering Authority to increase production in the Territory as well as the satisfactory results already attained through the ten-year plan for economic development, recommended that the Administering Authority encourage active participation by the indigenous inhabitants in all aspects of the economic life of the Territory and particularly in policy-making and managerial activities. It noted that the President and Treasurer of the Chamber of Commerce must by law be French citizens and recommended that the Administering Authority consider the possibility of opening these posts to indigenous inhabitants.

The Council, after noting with disappointment that the Administering Authority's efforts to encourage co-operation had not met with success, expressed the hope that the Administering Authority would continue its efforts in this direction and recommended that it educate the indigenous inhabitants with a view to stimulating their interest in and understanding of co-operative institutions.

Social Advancement. Recalling its recommendation at the seventh session, the Council noted the statement of the Administering Authority on the question of the Labour Code and requested the Administering Authority to make this document available as soon as possible to the Council, at the same time expressing the hope that when this code is promulgated it will furnish an adequate basis for the protection of the rights and interests of indigenous labour.

The Council noted with satisfaction the extended facilities provided for the training of medical personnel at Dakar and for the acquisition by indigenous inhabitants of State diplomas in France and expressed the hope that the Administering Authority would further increase the facilities for advanced training open to the indigenous inhabitants, including the provision of scholarships and other forms of financial assistance.

Educational Advancement. The Council commended the Administering Authority on the fact that education in the Territory was free at all levels, noted with approval the intention of the Administering Authority to establish universal primary education within five years and further noted with approval that in the years under review, a substantial increase had been made in the appropriations for education, which in 1950 amounted to 15 per cent of the total budget. It noted with interest the reports of the Administering Authority on its efforts in the field of education in the local languages, which were undertaken at the Council's request, and urged the Administering Authority to continue to give as many details as possible concerning this problem in future reports.

TRUST TERRITORIES IN THE PACIFIC AREA

Western Samoa

Political Advancement. The Council, having noted the observation of the Visiting Mission as to the desirability of establishing an executive council of the Territory, and considering that the existence of such an

organ would foster the political education of the inhabitants, recommended that the Administering Authority consider the establishment of an executive council in which Samoans may participate. It took note of the increase in the number of Samoans and local European officers on duty in the Territory, and urged the Administering Authority to press forward with its training programmes in order to ensure that an increasing number of Samoans might become qualified to undertake higher responsibilities in the Administration.

The Council noted that the Legislative Assembly as established in 1948 was functioning successfully, and requested the Administering Authority to keep under constant review the possibility of introducing further reforms of benefit to the inhabitants. It commended the action of the Legislative Assembly in passing legislation to give Samoan judges on the Land and Titles Court the same legal status as the European assessors, and endorsed the view of the Visiting Mission that the Samoan principles of sharing offices and not permitting incumbents to retain them for further terms was delaying the increased participation of Samoans in judicial matters. The Council reaffirmed its view as to the importance of resolving the difficult problem of the differentiation in status between Samoans and Europeans, requesting at the same time the Administering Authority to give all possible assistance and encouragement to the inhabitants, both within and outside the Legislative Assembly to the end that an early solution may be agreed upon.

Economic Advancement. The Council congratulated the Administering Authority on the steps taken to improve various aspects of the economic situation of the Territory, noting in particular the increased activity of the newly reconstituted Department of Agriculture, the increased planting of food crops, the completion of the hydro-electric power station, the surveys of forests and agriculture and of the Apia harbour facilities, and the construction of new roads, schools and hospitals. It supported the Visiting Mission in its commendation of the use of the profits of the New Zealand Reparation Estates exclusively for the benefit of Western Samoa, and expressed the hope that surplus Estates land will continue to be made available to villages in need of it.

Social Advancement. The Council commended the Administering Authority for the progress made in the preventive and curative medical and health services. In particular, the Council noted that the pilot research investigations into tuberculosis indicated a determined effort to tackle health problems on a scientific basis. It further noted the increase in the number of Samoan students at the Central Medical School in Fiji, and urged the Administering Authority to extend its efforts to improve the medical and health services by such means as continuing to make full use of the training facilities in Fiji and to collaborate with the South Pacific Medical Service in its efforts to meet the need for fully-qualified practitioners.

Educational Advancement. The Council commended the Administering Authority for the progress made in the field of education, noting in particular the development of the Samoa College project and the opening of the new "accelerate" school. The Council drew attention, nevertheless, to the fact that the increasing population of the Territory in particular will require further extended efforts in the educational field. It requested the Administering Authority to inform it as to the progress made in the field of professional and technical education designed to enable Samoans to participate to an increasing degree in the administrative, judicial and technical services of the Territory.

Nauru

Political Advancement. The Council, recalling its previous recommendation on this subject, welcomed the proposed reconstitution of the Council of Chiefs as a first step towards the acquisition of actual legislative power, and recommended that the Administration consider, in consultation with the Nauruan people, the progressive increasing of the powers and responsibilities of the Council.

It requested the Administering Authority to ensure that the dominant economic position of the phosphate industry should not adversely affect the interests of the indigenous population in general.

The Council noted that the Administering Authority had appointed Nauruans to certain posts in the Administration, and recommended the establishment of a more fully organized programme of training Nauruans for higher administrative positions in order to fulfil further the previous recommendations of the Council on this question.

Economic Advancement. The Council, having noted the steps taken by the Administering Authority in this connexion, recommended that it continue to survey the economic possibilities of the Territory with a view to putting the future of its inhabitants on a more secure basis. At the same time, it noted with satisfaction the considerable increase in the savings bank deposits of the Nauruans, reflecting the improved economic condition of the inhabitants resulting from the increase already made in the royalty payments.

Social Advancement. The Council noted with satisfaction the recent increase in the wages of Nauruan and Chinese workers. It expressed concern at the prevalence of gambling among the Chinese community and endorsed the view of the Visiting Mission that gambling should be discouraged in every practical way by the provision of alternative attractions and the establishment of a normal family life. The Council commended the Administering Authority on the expansion of the health services, requesting it at the same time to expand the training of Nauruans for the medical profession.

Educational Advancement. The Council noted the increase in the number of students studying overseas,

and recommended that the Administering Authority complete as a matter of urgency the projected educational facilities in Nauru, which should include secondary education. It also recommended that the Administering Authority increase specialized training for teachers, and requested it to give in its next annual report a fuller account of the development of secondary education.

New Guinea

Political Advancement. The Council recommended that the Administering Authority take all necessary steps for the training of the indigenous inhabitants of the Territory so as to enable them as soon as possible to fill more responsible posts in the Administration of the Territory. Having noted that the establishment of the legislative council was under consideration, the Council urged the Administering Authority to proceed with the establishment of such council without further delay, and to take early steps to give greater participation in the legislative council to the indigenous inhabitants. It recognized that one of the surest ways of promoting the political advancement of the indigenous inhabitants and of fostering democratic institutions was the development of organs of local government, and noted with satisfaction that the Native Village Councils had already been established, recommending at the same time to the Administering Authority that it make every effort to establish additional village councils and, as soon as possible, area councils, in the more advanced sections of the Territory.

The Council took note of the statement of the Administering Authority that the ordinance establishing native courts had not yet been promulgated. It urged that the Administering Authority should implement the provisions of the Papua and New Guinea Act in regard to the establishment of native courts and requested it to report to the Trusteeship Council.

Economic Advancement. The Council took note of the impressions of the Visiting Mission that it was the firm intention of the Australian Government and the local Administration to spare no effort to advance fully the economic progress of the Territory, and noted that the Administering Authority realized that the developmental task must be a joint one between outside capital and enterprise and the indigenous inhabitants and in which the latter would have a progressively increasing share. The Council hoped that the Administering Authority would push forward with its developmental plans and that these would lead to increasing indigenous participation in the productive economy.

Having noted from the Visiting Mission's report that it was the policy of the Administering Authority to recognize the paramountcy of indigenous ownership of land and that it was the view of the Mission that it was a safe measure that no land in the Territory can be alienated under freehold and that all requirements are to be met by leasehold only and taking note that a Land Commission was to be established to investigate the land situation, the Council expressed the hope that it would be kept informed regarding the work of the Land Commission.

Social Advancement. The Council urged the Administering Authority to complete the review of the Criminal Code and the Police Offences Ordinance, keeping in mind the recommendations of the General Assembly at its fourth session regarding discriminatory laws and practices, as well as the recommendations of the Trusteeship Council at its fifth session regarding the revision of the Police Offences Ordinance and other laws.

On the question of wages and standard of living, the Council, having found difficulty in assessing the relationship of the real wage to the existing cost of living, requested the Administering Authority to make available to the Council detailed data on this point. In the meantime, the Council requested the Administering Authority to give serious consideration to the possibility of further increasing the minimum cash wages.

The Council took note of its previous recommendations concerning the indenture system and of the Labour Ordinance of 1950 which came into operation on 1 January 1951, abolishing penal sanctions and indentured labour by the end of 1951, and expressed its satisfaction with the action taken by the Administering Authority. It also commended the Administering Authority for the progress made in the field of public health, expressing at the same time the hope that the Administering Authority would continue its work, as well as complete its hospital building programme on schedule, if not earlier.

The Council, having noted the statement of the Administering Authority that corporal punishment was not practised in the Territory but that provision for its application still existed in the penal code, recommended to the Administering Authority that corporal punishment be formally abolished.

Educational Advancement. The Council recommended to the Administering Authority that it take the necessary steps to expand elementary education in the Trust Territory and to afford the indigenous population further opportunities of receiving secondary and higher education; that it give special attention to the training of indigenous teachers, to the opening of more governmental schools and to the granting of a reasonable number of scholarships for attendance at schools in and outside New Guinea; and that it intensify its effort to expand the mass literacy campaign. The Council noted with approval the steps taken by the Administering Authority to encourage the development of the indigenous art and culture, and hoped that the Administering Authority would continue its efforts in this direction.

Pacific Islands

In connexion with its functions in respect of *strategic areas under Trusteeship*, the Council, at its eighth session,

examined the report of the Government of the United States of America on the administration of the Trust Territory of the Pacific Islands. At its 342nd meeting, the Council adopted a separate report (S/2069) to the Security Council. With respect to these areas, the Council took the following decisions:

Political Advancement. The Trusteeship Council congratulated the Administering Authority on the political progress made during the period under review. It noted with approval that in the establishment of the municipalities the hereditary indigenous institutions were being modified to the requirements of a more democratic form of organization, and that according to the Administering Authority these reforms were being carried out as rapidly as the people of the Territory were willing to accept them; it expressed the hope that the powers of the municipalities would be progressively increased, that the younger generation would be encouraged to participate in them and that the process of electing magistrates would be continued. The Council commended the Administering Authority on the establishment of the Palau, Marshallese and other congresses and the manner in which they were operating and stated that it would observe with interest the future work of such congresses. Taking note of the statement of the Administering Authority that a new draft legislation regarding the status of the inhabitants was under active review by the executive departments of the Government with a view to its early presentation to Congress, the Council expressed the hope that the next report would include information on the matter.

The Council considered that it would be inappropriate to make any recommendation as to the possibility of incorporating the Territory into the United States of America, or as to the acquisition of the nationality and citizenship of the Administering Authority by the inhabitants of the Territory as a whole; it considered further that the inhabitants of the Territory were entitled to have their national status clarified and defined in such a way as to enjoy the fullest measure of protection by the Administering Authority and recommended that the Administering Authority take action as quickly as possible to define the legal status of the islanders as citizens of the Trust Territory in conformity with the provisions of article 11 of the Trusteeship Agreement.

Economic Advancement. The Council noted with satisfaction the general economic progress made in the Territory during the year under review. Recalling its recommendation made at the seventh session that the Administering Authority should continue its efforts to diversify the economy of the Territory, the Council took note of the opinion of the Visiting Mission that with the exception of the deep sea fisheries there were no important new fields for investment within the Territory and the statement of the representative of the Administering Authority that economic development was being fostered in many ways through the increase in copra production, research into and development of other agricultural products for export, the encouragement and guidance of the inhabitants in establishing retail and wholesale companies and light industries and the provision of small boats and transportation facilities; it also noted with approval the appointment of the economic specialist who was making a survey of the Territory. Welcoming these measures as an indication that the long-range economic independence of the Territory was being taken into account, the Council requested the Administering Authority to continue its efforts to establish and develop industries and products for export but suggested that the Administering Authority might engage experts to teach and aid the people of the Territory in the establishment of an indigenous commercial fishing enterprise and in the further development of the copra industry. The Council also recommended that the Administering Authority study means of encouraging commercial fishing by the inhabitants, facilitate their training in that industry and help them seek satisfactory markets.

Social Advancement. The Council drew attention to the observations of the Administering Authority and the Visiting Mission and in particular to the fact that it was within the jurisdiction of each municipality of Palau to forbid the manufacture of alcoholic beverages and that the women of Palau were in a position to have their views made known in the municipalities.

Educational Advancement. The Trusteeship Council commended the Administering Authority for the progress achieved during the period under review in the field of education and for the expansion of the Pacific Islands Teacher Training School at Truk, which it hoped would soon provide sufficient qualified teachers to overcome the existing deficiency. It took note of the fact that the libraries in the Territory were being augmented and expanded and that a Supervisor of Libraries had been appointed.

B. *Petitions*

At its eighth and ninth sessions, the Council had on its agenda ninety-four and 187 petitions respectively, which it referred for preliminary examination, with the exception of the twenty relating to the Ewe problem, to its *ad hoc* Committee on Petitions.

The Council considered and adopted the reports submitted by the *ad hoc* Committee on Petitions concerning: (1) Tanganyika, (2) Somaliland under Italian Administration, (3) Cameroons under British Administration, (4) Cameroons under French Administration, (5) Togoland under British Administration, (6) Togoland under French Administration, (7) Western Samoa, (8) New Guinea, (9) Nauru, (10) Trust Territory of the Pacific Islands.

to go before the Africans would be able to occupy their proper place in production and commerce, the Mission believed that given encouragement and assistance by the Administration in its plans for economic development, Africans were capable of making a substantially increased contribution to the economy of the Territory.

Speaking of the status of women in the Territory, the Mission hoped that the Administering Authority would give every encouragement to all developments tending to an improvement in the status of women, and considered that it might well play a still more active role in the matter.

The Mission was conscious of the magnitude of the housing problem in the Territory, and realized that it could not be solved within a short period or by direct government action alone. The Mission considered that in particular the claims of African civil servants for adequate housing required closer attention, as many of them must find it as difficult to procure houses as do expatriate officers.

The Mission hoped that the Administering Authority would continue to provide adequate financial resources to finance the expansion of medical services and that it would offer salaries large enough to attract the necessary personnel.

With respect to education in the Territory, the Mission was convinced that because of the many differences which existed at the time, the approach to the problem of establishing education in Tanganyika on a non-communal basis must be a gradual one, but it doubted whether a basis as gradual as that envisaged by the Administering Authority represented a sufficiently positive approach, in view of the urgent need to promote inter-racial harmony and to remove the causes of friction based on racial differences.

Somaliland

Speaking of the establishment of modern democratic institutions in certain areas of the Territory, the Mission hoped that these efforts would be maintained and extended throughout the Territory, and that all other necessary measures would be taken to ensure the rapid development of these local organs into genuinely representative democratic bodies. The Mission hoped that all necessary steps would be taken to ensure the early establishment of municipal administrations having administrative and financial autonomy, and suggested that specific plans should be drawn up for the development of municipalities.

With respect to the indigenous political structure of the Territory, the Mission felt that the Administration should use all possible measures which would contribute to the solution of these problems and that while the building up of the Residency Council seemed to offer the best prospects in the long term, the use of the indigenous political structure appeared unavoidable at present. For this purpose, the Mission considered that the assistance of trained personnel, preferably indigenous staff which had the best appreciation of the outlook and needs of the indigenous community, was desirable.

Referring to political parties of the Territory, the Mission pointed out that potentially, certain parties were powerful vehicles of social change. But it noted with regret that political leaders in general were failing to make the best use of their organizational resources for the purpose of constructive planning and effort in connexion with the task of building toward independence. Political parties, the Mission pointed out further, constituted an excellent medium for the dissemination of modern social concepts and techniques throughout the Territory. The Mission hoped that the leaders of political parties would emphasize increasingly the constructive aspect of their role.

Speaking of the separation of judicial and executive powers, the Mission considered that it was desirable that there be a clear separation of executive and judicial functions in the new regulations in accordance with article 7 of the Declaration of Constitutional Principles annexed to the Trusteeship Agreement.[1] The Mission considered that the Administering Authority should give urgent attention to the adoption of measures which would ensure that arrested persons would be brought to trial expeditiously.

The Mission was glad to note that the Administration was aware of the inequities which might result from a system of collective sanctions and hoped that its present policy which looked toward the abolition of this system would be vigorously pursued.

In the economic field, the Mission felt that much could be done to improve production among indigenous farmers by the establishment of a well-functioning agricultural extension service which, in conjunction with the pilot projects now being set up, would disseminate new methods of farming. The Mission felt that the Administration should adopt vigorous methods of farming. The Mission felt that the Administration should adopt vigorous methods to improve water supplies and should persevere in its efforts to engage the co-operation of the population in this task.

The Mission was glad to note that plans have been made to extend medical and health facilities in the Territory.

In the field of education, the Mission felt that greater emphasis should be given to the training of Somali teachers under the five-year programme and that the annual target figures should be revised upward. The Mission thought that the Administering Authority should explore with UNESCO specific projects for the development of the Somali language.

Ruanda-Urundi

The Mission, having regard to the present degree of political and educational advancement, was fully

[1] See *Yearbook on Human Rights for 1950*, p. 369.

aware of the difficulties inherent in the development of an electoral system, and considered that the Administration was to be commended for its attempts to introduce such a system in the extra-customary centres.

Speaking of the relationship between the indigenous authorities of Ruanda and Urundi, the Mission considered that the Administering Authority should take immediate steps to establish procedures and institutions which would bring about regular collaboration between those indigenous authorities on matters of common concern. The Mission suggested that the emphasis placed upon the development of the indigenous political structure in the political reform plan might be balanced by giving comparable attention to the development of a central legislative body, necessarily of limited competence at the beginning. The Mission was of the opinion that the existing practical arrangements linking the Belgian Congo and Ruanda-Urundi did not impair the separate status and identity of the Trust Territory.

The Mission considered that the rights of the indigenous inhabitants should derive from the legal status of Ruanda-Urundi, and not from the rights enjoyed by the indigenous inhabitants of the Belgian Congo.

In the agricultural field, the Mission considered that the Administration should be commended for its extensive use of research in its efforts to improve the agricultural position of the Territory.

With respect to the industrialization and electrification of the Territory, the Mission hoped that the Administration would include specific measures to promote industrialization on the priority list of the projects in the execution of the Ten-Year Plan, and it also considered that the completion of the electrification programme would make a valuable and indispensable contribution to the economic development of the Territory.

In the social field, the Mission felt that trade-union activity should be further developed and the Administration should give wider encouragement to workers to study questions affecting their own interests. The Mission considered that the Belgian Administration had achieved substantial results in the field of medical and health services.

So far as the Mission had been able to ascertain, no decision had yet been taken to abolish whipping in its entirety. With regard to freedom of movement of the indigenous population from one part of the Territory to another, the Mission considered that the desired results could be achieved by other measures, which would be equally effective and would not give the impression of racial discrimination or place too arbitrary a restriction on personal liberty.

In the educational field, the Mission hoped that the Administration would reconsider its plans in order to make more satisfactory provisions for the education of women in the Territory. It hoped also that, in the development of plans for adult education, much wider use would be made of radio, cinemas, film strips and mobile libraries. It was the view of the Mission, after careful study of educational conditions in the Territory, that the Administration should enter more directly into the educational field, both by establishing non-denominational official schools and by ensuring a more complete supervision of existing schools.

D. *Action taken by the General Assembly*

At its sixth session, the General Assembly adopted various resolutions (document A/2119) related to the advancement of human rights in the Trust Territories. These resolutions read as follows:

Resolution 552 (VI)

The General Assembly,

Considering that the number of petitions received has been increasing from year to year,

1. *Recommends* that the Trusteeship Council:

(*a*) Constitute a standing committee for the examination of petitions which shall meet as soon as possible whenever necessary between sessions of the Council as well as during sessions of the Council;

(*b*) Devise a procedure by which the standing committee will examine each petition in a preliminary way, within a prescribed period of time after the receipt of the petition by the Administering Authority concerned and in conjunction with such observations as may be submitted thereon by the Administering Authority on its own initiative or at the request of the standing committee, or as may be obtained by the standing committee from any other official or responsible source which it deems useful, and will prepare, on the basis of this preliminary examination, proposals for action to be taken on each petition by the Council;

2. *Requests* the Administering Authorities to submit to the Trusteeship Council each year special information concerning action taken on the recommendations of the Council in respect of all petitions examined, except in those cases where the Council does not deem it necessary.

Resolution 553 (VI)

The General Assembly

Recommends that the Trusteeship Council again review its procedures in respect of the organization and functioning of visiting missions, bearing in mind the financial implications, with a view to:

(*a*) Increasing the duration of each visit to each Trust Territory;

(*b*) Reducing the number of Trust Territories to be visited by a single visiting mission; and

(*c*) Achieving these ends without diminishing the frequency of visits to the Trust Territories;

5. *Reaffirms* the desirability of each visiting mission being constituted as much as possible from among representatives who sit on the Trusteeship Council;

6. *Recommends*, however, that, whenever it is necessary for practical reasons to appoint members other than representatives who sit on the Trusteeship Council, the Council consider inviting members of the United Nations which are not members of the Trusteeship Council to nominate suitably qualified persons.

Resolution 554 (VI)

The General Assembly,

Considering that point 9 of the Secretary-General's "Memorandum[1] of points for consideration in the development of a twenty-year programme for achieving peace though the United Nations" advocates the use of the United Nations to promote by peaceful means the progress of dependent, colonial or semi-colonial peoples to a position of equality with Member States of the United Nations,

1. *Notes* that special provisions exist in the constitutions of some of the specialized agencies and of the regional commissions of the United Nations permitting, on the proposal of the Administering Member concerned, the admission to those agencies and commissions of Non-Self-Governing and Trust Territories as "associate members";

2. *Commends* the practice referred to in the preceding paragraph;

3. *Invites* the Trusteeship Council to examine the possibility of associating the inhabitants of the Trust Territories more closely in its work and to report the results of its examination of this problem to the General Assembly at its seventh regular session.

Resolution 555 (VI)

The General Assembly,

6. *Recommends* that the Administering Authorities, in consultation with the representatives of the peoples concerned, extend the functions and powers of the joint council to enable it to consider all aspects of the Ewe and Togoland unification problem and to make recommendations thereon;

7. *Recommends*, in view of the urgency of this problem, that the Trusteeship Council devote more intensive attention to all aspects of it affecting the two Trust Territories;

8. *Recommends* further that the Trusteeship Council, at its tenth session, arrange for the dispatch to the Trust Territories concerned of a special mission, or alternatively, for its next periodic visiting mission to these two Trust Territories to devote sufficient time to the problem to study it thoroughly, including the functioning of the proposed joint council, and to submit to the Trusteeship Council a detailed report thereon, including specific recommendations, which shall take full account of the real wishes and interests of the peoples concerned;

9. *Requests* the Trusteeship Council to instruct the mission so dispatched to submit its report to the Council for consideration at its eleventh session;

10. *Requests* the Trusteeship Council to submit to the General Assembly at its seventh regular session a special report covering all aspects of the problem.

Resolution 556 (VI)

The General Assembly,

Considering that it is essential that the peoples of Trust Territories should receive adequate information concerning the purposes and operation of the United Nations and of the International Trusteeship System in particular,

Noting that the Trusteeship Council has instructed[2] the visiting missions to investigate on the spot the best means of disseminating such information,

1. *Recommends* that the Administering Authorities of Trust Territories take all appropriate steps to disseminate information on the United Nations, and on the International Trusteeship System in particular, among the population and in the schools, and report to the Secretary-General details of such steps;

2. *Recommends* that the Trusteeship Council include in its annual reports to the General Assembly all particulars supplied on the subject, together with its remarks.

Resolution 557 (VI)

The General Assembly,

Recognizing that the speedy educational advancement of the inhabitants of Trust Territories is essential for the attainment of the objectives of the International Trusteeship System,

Recognizing that the United Nations has a special responsibility towards the inhabitants of the Territories under the International Trusteeship System,

Desirous of giving all possible assistance to the educational advancement of the inhabitants of these Territories,

1. *Invites* Member States of the United Nations to make available, to qualified students from the Trust Territories, fellowships, scholarships, and internships, and to notify the Trusteeship Council concerning the availability of such fellowships, scholarships and internships in public as well as in private institutions;

[1] See *Official Records of the General Assembly, Fifth Session, Annexes*, agenda item 60.

[2] See Trusteeship Council resolution 311 (VIII).

4. *Invites* the United Nations Educational, Scientific and Cultural Organization to give all appropriate assistance in the implementation of the present resolution;

5. *Requests* the Trusteeship Council to report with regard to these matters to the General Assembly at its next regular session.

Resolution 558 (VI)

The General Assembly,

Considering that in the case of only one Trust Territory, named Somaliland under Italian administration, the Trusteeship Agreement provides, in accordance with General Assembly resolution 289 A (IV) of 21 November 1949, for a specific period of ten years at the end of which the Trust Territory shall be an independent sovereign State,

1. *Notes* that in the case of no Trust Territory other than that of Somaliland has the Administering Authority concerned submitted information, as to the time and manner in which the Territory is expected to attain the objective of self-government or independence; and accordingly,

2. *Invites* the Administering Authority of each Trust Territory other than Somaliland to include in each annual report on its administration information in respect of:

(*a*) The measures, taken or contemplated, which are intended to lead the Trust Territory, in the shortest possible time, to the objective of self-government or independence;

(*b*) The manner in which, in these respects, the particular circumstances of the Territory and its people and the freely expressed wishes of the peoples concerned are being taken into account;

(*c*) The adequacy of the provisions of the existing Trusteeship Agreement in relation to all the foregoing factors;

(*d*) The rough estimate of the time which it considers, under existing conditions, may be needed to complete one or more of the various measures which are meant to create the pre-conditions for the attainment by the Trust Territory of the objective of self-government or independence;

(*e*) The period of time in which it is expected that the Trust Territory shall attain the objective of self-government or independence.

Resolution 559 (VI)

The General Assembly,

1. *Takes note* of the report of the Trusteeship Council[1] covering its third special session and its eighth and ninth sessions;

2. *Expresses its confidence* that the Trusteeship Council, in a spirit of genuine undertaking and co-operation, will continue to contribute—and with increased effectiveness—to achieving the high objectives of the International Trusteeship System;

3. *Recommends* that the Trusteeship Council consider at its next sessions the comments and suggestions made during the discussion of the report at the sixth session of the General Assembly, including the valuable discussions in the Fourth Committee on various specific trusteeship problems, with a view to arriving at a speedy solution of those problems.

Resolution 560 (VI)

The General Assembly

Expresses the hope that the Administering Authorities which have not yet given effect to all such recommendations and resolutions will implement them as speedily as possible and inform the Trusteeship Council of the steps which have been taken or which it is supposed to take in that respect;

Requests the Trusteeship Council, in order to enable the General Assembly to have clearly at its disposal all the knowledge necessary for the fulfilment of its duties with regard to the International Trusteeship System, to include in each case in the appropriate section of its report to the General Assembly such conclusions as it may deem necessary regarding the action taken by the Administering Authority and regarding the measures which, in its opinion, should be adopted in view of those conclusions.

Resolution 561 (VI)

The General Assembly

Recommends that the Trusteeship Council consider inviting the appropriate specialized agencies, particularly the Food and Agriculture Organization of the United Nations and the International Labour Organisation, as well as other experts if necessary, to assist it in its study on the rural economic development of the Trust Territories.

Resolution 562 (VI)

The General Assembly

Urges that corporal punishment (by whip, cane or any other means) should be completely abolished as a disciplinary punishment in all prisons of the Trust Territories where it still exists;

Recommends that Administering Authorites should enforce immediately legislation with a view to replacing corporal punishment in all cases by methods of modern penology;

[1] See *Official Records of the General Assembly, Sixth Session, Supplement No. 4.*

Repeats its previous recommendations and urges the Administering Authorities concerned to comply with them without delay.

Resolution 563 (VI)

The General Assembly

3. *Requests* the Trusteeship Council, in order to enable the General Assembly to arrive at conclusions concerning existing administrative unions affecting Trust Territories to submit to the General Assembly at its seventh regular session, a special report containing a complete analysis of each of the administrative unions to which a Trust Territory is a party, and of the status of the Cameroons and Togoland under French administration arising out of their membership in the French Union, with special reference to:

(*a*) The considerations enumerated in paragraph 1 of resolution 326 (IV) of the General Assembly;

(*b*) The compatibility of the arrangements already made with the provisions of the Charter of the United Nations and the Trusteeship Agreement;

4. *Establishes* a Committee on Administrative Unions, which shall meet three weeks before the next regular session of the General Assembly, composed of Belgium, Brazil, India and the United States of America, to make a preliminary examination of the special report prepared by the Trusteeship Council and to present its observations thereon to the General Assembly at its seventh regular session.

E. *Action taken by the Economic and Social Council*

At its thirteenth session, the Economic and Social Council adopted a resolution dealing with the status of women in Trust Territories (document E/2152). This resolution reads as follows:

Resolution 385 (XIII)

E.

Status of Women in Trust Territories

The Economic and Social Council,

Considering that under Chapter XIII of the United Nations Charter the Trusteeship Council is empowered to despatch visiting Missions to Trust Territories,

Considering that it would be desirable, in order to promote the development of the status of women in the Trust Territories, that women should share in the responsibilities of the mission,

Invites the Member States to nominate, and the Trusteeship Council to consider appointing, women to serve as members of visiting missions.

SECTION II

NON-SELF-GOVERNING TERRITORIES

A. *Information submitted under Article 73 e of the Charter*

Under Article 73 e of the Charter, "Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government" have undertaken to transmit regularly to the Secretary-General for information purposes, subject to such limitations as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social and educational conditions in the territories.

It may be recalled that at its fifth session the General Assembly adopted resolution 446 (V) by which it invited Members responsible for the administration of Non-Self-Governing Territories to include, in the information to be transmitted under Article 73 e of the Charter, a summary of the extent to which the Universal Declaration of Human Rights was implemented in the Non-Self-Governing Territories under their administration.

In compliance with this resolution, the information transmitted by the Netherlands Government in 1951 on Netherlands New Guinea stated under the caption "E Human Rights" that on the part of New Guinea administered by the Netherlands, the Universal Declaration of Human Rights was fully observed; it added that "naturally, local conditions make it necessary that in the application of the provisions of Articles 29 and 30 of the Declaration of Human Rights the legal regulation as regards the protection of the human rights, deviate in some respect from those that applied in the metropolitan country".

In a letter of 12 June 1951 addressed to the Secretary-General, the United States Government stated that the Government of the United States was considering how best to meet provisions relating to resolution 446 (V) in connexion with information transmitted by this Government under Article 73 e of the Charter.

The Governments of the United Kingdom and the United States, in their information transmitted in 1951 on Montserrat in the Leeward Islands, and Alaska and Guam, respectively, under the optional category of the Standard Form included in their information references to human rights in the above-mentioned territories under the caption "E Human Rights".

Under the same caption the Government of the United States noted "no change" in regard to information transmitted in 1951 for Puerto Rico and the Virgin Islands.

B. *Action taken by the General Assembly*

The General Assembly, at its sixth session, approved several resolutions relating to Non-Self-Governing Territories. These resolutions read as follows:

Resolution 551 (VI)

The General Assembly,

Considering the importance of the advancement of the peoples of Non-Self-Governing Territories as set forth in the Declaration contained in Chapter XI of the Charter of the United Nations,

Considering that the information transmitted by the Members responsible for the administration of Non-Self-Governing Territories is of increasing interest to the General Assembly,

Noting that this information, which has been compiled in accordance with the Standard Form for the guidance of Members annexed to resolution 142 (II) adopted by the General Assembly on 3 November 1947, together with the supplemental information placed at the disposal of the Secretary-General, is becoming of increased value,

Considering, nevertheless, that this Standard Form requires adaptation in the light of experience,

1. *Decides* that the Standard Form annexed to resolution 142 (II) shall be replaced by the annexed text;

2. *Invites* the Members responsible for the transmission of information under Article 73 e of the Charter to undertake all necessary steps to render information as complete and up to date as possible and for this purpose to take into account the sections of the revised Standard Form.

Resolution 564 (VI)

The General Assembly,

Noting the report[1] prepared by the Special Committee on Information transmitted under Article 73 e of the Charter on economic conditions and problems of economic development in Non-Self-Governing Territories,

1. *Approves* the report of the Special Committee as a brief but considered indication of economic conditions in the Non-Self-Governing Territories and the problems of economic development;

2. *Invites* the Secretary-General to communicate this report for their consideration to the Members of the United Nations responsible for the administration of Non-Self-Governing Territories, to the Economic and Social Council, to the Trusteeship Council and to the specialized agencies concerned.

Resolution 566 (VI)

The General Assembly,

Considering that the report of the Special Committee on Information transmitted under Article 73 e of the Charter[2] recommends the use of technical assistance from the United Nations as a means of promoting the economic advancement of the peoples of the Non-Self-Governing Territories,

Considering that the direct association of the Non-Self-Governing Territories in the work of the United Nations and of the specialized agencies is an effective means of promoting the progress of the peoples of those Territories towards a position of equality with Member States of the United Nations,

3. *Invites* the Committee on Information from Non-Self-Governing Territories to examine the possibility of associating the Non-Self-Governing Territories more closely in its work and to report the results of its examination of this problem to the General Assembly at its seventh regular session in connexion with the Assembly's consideration of the Committee's future.

Resolution 567 (VI)

The General Assembly

2. *Invites* the Members of the United Nations to transmit in writing to the Secretary-General, by 1 May 1952, a statement of the views of their governments on the factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government;

3. *Appoints* an *ad hoc* Committee of ten members comprising Australia, Belgium, Burma, Cuba, Denmark, France, Guatemala, Iraq, the United States of America and Venezuela, in order to carry out a further study of the factors which should be taken into account in deciding whether a territory is or is not a territory whose people have not yet attained a full measure of self-government;

5. *Invites* the Secretary-General to convene the *ad hoc* Committee in order that it may begin its work one week before the opening of the 1952 session of the Committee on Information from Non-Self-Governing Territories.[3]

SECTION III

FORMER ITALIAN COLONIES

In dealing with the question of the disposal of the former Italian colonies the General Assembly took, at its sixth session, various decisions directly concerning matters of human rights.

Libya

By resolution 515 (VI) concerning Technical Assistance to Libya, the General Assembly requested the

[1] *Official Records of the General Assembly, Sixth Session, Supplement No. 14*, part three.

[2] *Ibid.*, part one, chapter IX.

[3] The General Assembly decided, by resolution 569 (VI) that the Special Committee on Information transmitted under Article 73 e of the Charter should henceforth be known as the "Committee on Information from Non-Self-Governing Territories".

Economic and Social Council to study, in consultation with the Government of the United Kingdom of Libya, ways and means by which the United Nations, with co-operation of all governments and the competent specialized agencies, and upon the request of the Government of Libya, could furnish additional assistance to the United Kingdom of Libya with a view to financing its fundamental and urgent programmes of economic and social development, giving consideration to the possibility of opening a special account of voluntary contributions to that end, and to report thereon to the General Assembly at its seventh session.

Eritrea

The General Assembly approved those economic and financial provisions that would apply to Eritrea before it is constituted an autonomous unit federated with Ethiopia under the sovereignity of the Ethiopian Crown in order that they may be applied as soon as possible. Articles relating to human rights are as follows:

Resolution 530 (VI)

The General Assembly

Approves the following articles:

Article IV

1. Italy shall continue to be liable for the payment of civil and military pensions or other retirement benefits earned as at the date of coming into force of the Treaty of Peace with Italy and owned by it at that date.

2. The amount of these pensions or retirement benefits shall be determined in accordance with the law which was in force in Eritrea immediately prior to the cessation of Italian administration of the territory and shall be paid directly by Italy to the persons entitled in the currency in which they were earned.

Article VII

1. The property, rights and interests of Italian nationals, including Italian juridical persons, in Eritrea shall, provided they have been acquired in accordance with the laws prevailing at the time of acquisition, be respected. They shall not be treated less favourably than the property, rights and interests of other foreign nationals, including foreign judicial persons.

Article VIII

1. Property, rights and interests in Eritrea which, as a result of the war, are still subject to measures of seizure, compulsory administration or sequestration, shall be restored to their owners.

Article IX

1. The former Italian nationals belonging to Eritrea shall continue to enjoy all the rights in industrial, literary and artistic property in Italy to which they were entitled under the legislation in force at the time of the coming into force of the Treaty of Peace.

2. Until the relevant international conventions are applicable to Eritrea the rights in industrial, literary and artistic property which existed in Eritrea under Italian law shall remain in force for the period for which they would have remained in force under that law.

B. JUDGMENT OF THE INTERNATIONAL COURT OF JUSTICE

TERMINATION OF ASYLUM—DIPLOMATIC ASYLUM—ADMISSIBILITY OF INTERVENTION UNDER ARTICLE 63 OF THE STATUTE AND ARTICLE 66 OF RULES—JURISDICTION BASED ON ATTITUDE OF PARTIES—CHARACTER AND LEGAL CONSEQUENCES OF JUDGMENT OF 20 NOVEMBER 1950—*RES JUDICATA*—METHODS OF TERMINATING ASYLUM UNDER HAVANA CONVENTION ON ASYLUM OF 1928—NO SURRENDER OF POLITICAL OFFENDERS TO TERRITORIAL AUTHORITIES

COLOMBIAN-PERUVIAN ASYLUM CASE[1]

Judgment of 13 June 1951

The facts. The International Court of Justice delivered its judgment in the Colombian-Peruvian Asylum Case on 20 November 1950. On the same day the Government of Colombia submitted a request for its interpretation which the Court declared to be inadmissible by its judgment of 27 November 1950. On 28 November 1950 the Minister for Foreign Affairs and Public Worship of Peru sent a note to the Colombian Chargé d'Affaires at Lima, stating in particular:

"The moment has come to carry out the judgment delivered by the International Court of Justice by terminating the protection which that Embassy is improperly granting to Víctor Raúl Haya de la Torre. It is no longer possible further to prolong an asylum which is being maintained in open contradiction to the judgment which has been delivered. The Colombian Embassy cannot continue to protect the refugee, thus barring the action of the national courts.

"You must take the necessary steps, sir, with a view to terminating this protection, which is being improperly granted, by delivering the refugee Víctor Raúl Haya de la Torre, so that he may be placed at the disposal of the examining magistrate who summoned him to appear for judgment, in accordance with what I have recited above."

The Minister for Foreign Affairs of Colombia addressed a note of 6 December 1950 to the Minister for Foreign Affairs and Public Worship of Peru, in which he refused to comply with his request and relied in particular on the following considerations:

"... the Court formally rejected the complaint made against the Government of Colombia in the counter-claim of the Government of Peru, namely, that it had granted asylum to persons accused of or condemned for common crimes. Should Colombia proceed to the delivery of the refugee, as requested by your Excellency, (it) would not only disregard the judgment to which we are now referring, but would also violate article 1, paragraph 2, of the Havana Convention which provides that: 'Persons accused of or condemned for common crimes taking refuge in a legation shall be surrendered upon request of the local government'."

As the Governments of Colombia and Peru were unable to come to an agreement as to the manner in which effect should be given to the judgment of the Court of 20 November 1950, the present case was brought before the Court by the Government of Colombia by application of 13 December 1950. In the meantime, the Government of Cuba, availing itself of the right which Article 63 of the Statute of the Court confers on States parties to a convention, filed a Declaration of Intervention with the Registry on 13 March 1951.

The Court decided on 16 May 1951 to admit the intervention in pursuance of paragraph 2 of Article 66 of the Rules of the Court after it had been limited to the interpretation of the Havana Convention of 1928 in regard to the question whether Colombia is under an obligation to surrender the refugee to the Peruvian authorities. The intervention of the Government of Cuba, operating within these limits, conformed to the conditions of Article 63 of the Statute and related to a question which the judgment of 20 November 1950 had not decided.

The parties had consented to the exercise of the jurisdiction by the Court. The questions submitted to it were argued on their merits and no objection was taken to a decision by the Court on the merits of the case. This conduct of the parties was sufficient to confer jurisdiction on the Court.

Held: That the Court cannot give effect to the submissions of the Governments of Colombia and Peru as

[1] Colombian-Peruvian Asylum Case, Judgment of 13 June 1951: I.C.J. Reports 1951, p. 71. See the judgment in the Colombian-Peruvian Asylum Case of 20 November 1950 in the *Yearbook on Human Rights for 1950*, pp. 541–542.

to the manner in which the judgment of 20 November 1950 shall be executed and consequently rejects them. Colombia is under no obligation to surrender Víctor Raúl Haya de la Torre to the Peruvian authorities, but the asylum granted to him on 3–4 January 1949, and maintained since that time, ought to have ceased after the delivery of the judgment of 20 November 1950, and should terminate.

The Court in deciding upon the regularity of the asylum had declared in the judgment of 20 November 1950 that the grant of asylum was not made in conformity with article 2, paragraph 2 ("First"), of the Havana Convention on Asylum of 1928. The judgment confined itself, in this connexion, to defining the legal relations which the Havana Convention had established between the parties. It did not give any directions to the Parties, and entails for them only the obligation of compliance therewith. The interrogative form in which the Parties have formulated their submissions shows that they desired that the Court should make a choice amongst the various courses by which the asylum may be terminated. But these courses are conditioned by facts and by possibilities which, to a very large extent, the Parties are alone in a position to appreciate. A choice amongst them could not be based on legal considerations, but only on considerations of practicability or of political expediency. It is not part of the Court's judicial function to make such a choice.

The question of the surrender of the refugee was not submitted to the Court and consequently was not decided by it in its judgment of 20 November 1950. It was raised by Peru in its note to Colombia of 28 November 1950, and was submitted to the Court by the application of Colombia of 13 December 1950. There is consequently no *res judicata* upon the question of surrender.

The Havana Convention of 1928 does not give a complete answer to the question as to the manner in which an asylum shall be terminated. Article 1 prescribes that persons accused of or condemned for common crimes seeking refuge shall be surrendered upon request of the local government. For "political offenders" another method of terminating asylum is prescribed, namely, the grant of a safe-conduct for the departure from the country. But, under the terms of the judgment of 20 November 1950, a safe-conduct can be claimed under the Havana Convention only if the asylum has been regularly granted and maintained and if the territorial State has required that the refugee should be sent out of the country. For cases in which the asylum has not been regularly granted or maintained, no provision is made as to the method of termination. Nor is any provision made in this matter in cases where the territorial State has not requested the departure of the refugee. Thus, though the Convention prescribes that the duration of the asylum shall be limited to the time "strictly indispensable...", it is silent on the question how the asylum should be terminated in a variety of different situations. This silence cannot be interpreted as imposing an obligation to surrender the refugee in case the asylum was granted to him contrary to the provisions of article 2 of the Convention. Such an interpretation would be repugnant to the spirit which animated that Convention in conformity with the Latin-American tradition in regard to asylum, a tradition in accordance with which political refugees should not be surrendered. There is nothing in that tradition to indicate that an exception should be made where asylum has been irregularly granted. If the intention was to abandon that tradition, an express provision to that effect would have been necessary, and the Havana Convention does not contain such a provision. The silence of the Convention implies that it was intended to leave the adjustment of the consequence of this situation to decisions inspired by considerations of convenience or of simple political expediency. To infer from this silence that there is an obligation to surrender a person to whom asylum has been irregularly granted would be to disregard both the role of these extra-legal factors in the development of asylum in Latin America, and the spirit of the Havana Convention itself. In view of the judgment of 20 November 1950, the refugee, so far as the question of surrender is concerned, must be treated as a person accused of a political offence. The Court has, consequently, arrived at the conclusion that the Government of Colombia is under no obligation to surrender Haya de la Torre to the Peruvian authorities.

In its judgment of 20 November 1950, the Court had decided that the grant of asylum by the Government of Colombia was not made in conformity with article 2, paragraph 2 ("First"), of the Convention. This decision entails a legal consequence, namely, that of putting an end to an illegal situation. The Government of Colombia which had granted the asylum irregularly is bound to terminate it. As the asylum is still being maintained, the Government of Peru is legally entitled to claim that it should cease, but this need not be done by surrendering the refugee to the Peruvian authorities. There is no contradiction between these two findings, since surrender is not the only way of terminating asylum.

INDEXES

INDEX OF CONSTITUTIONAL PROVISIONS

Explanatory note. This index contains references to the constitutional provisions concerning human rights in Part I of this issue of the *Yearbook*. The figures following the name of the State refer to the articles of the constitution. For references relating to the constitutions printed in earlier *Yearbooks*, the reader should consult the index of constitutional provisions in the *Yearbook on Human Rights for 1946* (pp. 431–450), in the *Yearbook on Human Rights for 1947* (pp. 567–581), in the *Yearbook on Human Rights for 1948* (pp. 527–535), in the *Yearbook on Human Rights for 1949* (pp. 403–408), and in the *Yearbook on Human Rights for 1950* (pp. 545–550).

Several constitutions printed in earlier *Yearbooks* have been replaced by new constitutions in 1951, and references to them are to be found in this index. Moreover, references are included to the Constitution of Libya, a newly established independent State, which was formerly a Non-Self-Governing Territory, and to that of Lower Saxony, a *Land* established after the Second World War in the United Kingdom zone of the Federal Republic of Germany. References are to be found also to certain amended articles of the Constitutions of Honduras and Hungary, to the Constitution (First Amendment) Act, 1951, amending the Constitution of India, and to amendments of 1951 of the Government of India Act as modified and adapted by the Pakistan (Provisional Constitution) Order, 1947.

For the convenience of the reader, an alphabetical list of all the States included in the index is given below, with an indication of the first page on which the constitutional provisions of the State are to be found.

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INDEX OF LAWS, DECREES AND REGULATIONS, ETC.

reproduced, summarized, or referred to in Part I of this *Yearbook*

This index is intended to help readers find any of the texts of the part "States—National Laws" either reproduced or summarized separately, or summarized or referred to in a note on the development of human rights or in other notes in this *Yearbook*.

For constitutional provisions, the index of constitutional provisions in this *Yearbook* should be consulted (pp. 615–619).

Each reference is followed by (T) if it is to a text or excerpts from a text; by (S) if it is to a summary of a text; and by (M) if mention is made only of the title and date of a legal instrument. The number after each title indicates the page of this *Yearbook* on which the text begins.

Laws ratifying or authorizing ratification of international treaties and agreements are not included in this index. References to such texts are to be found in the notes on the development of human rights under Austria, Canada, Finland, France, Guatemala, Haiti, Iceland, Italy, Luxembourg, Switzerland and Turkey.

A great number of legislative texts adopted in the forty-eight states of the United States of America are summarized or referred to in the progress note prepared by the United States Government (see pp. 365–381). This material should be consulted in order to obtain a full picture of United States activity, since primary responsibility for the implementation of many of the rights listed in this *Yearbook* rests with the constituent States, and not with the Federal Government. Specific enactments by the states are not included in this index, which refers to such enactments only in a general way.

An index of laws, decrees and regulations, etc., reproduced, summarized or referred to in the *Yearbooks on Human Rights* for 1946–1950 appears in the *Yearbook on Human Rights for 1950*, pp. 551–590.

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